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

*Ross N.*



# Annual Report

1 JULY 1997–30 JUNE 1998



The Victorian Bar Inc.

# **Annual Report**

1 JULY 1997–30 JUNE 1998

# **ANNUAL REPORT OF THE VICTORIAN BAR INC FOR THE YEAR ENDED 30 JUNE, 1998**

To be presented to the Annual General Meeting of The Victorian Bar Inc to be held at 5.00pm on Monday, 31 August, 1998 in the Bar Readers' Room, 2nd Floor, Douglas Menzies Chambers, 180 William Street, Melbourne.

## **VICTORIAN BAR COUNCIL**

In the Annual Elections held in September 1997 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**

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

**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**

Paul D Santamaria  
Duncan L Allen  
David F R Beach  
Andrew J McIntosh  
Richard W McGarvie  
Jane A Dixon

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

Fiona M McLeod  
Peter J Riordan  
David J Neal  
Carolyn M Burnside

## CHAIRMAN'S REPORT

A year ago, in the 1996/1997 annual report of the Victorian Bar, I referred to a number of external challenges that the Bar Council had encountered. One year later it is apparent that, despite a great deal of significant progress, the broader legal and political environment faced by the Bar Council is remarkably similar. The Bar's struggle is ongoing: to retain, or in some cases, *regain*, an equitable and accessible justice system. For this reason, many of the matters that I noted last year, including proposed law reform initiatives for State and Federal litigation, barristers' independence, and legal aid funding, have remained on the Bar Council's agenda.

There have been some real breakthroughs. In particular, I am pleased that the Bar's transition to a new regulatory framework under the *Legal Practice Act* 1996 has been successful, thanks to the efforts of Bar Council members, officers and staff. All the rules and protocols required by the legislation have been put into place. Despite ambiguities in the legislation, the Bar Council, the Ethics Committee and the Counsel Committee have cooperated to introduce a system of complaint-handling and dispute resolution that meets the highest expectations of the legislation and serves the best interests of the Bar's regulated practitioners and the Victorian public.

Progress on some of the other matters, however, has been equally hard-fought, but must be viewed as incremental and unfinished. The Bar's heavy and protracted engagement with Federal and State justice policy is a direct result of the fact that the Bar now operates in a political environment which is increasingly inimical to an independent and accessible justice system. Federal and State politicians have proven unwilling to make even modest budgetary allowances to secure adequate improved access to justice for all citizens. In order to be heard on these matters, the Bar must continue to marshal its resources. It must foster close connection with other Bars and professional associations, both in Australia and overseas, with the courts, with Federal and State politicians of all parties, with academia, with law students, and with the media. The last year has shown that, more than ever, it is essential that the Bar Council take a forthright stance on any attempt to erode access to the courts.

The Bar Council has continued to assist the process of litigation reform. The Bar has contributed extensively to discussions for reform in the Supreme Court and in the County Court. The Bar's negotiations with the Australian Law Reform Commission in relation to the reform of the adversarial system of civil litigation have also continued. It is gratifying that members of the Commission have publicly noted the ground-breaking role that Victorian federal courts, and the Victorian Bar, play in providing mediation services to potential litigants. The Bar must continue to stress the very real benefits of an adversarial system of justice, and the importance of an independent legal profession in providing both litigation and ADR services. I am grateful to the many members of the Bar who have taken the time to meet with members of the Commission in this regard. Reform initiatives are to be welcomed so long as they make the dispensation of justice by our

State courts, Federal courts and tribunals more efficient and cost effective, but without decreasing the standard of justice dispensed.

At a State level, the Bar has been closely monitoring the current Government's agenda for law reform. The Bar has voiced its opposition to the abolition of common law rights for injured workers, to alterations to the powers of the office of the Auditor-General, to increased court fees and to court closures. More positively, the Bar Council has been extensively involved in the enactment of the Victorian Civil and Administrative Tribunal legislation. The Bar has been monitoring the review of the criminal justice system (known as 'Project Pathfinder'). At the time of writing, the Government is also considering forfeiture of property legislation and the proposed curtailment of the right to silence. Together with the Criminal Bar Association, the Bar has actively opposed the further erosion of the common law rights of individual litigants within the criminal justice system.

The Bar Council has again taken pains to point out to interested parties the shortcomings of proposals that would, if effected, compromise the independence of the Bar. In the past year the Bar Council has, once again, been called upon to inform a government authority that its attempt to exploit a monopoly position by retaining barristers as de facto employees is inconsistent with the Bar's rules of conduct, including the overriding duty of a barrister to the court. It is my hope that the flow of these 'exclusive retainer' proposals has now ceased. It is clear from the past year, however, that the Bar Council must continue to address 'limited practitioner panel' proposals. One such proposal was the subject of a Bar Council complaint to the Australian Competition and Consumer Commission. It is the Bar's view that these exclusive panel arrangements constitute an attempt to stifle competition within the private legal profession.

On a similar note, the Bar's dialogue with State and Federal Attorneys-General on the topic of legal aid is continuing. With the assistance of the Criminal Bar Association and State and Federal Courts, the Bar has lodged further submissions with the Senate Legal Aid Inquiry, and Bar Council representatives have appeared at Inquiry hearings. Shortcomings in the 1998/1999 Commonwealth-State legal aid agreement have been pointed out. We are continuing to press the point that adequate levels of legal aid funding are crucial for there to be real access to justice. In the long term, the extensive cuts that have been made to legal aid expenditure may prove to be counter-productive as inadequate representation or absence of representation may have the effect of blowing out the duration and expense of litigation for the justice system as a whole. The Bar's Price Waterhouse study on criminal barristers' legal aid incomes, completed in August last year, showed that in contested matters in the Magistrates' Court, barristers can hope to earn less than \$17.00 per hour, out of which they must pay for overheads. It is small wonder that courts are now faced with sharp increases in unrepresented litigants. The Bar Council has continued to indicate its willingness to contribute to solving the problem which has beset the legal aid system, whilst at the same time urging Governments to increase legal aid funding to a level which will secure a reasonable chance of a penurious litigant finding adequate representation.

A year ago I stated that, particularly following the passage of the *Legal Practice Act*, the Bar would be in great danger if it were to take its membership for granted. Since the last annual report, the Bar Council has opened Douglas Menzies Chambers, and the Bar's own Mediation Centre. Both have been great successes. We have instituted a new fully resourced and structured program for continuing legal education. With the capable advice of its Executive Director, Mr David Bremner, the Bar Council has been able to obtain for its members a greatly improved library on the 13<sup>th</sup> floor of Owen Dixon Chambers, with substantial renovations and the creation of the Neil Forsyth Room. The Council is establishing a parents' room and is upgrading the Bar telephone system. The Bar has secured discounted air travel, for members. Future Bar Councils will, I trust, seek to further expand this range of amenities and services.

Finally, I am very pleased to report that the Bar Council has successfully built upon last year's 'Strategy Plan', drawn up by Mr Bremner. Recently, the Bar Council conducted a review of all forms of income and expenditure, including membership subscription levels, rent levels and retirement of debt, and developed a five year financial plan. The plan involves, among other things, a restructured subscription system. The new subscription structure is more equitable, and is extremely competitive when compared to the subscription fees of other Australian Bar associations. Most importantly, the additional revenue raised by the restructured subscription system will assist BCL to repay its debt. Over time, the five year financial plan will enable the Bar to expedite the refurbishment of existing chambers or, where appropriate, to lease new chambers, so that the Bar's barrister tenants are provided with a broad range of accommodation at reasonable rentals, in an environment which will foster collegiality. The plan also places a high priority on providing affordable chambers to new barristers, who are the lifeblood of the Bar. All in all, the Victorian Bar is well-placed to maintain its position of influence in the system of administration of justice.

**Neil J Young**  
*Chairman*

29 July, 1998

## **OFFICERS OF THE BAR COUNCIL**

Neil J Young Q.C. (Chairman)  
David E Curtain Q.C. (Senior Vice-Chairman)  
D Mark B Derham Q.C. (Junior Vice-Chairman)  
W Ross Ray Q.C. (Honorary Treasurer)  
David F R Beach (Assistant Honorary Treasurer)  
Garrie J Moloney (Honorary Secretary)  
Samantha E Burchell (Assistant Honorary Secretary)  
David J L Bremner (Executive Director)  
Anna Whitney (Executive Officer)  
Jonathan Morrow (Assistant to the Chairman)  
Barbara Walsh (Co-ordinator, Readers' Course)  
Debbie Jones (Investigations Officer)

## **EXECUTIVE COMMITTEE OF THE BAR COUNCIL**

Neil J Young Q.C. (Chairman)  
Robert F Redlich Q.C.  
Robert Richter Q.C.  
Bernard D Bongiorno Q.C.  
Stephen W Kaye Q.C.  
John T Rush Q.C.  
David E Curtain Q.C.  
D Mark B Derham Q.C.  
W Ross Ray Q.C.

## **PORTFOLIOS OF BAR COUNCIL MEMBERS**

### **Chairman**

Neil J Young Q.C.

### **BCL**

D Mark B Derham Q.C. and Andrew J McIntosh

### **Clerking/Law Council**

John T Rush Q.C. and Peter J Riordan

### **Commercial Bar**

Stephen W Kaye Q.C. and Paul D Santamaria

### **Common Law Bar and Compensation Bar**

David E Curtain Q.C. and David F R Beach

**Continuing Legal Education**

Robin A Brett Q.C., W Ross Ray Q.C. and Paul D Santamaria

**Costs**

Bernard D Bongiorno Q.C. and Jane A Dixon

**Courts, Civil Procedures**

Stephen W Kaye Q.C., Robin A Brett Q.C. and Peter J Riordan

**Criminal Bar**

Robert F Redlich Q.C., Philip A Dunn Q.C., David J Neal and Carolyn M Burnside

**Dispute Resolution Committee**

D Mark B Derham Q.C. and Richard W McGarvie

**Family Law Bar**

Bernard D Bongiorno Q.C. and Fiona M McLeod

**Federal Courts/Industrial Law**

Stephen W Kaye Q.C., Robin A Brett Q.C. and Richard W McGarvie

**Legal Aid**

Neil J Young Q.C., Robert F Redlich Q.C., Robert Richter Q.C., Duncan L Allen,  
Jane A Dixon and David J Neal

**Library and Technology**

D Mark B Derham Q.C. and Andrew J McIntosh

**New Barristers' Association**

W Ross Ray Q.C., Duncan L Allen, Peter J Riordan and Carolyn M Burnside

**Property Law**

D Mark B Derham Q.C. and Andrew J McIntosh

**Women Barristers' Association**

Bernard D Bongiorno Q.C., Jane A Dixon and Fiona M McLeod



## **BARRISTERS' CHAMBERS LIMITED BOARD OF DIRECTORS**

Allan J Myers Q.C. (Chairman)  
Maurice B Phipps QC (Deputy Chairman)  
Ross McK. Robson Q.C.  
D Mark B Derham Q.C.  
Michael J Colbran Q.C.  
Andrew J McIntosh  
Paul E Anastassiou

## **THE MELBOURNE BAR PTY LTD BOARD OF DIRECTORS**

J Anthony Magee (Chairman)  
Stephen W Kaye Q.C.  
David F R Beach  
Mark T Settle

## **BARRISTERS' BENEVOLENT ASSOCIATION OF VICTORIA COMMITTEE OF MANAGEMENT**

Neil J Young Q.C. (Chairman, Victorian Bar Council)  
W Ross Ray Q.C. (Honorary Treasurer, Victorian Bar Council)

## **BARFUND PTY LTD (AS TRUSTEE FOR THE VICTORIAN BAR SUPERANNUATION FUND)**

Ross McK. Robson Q.C. (Chairman)  
Philip J Kennon Q.C.  
Robin A Brett Q.C.  
Michael C Hines  
Jonathan B R Beach  
Michael O'Loughlen Q.C. (Alternate)  
David S Levin Q.C. (Alternate)

# **NEW BARRISTERS' COMMITTEE**

## **Bar Council Nominees**

W Ross Ray Q.C. (Chairman)  
Duncan L Allen (Alternate)  
David J Neal (Representative)  
Fiona M McLeod (Alternate)  
Elected Members  
Andrew G Hooper (Secretary)  
Daryl J Williams  
Anne L Wardell  
Shaun L Le Grand

## **BAR ASSOCIATIONS**

### **COMMERCIAL BAR ASSOCIATION**

#### **Office Bearers**

Allan J Myers Q.C. (President)  
David H Denton RFD (Vice-President (Convenor))  
Melanie Sloss (Treasurer)

#### **Committee**

Nunzio Lucarelli  
Albert A Monichino

### **COMMON LAW BAR ASSOCIATION**

#### **Office Bearers**

David A Kendall Q.C. (Chairman)  
Arthur W Adams Q.C. (Vice-Chairman)  
John H L Forrest (Treasurer)  
David J Martin (Secretary)  
Committee Members  
Charles H Francis Q.C.  
Richard J Stanley Q.C.  
Martin Shannon Q.C.  
Peter J Galbally Q.C.  
John T Rush Q.C.  
John R Bowman  
Trevor S Monti  
Paul D Elliott  
David F R Beach

## **COMPENSATION BAR ASSOCIATION**

Robin P Gorton Q.C. (Chairman)  
Michael O'Loughlen Q.C.  
John H Tebbutt (Liaison Officer)  
Julian J Zahara  
Clyde A Miles  
John A O'Brien (Treasurer)  
Robert W Dyer  
Phillip J Coish (Secretary)

## **CRIMINAL BAR ASSOCIATION**

### **Executive**

Michael Rozenes Q.C. (Chairman)  
Lex Lasry Q.C. (Vice-Chairman)  
Roy F Punshon (Deputy Vice-Chairman)  
Lisa A Hannan (Treasurer)  
Colin L Lovitt Q.C. (Membership Secretary)  
Damien P Sheales (Secretary)  
Reginald J Marron (Assistant Secretary)  
Michael A Tovey (Administration Officer)

### **Committee Members**

W Brind Zichy-Woinarski Q.C.  
Robert Richter Q.C.  
Ian D Hill Q.C.  
William E Stuart  
Elizabeth M Gaynor  
John A Smallwood  
Trevor E Wraight  
Natalie S Greenberg

## **FAMILY LAW BAR ASSOCIATION**

Michael R B Watt Q.C. (Acting Chairman)  
Jeremy W St. John (Co-Vice Chairman)  
Graeme P Thompson (Treasurer)

## **VICTORIAN BAR PROPERTY LAW ASSOCIATION**

Peter R Best (Convenor)  
Anthony T Schlicht (Honorary Secretary)

## **WOMEN BARRISTERS' ASSOCIATION**

Susan M Cohen (Convenor)  
Pamela M Tate (Assistant Convenor)  
Jane M J Patrick (Assistant Convenor)  
Fiona J Alpins (Secretary)  
Dr Karin L Emerton (Assistant Secretary)  
Frances I O'Brien (Assistant Secretary)  
Joye S Elleray (Treasurer)

## **CHAIRMEN FOR THE TIME BEING OF THE LIST COMMITTEES**

List A — Ross C Macaw Q.C.  
List B — Richard J H Maidment  
List D — Peter J Galbally Q.C.  
List F — Philip A Dunn Q.C.  
List G — Anthony J Howard Q.C.  
List H — Ronald K J Meldrum Q.C.  
List L — David J Ross Q.C.  
List M — Christopher Dane Q.C.  
List P — Richard R S Tracey Q.C.  
List R — William T Houghton Q.C.  
List S — Michael D G Heaton  
List W — Betty J King Q.C.

## **FIRST AID OFFICERS**

Anthea E L MacTiernan  
Carolyn H Spake  
Fiona J S Connor

## **STANDING COMMITTEES OF THE BAR COUNCIL**

### **Applications Review Committee**

Robert F Redlich Q.C. (Chairman), Frank X Costigan Q.C., Andrew J Kirkham Q.C., G John Digby Q.C., Robin A Brett Q.C., Michael J Colbran Q.C., Phillip G Priest, Michael A Scarfo, Tim J North, Paul J Cosgrave, Alexandra Richards, Joseph Tsalanidis, Jenny E Richards, Michael F Wheelahan and Garrie J Moloney (Secretary)

### **Bar Constitution Committee**

John E Barnard Q.C. (Chairman), The Honourable Xavier Connor AO, Q.C., Michael A Adams CM, Q.C., Frank X Costigan Q.C., David M Bennett Q.C., Michael J Colbran Q.C., George A Watkins and Melanie Sloss

### **Child Care Facilities Committee**

Frances I O'Brien (Chairperson), Simon K Wilson Q.C., Rachelle A Lewitan Q.C., Helen Symon, Stephen J Jones, Paul E Anastassiou, Georgina Grigoriou, Victoria J Bennett, Michael D Wyles, Jennifer J Batrouney, Matthew N Connock, Dr Karin L Emerton and Paul A Norris

### **Conciliators for Sexual Harassment and Vilification**

A Ron Castan AM, Q.C., David J Habersberger Q.C. (Alternate), Jane M J Patrick and Debra S Mortimer (Alternate)

### **Counsel Committee**

David E Curtain Q.C. (Chairman), Stephen W Kaye Q.C., W Ross Ray Q.C. (Honorary Treasurer), Paul D Santamaria, David F R Beach, Richard W McGarvie, Jane A Dixon, Fiona M McLeod, Garrie J Moloney (Honorary Secretary) and Samantha E Burchell (Assistant Honorary Secretary)

### **Equality Before the Law Committee**

Rachelle A Lewitan Q.C. (Chairperson), Anthony J Howard Q.C., Bryan A Keon-Cohen Q.C., Vincent A Morfuni, Thomas P Keely, Michael F Fleming, Michael A Scarfo, Frances I O'Brien, Lisa A Hannan, Julie A Dodds-Streton, Frank Tallarida, Michael D Wyles, Dr Karin L Emerton, Judith V Birch, Kim M Pettigrew and Fiona G Phillips (Secretary)

### **Ethics Committee**

W Brind Zichy-Woinarski Q.C. (Chairman), John F Lyons Q.C., Paul M Guest Q.C. (to 25 November, 1997), Bernard D Bongiorno Q.C. (from 2 June, 1998), H Michael Wright Q.C., Ross C Macaw Q.C., John T Rush Q.C. (to 5 August, 1997), E Noel Magee Q.C. (to 10 March, 1998), Susan C Kenny Q.C. (to 22 July, 1997), Diana L Byrant Q.C., Peter C Young Q.C. (from 1 February, 1998), Ian D Hill Q.C. (from 25 November, 1997), Paul G Lacava (from 16 September, 1997), C F (Kate) McMillan (from 16 July, 1997), Richard J H Maidment, Michael J Crennan, Georgina Grigoriou (from 8 December, 1997) (Assistant Secretary), Jennifer Davies, Rodney J McInnes (to 25 November, 1998), Katharine M Williams (to 21 November, 1997) and Fiona J Connor (Secretary)

### **Human Rights Committee**

Jack I Fajgenbaum Q.C. (Chairman), Charles H Francis Q.C., Robert Richter Q.C., Robert S Osborn Q.C., Bryan A Keon-Cohen Q.C., Damien B Maguire, Peter A Reardon, C James Delany, Herman Borenstein, Ian R Fehring, Mordy A Bromberg, Debra S Mortimer, Gary A Cazalet, Fiona M McLeod, Sandra S Davis (Secretary) and Jane M J Patrick

### **Indonesian Legal Aid Committee**

Jack I Fajgenbaum Q.C. (Chairman), Robert Richter Q.C., Kevin H Bell Q.C., John R P Lewisohn, Ian S Williams, C James Delany, Mordy Bromberg, Michael G O'Connell, Timothy C Lindsey and Tim C de Uray-Ura

### **Legal Education Committee**

Julian W K Burnside Q.C. (Chairman), Joseph G Santamaria Q.C. (Vice-Chairman), The Honourable Justice Hampel, Jack I Fajgenbaum Q.C., Ada Moshinsky Q.C., Richard R S Tracey Q.C., W Ross Ray Q.C., Robin A Brett Q.C., Felicity P Hampel Q.C., Paul D Santamaria and Elizabeth J Hollingworth

### **Legal Education Committee — Readers' Course Sub-Committee**

Julian W K Burnside Q.C. (Executive Chairman), The Honourable Justice Hampel, The Honourable Mr Justice Harper, W Ross Ray Q.C., Felicity P Hampel Q.C., Geoffrey T Chettle, Paul D Santamaria, Helen Symon, Andrew J McIntosh, Lesley A Fleming, Fiona M McLeod, Matthew N Connock and Gerard F Holmes

### **Legal Education Committee — CLE Sub-Committee**

Joseph G Santamaria Q.C. (Executive Chairman), Jack I Fajgenbaum Q.C., Ada Moshinsky Q.C., Richard R S Tracey Q.C., Jeremy Ruskin Q.C., S Rory Derham, David H Denton RFD, Dr Dorothy Kovacs, Dr Clyde E Croft, Elizabeth J Hollingworth and David J Neal

### **Past Practising Chairmens' Committee**

Charles H Francis Q.C., Hartog C Berkeley Q.C., Frank X Costigan Q.C., Brian J Shaw Q.C., Andrew J Kirkham Q.C., David J Habersberger Q.C., Dr Chris N Jessup Q.C., Susan M Crennan Q.C. and John E Middleton Q.C.

### **Professional Indemnity Insurance Committee**

David E Curtain Q.C. (Chairman), Anthony G Southall Q.C., Charles M Scerri Q.C., Ian S Williams, David F R Beach, Ian G Waller and Daryl C Dealehr

### **Staff Review Committee**

Neil J Young Q.C. (Chairman), David E Curtain Q.C. (Senior Vice-Chairman), D Mark B Derham Q.C. and W Ross Ray Q.C. (Honorary Treasurer)

### **Victorian Bar Dispute Resolution Committee**

William J Martin Q.C. (Chairman), Nathan Moshinsky Q.C., David M Bennett Q.C., George H Golvan Q.C. (Deputy Chairman), Henry Jolson Q.C., John V Kaufman Q.C., G John Digby Q.C., Gerald A Lewis, John R P Lewisohn, Marc T Bevan-John, James Cyngler, Ross G Maxted, Joseph Tsalanidis, Gerald A Hardy, Franz J Holzer, Mark G Hebblewhite, Dr Clyde E Croft, Mark S Goldblatt, Sandra S Davis, David B Blackburn, Alan D Kornhauser and Michael H Whitten

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

P Gerard Nash Q.C. (Editor), Paul D Elliott (Editor), David M Bennett Q.C., Julian W K Burnside Q.C., Graeme P Thompson, William F Gillies and Gary A Cazalet

## **JOINT STANDING COMMITTEES**

### **Administrative Appeals Tribunal: Consultative (Heavy Users) Committee**

General Division - Anthony L Cavanough Q.C., Mark A Dreyfus and Sandra S Davis (Secretary); Planning Division - H Michael Wright Q.C., Greg H Garde Q.C., Stuart R Morris Q.C. and Robert S Osborn Q.C.; Working Group on Costs - Christopher J Canavan Q.C.

### **Lawaid (Bar and LIV)**

David E Curtain Q.C. (Chairman), Peter J Galbally Q.C., Robert F Redlich Q.C., David F R Beach, Peter N Rose and Andrew J McG Moulds

### **Legal Aid Liaison (Composite Fees) Committee (Bar and LIV)**

Mark S Weinberg Q.C. and William H Morgan-Payler Q.C.

### **Listing Problems Committee (Bar and LIV)**

Stephen W Kaye Q.C., Paul A Coghlan Q.C. and David F R Beach

### **Medico-Legal Standing Committee (Bar, LIV and AMA)**

David A Kendall Q.C., David E Curtain Q.C., Michael A Scarfo, Debra S Mortimer, Sandra S Davis and Fiona J S Connor

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

Anthony J Howard Q.C. (Chairman), Boris Kayser, W Ross Ray Q.C., Lex Lasry Q.C. (Alternate), Ian D Hill Q.C. (Alternate) and Warwick J Walsh-Buckley (Alternate)

## **BAR APPOINTEES**

### **Academic Course Appraisal Committee**

Jack I Fajgenbaum Q.C.

### **Appeal Costs Board**

Anthony E Hooper Q.C.

### **Attorney-General's Appointments Advisory Committee on the appointment of Magistrates and Tribunal Members**

Anthony L Cavanough Q.C., Diana L Bryant Q.C. and Andrew J McIntosh

### **Board of Examiners (Appointed by Chief Justice)**

Ronald K J Meldrum Q.C., Ross C Macaw Q.C., Michael J L Dowling Q.C., William

F Lally Q.C. (Deputy), Joseph G Santamaria Q.C. (Deputy) and Peter J Jopling Q.C. (Deputy)

**Chief Justice's Civil Listing Committee**

Richard J Stanley Q.C.

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

Anthony E Radford

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

Julian W K Burnside Q.C., Paul A Willee Q.C. and David S Levin Q.C.

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

Geoffrey A A Nettle Q.C. and Robin A Brett Q.C.

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

Geoffrey A A Nettle Q.C.

**Commercial Causes Users Committee**

Julian W K Burnside Q.C., Simon K Wilson Q.C., Tim J North and Stewart M Anderson

**Commonwealth AAT — (Melbourne) Liaison Committee**

Charles Gunst Q.C.

**Costs Co-ordination Committee**

Bernard D Bongiorno Q.C.

**Council of Australian Bar Association**

Neil J Young Q.C. and David E Curtain Q.C. (Alternate)

**Council of Law Council of Australia**

John T Rush Q.C. and Neil J Young Q.C. (Alternate)

**Council of Law Reporting**

James D Merralls Q.C. (5 year term to November 2002) and Charles Gunst Q.C. (5 year term to November 2002)

**Council of Legal Education**

Michael J L Dowling Q.C. and Jack I Fajgenbaum Q.C.

**County Court Building Cases Users Group**

Richard J Manly and Les M Schwarz



## **County Court Business Process Re-engineering Project**

Robin P Gorton Q.C. and David F R Beach

## **County Court Computerisation Committee**

David S Levin Q.C.

## **County Court Reform to Civil Procedure Committees**

Expert Evidence — Bernard D Bongiorno Q.C.; Medical Negligence — David F R Beach; Multi-Party Actions — Richard J Manly; Interest, Offers to Settle Costs — Michael J Corrigan; Trial Control — Ian C Robertson Q.C.

## **County Court Rules Committee**

Michael J Corrigan and Peter T Fox

## **Department of Justice — Supreme Court Library Steering Committee**

Geoffrey A A Nettle Q.C.

## **Federal Court Users Committee**

Intellectual Property and Commercial — Ross C Macaw Q.C. and Bruce N Caine; Administrative Law and Industrial Law — Richard R S Tracey Q.C.; Taxation — G (Tony) Pagone Q.C. and John W De Wijn Q.C.

## **Firearms Appeal Committee**

Carolyn H Sparke

## **La Trobe University Law School — Legal Profession Consultative Council**

Ross C Macaw Q.C.

## **La Trobe University Proctorial Board**

Frank X Costigan Q.C.

## **Law Council of Australia — Access to Justice Committee**

Bernard D Bongiorno Q.C.

## **Law Council of Australia — 1997 Australian Legal Convention Committee**

David E Curtain Q.C., Andrew J McIntosh and Fiona M McLeod

## **Law Council of Australia — Australian Lawyer Editorial Committee**

P Gerard Nash Q.C.

### **Law Council of Australia — Young Lawyers Committee**

Simon K McGregor

### **Law Faculty — University of Melbourne**

Neil J Young Q.C. and Allan J Myers Q.C.

### **Law Institute of Victoria — Pro Bono Implementation Committee**

Garrie J Moloney and Samantha E Burchell

### **Lawyers Engaged in Alternative Dispute Resolution (LEADR)**

William J Martin Q.C. and Dr Damien J Cremean (Alternate)

### **Legal Practice Board**

Susan M Crennan Q.C. (to 31 December, 1997) and David J Habersberger Q.C. (from 1 January, 1998)

### **Legal Practice Board — Legal Costs Committee**

Bernard D Bongiorno Q.C.

### **Legal Profession Tribunal — Conciliators**

Nathan Moshinsky Q.C. (appointed 24 February 1997 for a five year term), Henry Jolson Q.C. (appointed 24 February 1997 for a five year term), John H L Forrest (nominated 22 December, 1997), Melanie Sloss (nominated 19 February, 1998), Michael F Wheelahan (nominated 22 December, 1997) and Jane M J Patrick (nominated 19 February, 1998)

### **Legal Profession Tribunal — Advocate Members**

(Five year term effective 1 January, 1998 to 31 December 2002)

Frank X Costigan Q.C., David M Bennett Q.C., Ian G Sutherland Q.C., Lex Lasry Q.C., Richard R S Tracey Q.C., Rachelle A Lewitan Q.C., Anthony G Southall Q.C., David S Levin Q.C., Peter J Jopling Q.C., Marilyn L Warren Q.C., Jeremy W Rapke, Manny Garantziotis, Gerard J Maguire, Susan A Winneke, Christopher J Ryan, Helen M Symon and Meryl E Sexton

### **Leo Cussen Institute of Continuing Legal Education**

The Honourable Justice Hampel (Chairman), Diana L Bryant Q.C. (Alternate), Julian W K Burnside Q.C. and P Gerard Nash Q.C. (Alternate)

### **Magistrates' Court Civil Rules Committee**

Ian R McEachern, Gregory L McNamara and Franz J Holzer

### **Monash University Law Faculty Board**

Paul A Willee Q.C. and P Gerard Nash Q.C. (Alternate)

### **Public Interest Law Clearing House (PILCH)**

Gary A Cazalet and Fiona M McLeod (Alternate)

### **Salvation Army Court and Prison Advisory Committee**

Andrew B J Combes

### **Supreme Court of Victoria – Building List Users Committee**

G John Digby Q.C., David S Levin Q.C. and Richard J Manly

### **Supreme Court of Victoria — Court Management**

Stephen W Kaye Q.C. and Robin A Brett Q.C.

### **Supreme Court of Victoria — Long Cases Committee**

David E Curtain Q.C. and Stephen W Kaye Q.C.

### **Supreme Court of Victoria — Probate Users' Committee**

Richard R Boaden and Shane P Newton

### **Victoria Law Foundation (including Grants Committee)**

David E Curtain Q.C.

### **Victoria Legal Aid— Community Consultative Committee**

Robert F Redlich Q.C.

### **Victoria Legal Aid — Legal Aid Review Committees and Reserve Members**

John A Smallwood (to 30 April, 1998); Panel of Reserve Members — Carolyn M Burnside (to 30 April, 1998)

## **GENERAL MEETINGS**

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

The last Annual General Meeting of the Bar was held on 15 September, 1997.

### **BAR COUNCIL MEETINGS**

For the year ended 30 June, 1998 the Bar Council held 2 special meetings and 26 ordinary meetings.

### **EXECUTIVE COMMITTEE MEETINGS**

For the year ended 30 June, 1998 a total of 22 Executive Committee meetings were held.

## SUBSCRIPTIONS

For the period 1 July, 1997 to 30 June, 1998 the Bar Council fixed annual subscriptions for members of the Bar as follows:

### Division A, Part I

Queen's Counsel	\$1,800.00
Over 10 years	\$1,200.00
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 (September 1997 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
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### Division B, Part IV

Solicitors-General and Directors of Public Prosecutions	\$260.00
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### Division B, Part VII

Crown Counsel and Parliamentary Counsel	\$260.00
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### Division B, Part VIII

Other Official Appointments	\$260.00
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### Division D

Academics	\$260.00
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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:

Denis J Barritt OAM in February 1997

Matthew Strathmore on 9 May, 1997

The Honourable Sir John Nimmo CBE on 7 July, 1997

The Right Honourable Sir Garfield Barwick on 15 July, 1997  
Neil H M Forsyth Q.C. on 29 August, 1997  
John D Byrne on 9 September, 1997  
His Honour Judge John P Somerville on 1 November, 1997  
Joseph R Balfe Q.C. on 9 December, 1997  
Garrick Gray on 13 December, 1997  
His Honour Judge J H Forrest AO on 24 December, 1997  
Stephen J Winter on 25 December, 1997  
Bruce C M Knappett on 6 January, 1998  
Roger F Shipton AOM on 19 January, 1998  
Patrick Kearney on 1 March, 1998  
Max P Green on 24 March, 1998

## **Judicial Appointments:**

### **Federal Court of Australia**

On 21 July 1997 The Honourable Justice Finkelstein was appointed to the Bench of the Federal Court of Australia.

### **Supreme Court of Victoria**

On 28 January, 1998 The Honourable Mr Justice Kellam was appointed to the Bench of the Supreme Court of Victoria.

### **County Court of Victoria**

On 7 October, 1997 Her Honour Judge Douglas was appointed as a Judge of the County Court of Victoria.

On 2 December, 1997 His Honour Judge Wood was appointed as a Judge of the County Court of Victoria.

On 19 January, 1998 His Honour Judge Robertson was appointed as a Judge of the County Court of Victoria.

On 17 March, 1998 His Honour Judge Anderson was appointed as a Judge of the County Court of Victoria.

### **Other Appointments**

On 29 July, 1997 The Honourable Justice Kenny was appointed a Judge of Appeal.

On 23 September, 1997 The Honourable Justice Hayne was appointed a Judge of the High Court of Australia.

On 13 October, 1997 The Honourable Justice Giudice was appointed President of the Australian Industrial Relations Commission and a Judge of the Federal Court of Australia.

On 28 October, 1997 The Honourable Justice Buchanan was appointed a Judge of Appeal.

On 1 May, 1998 The Honourable Justice Guest was appointed a Judge of the Family Court of Australia.

On 22 May, 1998 The Honourable Chief Justice Gleeson was appointed as Chief Judge of the High Court of Australia.

On 27 May, 1998 The Honourable Justice Carter was appointed a Judge of the Family Court of Australia.

### **Queen's Counsel**

On 25 November, 1997 the following members of the Victorian Bar were appointed Queen's Counsel in Victoria:

Lyn R Boyes, Ian J Hardingham, Diana Bryant, Terence J Casey, Peter C Young, Ian D Hill, Anthony G Southall, Charles M Scerri, Marilyn L Warren, John W de Wijn, Charles Gunst, Michael W Shand, Patrick F Tehan, David S Levin, Kevin H Bell and Michael J Colbran.

### **Welcomes:**

On 21 July, 1997 The Honourable Justice Finkelstein was welcomed to the Bench of the Federal Court of Australia by Neil J Young Q.C., Chairman of the Victorian Bar Council.

On 29 July, 1997 The Honourable Justice Kenny was welcomed to the Bench of the Court of Appeal by David E Curtain Q.C., Acting Chairman of the Victorian Bar Council.

On 9 October, 1997 Her Honour Judge Pannam was welcomed to the Bench of the County Court of Victoria by Neil J Young Q.C., Chairman of the Victorian Bar Council.

On 13 October, 1997 The Honourable Justice Giudice was welcomed as President of the Australian Industrial Relations Commission and to the Bench of the Federal Court of Australia by David E Curtain Q.C., Acting Chairman of the Victorian Bar Council.

On 13 October, 1997 His Honour Judge Holt was welcomed to the Bench of the County Court of Victoria by Mark Derham Q.C., Junior Vice-Chairman of the Victorian Bar Council.

On 15 October, 1997 Her Honour Judge Douglas was welcomed to the Bench of the County Court of Victoria by David E Curtain Q.C., Acting Chairman of the Victorian Bar Council.

On 4 December, 1997 His Honour Judge Wood was welcomed to the Bench of the County Court of Victoria by Neil J Young Q.C., Chairman of the Victorian Bar Council.

On 3 February, 1998 His Honour Judge Robertson was welcomed to the Bench of the County Court of Victoria by David E Curtain Q.C., Acting Chairman of the Victorian Bar Council.

On 5 February, 1998 The Honourable Mr Justice Kellam was welcomed to the Bench of the Supreme Court of Victoria by David E Curtain Q.C., Acting Chairman of the Victorian Bar Council.

On 19 March, 1998 His Honour Judge Anderson was welcomed to the Bench of the County Court of Victoria by David E Curtain Q.C., Acting Chairman of the Victorian Bar Council.

On 1 May, 1998 The Honourable Justice Guest was welcomed to the Bench of the Family Court of Australia by Neil J Young Q.C., Chairman of the Victorian Bar Council.

On 19 May, 1998 The Honourable Justice Callinan was welcomed to the Bench of the High Court of Australia by Neil J Young Q.C., Chairman of the Victorian Bar Council.

On 27 May, 1998 The Honourable Justice Carter was welcomed to the Bench of the Family Court of Australia by Neil J Young Q.C., Chairman of the Victorian Bar Council.

## **Farewells:**

On 21 November, 1997 the legal profession met to pay tribute to The Honourable Justice Hase on the occasion of his retirement from the Bench of the Family Court of Australia. David E Curtain Q.C., Acting Chairman of the Victorian Bar Council spoke on behalf of the Bar.

On 15 August, 1997 the legal profession met to pay tribute to The Honourable Sir Daryl Dawson AC, KBE, CB on the occasion of the final sitting of the High Court in Melbourne prior to his retirement from the Bench of the High Court of Australia. Neil 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	147
Victorian Practising Counsel — Junior Counsel	1185

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

Prosecutors for the Queen	18
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## **Division A, Part III:**

Overseas and Interstate Counsel	228
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## **Division B, Part I:**

Governors	2
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## **Division B, Part II:**

Judges	152
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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	4
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## **Division B, Part V:**

Masters and Judicial Registrars	12
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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	6
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## **Division C, Part I:**

Retired Judges and other Judicial Officers	42
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## **Division C, Part II:**

Retired Holders of Public Office other than Judicial Officer	6
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## **Division C, Part III:**

Retired Counsel	48
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## **Division D:**

Academics	22
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<b>TOTAL</b>	<b>1947</b>
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**Between 1 July, 1997 and 30 June, 1998 the following 90 persons signed the Roll of Counsel:**

Bernard J Sutherland (re-signed), Paul J Hayes, Gerard P Long, Graham B Roberts, Amanda C Fox, Caron Y Beaton-Wells, Edward W Woodward, Daniel V Aghion, Michael G R Gronow, Gerard C P McKeown, David A Klempfner, Anthony F Askew, Stephen J Sharpley, Minal Vohra, Ronald I Gipp, Bradley D Baker, Graham J Ashworth, Rosaline M Germov, Debra J Coombs, Robert L Cochrane, Elliott J Perlman, Charles L T Tan, Paula Piccinini, Martin L Grinberg, J Paul McCaffrey, Peter A Holding, Mark A Irving, H James Buchecker, Andrew P Barnett, Anthony F L Krohn, Andrew J R Hawking, Eilish J Cooke, Michael L Pavone, Matthew D Townsend, Gerald L Purcell (re-signed), Garry T Bigmore Q.C., Anthony M Thomas, Jonathon P Moore, Suresh R Senathirajah, Rachel Chrapot, Rowena E Cantley-Smith, Matthew G Groom, Sharon L Johns, Stephen A O'Meara, Benjamin L Rozenes, David J Batt, Rozanna Zalewski, Nicholas D Klooger, Colin D Campbell, Roisin N Annesley, Konstantin F Tringas, Mary-Anne E Hughson, David C Langmead, Daniel I Star, Phillip J Allaway, Andrew D Clements, Julian P McMahon, Christopher R Colman, Matthew C Fisher, William G Stark, Steven J Moore, P Justin Hannebery, Shane AM Lethlean, Michael W Sanger, Susan M Brennan, Peter A Clarke, Richard J Bourke, Ian C Alger, Michael Y Bearman, Diane L Anderson, Keith F Nicholson, Nicholas J Tweedie, Roseanne L Nettleton, Adrian J Finanzio, J Rohan Hamilton, Paul A Hannan, Lesley A Taylor, Sophie Panopoulos, Alexander J Klein, Gregory F Smith, Carolyn A Holt, Richard B C Wilson, Judith A Benson, Bruce O Bowlby, Dimity Lyle, Lewis J Spaulding, Andrew J Paterson, Vivienne S Cashmore, Jamie D Singh, Robyn L Wheeler

**Between 1 July, 1997 and 30 June, 1998 the names of the following 4 Overseas and Interstate Counsel were entered on the Roll of Counsel:**

Wayne R Haylen Q.C. (New South Wales), Kiernan D Dorney Q.C. (Queensland), Duncan E Graham (re-signed, New South Wales), Matthew D Howard (Western Australia)

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

Philip J Grano, Suzanne L Harmer, Maureen R Hickey Q.C., John Wadsley, Peter S Clarke, J Damian Ellwood, James A Logan, Joanne L Piggott, Rudi Meier, Richard T Norwood, Abraham Z Kornblum, William Strugnell, Graham B Powell, John L R Francis, Austin Parnell, Suzanne Sillitoe, Michael P R Turner, Nicola L Hoobin, Rima Newman, Philip A Tribe, Shane A Kenna, Denise Weybury, Peter F Collins, Timothy J Young, William B Southey, Grant R Fraser, Dominic Lay, Domenico Conidi, Penny J Van Den Berg, Peter A Ryan, Margaret M Ryan, Ann-Maree McDiarmid, Annamaria McDonald, Linda R Rowland

**Members whose names have been removed from Division A, Part II (Crown Prosecutors):**

Christopher Delaney, Peter X Elliott, Geoffrey M Horgan, Thomas Gyorffy

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

Kenneth J Crispin Q.C., Ventry R W Gray, Leslie S Katz, Dennis A Cowdroy OAM, Q.C., James A Farmer Q.C., Johannes T Schoombee, Robert G Forster Q.C., Paul J Favell, Malcolm F Holmes

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

Dr John D Glover, Bryan M Dwyer, Edward Wajsbrem

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

Julian P Leckie, William E Stuart

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

Karl Sienkowski

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

The Honourable Justice Finkelstein, The Honourable Justice Kenny, The Honourable Justice Giudice, The Honourable Mr Justice Buchanan, His Honour Judge Wood, His Honour Judge Robertson, His Honour Judge Anderson, The Honourable Justice Guest, The Honourable Justice Carter

**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):**

The Honourable Senator Richard Alston

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

David G Loadman, Julia A Bruce, Sandra S Davis, Dr Damien J Cremean

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

Ian L Read

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

Neil H M Forsyth Q.C., Julian Phillips

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

Donald G Just, Jeanette G Morrish

**Member whose name has been transferred from Division A, Part II (Crown Prosecutors) to Division B, Part II (Judges):**

Her Honour Judge Douglas

**Member whose name has been transferred from Division A, Part II (Crown Prosecutors) to Division C, Part III (Retired Counsel):**

Michael G Hugh-Jones

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

His Honour Judge Sulan, The Honourable Mr Justice Hamilton, The Honourable Mr Justice Einstein, The Honourable Justice Steele, The Honourable Mr Justice James, The Honourable Chief Justice Spigelman, The Honourable Justice Waddy RFD

**Member whose name has been transferred from Division B, Part I (Governors) to Division C, Part I (Retired Judges and other Judicial Officers):**

The Honourable Richard E McGarvie AC

**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 Malcolm McLelland Q.C., The Honourable Justice Hase

**Members whose names have been transferred from Division B, Part IV (Solicitors-General and Directors of Public Prosecutions) to Division A, Part I (Victorian Practising Counsel):**

Edwin J Lorkin, Dr Gavan Griffith AO, 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):**

Ian L Gray

## **FUNCTIONS**

### **Opening of the Legal Year:**

Religious Observances for the Legal Profession on the occasion of the opening of the Legal Year were held on 2 February, 1998. The Services were held at St. Paul's Cathedral, St. Patrick's Cathedral and Toorak Synagogue. No Greek service was held because of the clash in the Greek Orthodox calendar.

### **Social Functions:**

On 15 July, 1997 a media reception was held in the Chairman's Room.

On 20 August, 1997 the 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 1 September, 1997 Readers were welcomed to the Victorian Bar.

On 24 October, 1997 the Chairman and members of the Victorian Bar Council held a dinner in honour of Sir Daryl Dawson, AC, KBE, CB to commemorate his retirement from the High Court of Australia.

A Readers and Mentors dinner was held in the Essoign Club on 20 November, 1997 and the guest speaker was The Honourable Mr Justice Buchanan, Court of Appeal.

At a function held in the Essoign Club on 1 March, 1998 Readers were welcomed to the Victorian Bar.

On 24 April, 1998 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.

On 19 May, 1998 the Chairman and members of the Victorian Bar Council held a lunch for High Court judges in the Essoign Club.

A Readers and Mentors dinner was held in the Essoign Club on 28 May, 1998 and the guest speaker was Michael Rozenes Q.C.

The 1998 Victorian Bar Annual Dinner was held on 30 May, 1998 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 Chief Justice Phillips AC

The Honourable Justice Kenny

The Honourable Mr Justice Buchanan

The Honourable Mr Justice Kellam

Her Honour Judge Pannam

Her Honour Judge Douglas  
His Honour Judge Holt  
His Honour Judge Wood  
His Honour Judge Robertson  
His Honour Judge Anderson  
The Honourable Sir Gerard Brennan AC, KBE  
The Honourable Justice Hayne  
The Honourable Justice Callinan  
The Honourable Chief Justice Black AC  
The Honourable Justice Giudice  
The Honourable Justice Finkelstein  
The Honourable Justice Guest  
The Honourable Justice Carter

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

Neil J Young Q.C. welcomed the honoured guests of the Bar and introduced Mr Junior Silk, Michael J Colbran Q.C. who addressed the honoured guests. The Honourable Justice Kenny responded on behalf of the honoured guests.

### **Other Functions:**

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

## **SPORTING EVENTS**

### **Cricket:**

On 22 December, 1997 two cricket matches were played against teams from the Law Institute of Victoria. At the match played at the Albert Ground, the Law Institute defeated the Victorian Bar. Scores were Law Institute 4/210 (off 40 overs) and the Bar 191. At the match played at Old Scotch Oval, the Victorian Bar defeated the Law Institute, thus regaining "The Grafters Goblet". Scores were Bar 6/151 and the Law Institute 7/123 (off 35 overs).

On 5 April, 1997 two cricket matches were played against teams from Mallesons Stephen Jacques at Wesley College, Prahran. In the First XI match, Mallesons Stephen Jacques 8/188 (off 35 overs) defeated the Victorian Bar 5/167. In the Second XI match, the Victorian Bar (280 off 35 overs) defeated Mallesons Stephen Jacques (267 off 35 overs), thus regaining the Phil Opas Trophy.

### **Hockey:**

At a match played at the State Hockey Centre in October 1997 the Law Institute team defeated the Victorian Bar team by 6 goals to 2, thus retaining the Scales of Justice Cup.

## **Tennis:**

On 22 December, 1997 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 a small margin in a very close match.

On 23 December, 1997 the Annual Royal Tennis Tournament between the Bench, the Bar and the Law Institute of Victoria was held at the Royal Melbourne Tennis Club. The Law Institute won the tournament by 6 games to 4, 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 Yarra Yarra Golf Club on 15 December, 1997. The Law Institute won the tournament and regained the Sir Edmund Herring Trophy.

## **Yacht Regatta:**

The yacht regatta was held on 22 December, 1997 at the Royal Yacht Club, Williamstown. Trophies awarded: First (and the Thoesen Trophy) — Judge Frank Lewis and Justin Lewis; Second — Mr Justice Eames and crew; Third — James Mighell and crew.

# **ANNUAL REPORTS**

## **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	\$400.00
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, 1998 amounted to \$34,128. Interest from investments received during the year amounted to \$41,474. During the year the sum of \$2,500 was advanced to two persons by way absolute grant. At 30 June, 1998 the capital fund which is repre-

sented by investments in trustee securities, stood at \$738,952 and outstanding loans totalled \$57,000.

## **ANNUAL REPORT OF THE CRIMINAL BAR ASSOCIATION OF VICTORIA INC**

During the year the Association incorporated and is now The Criminal Bar Association of Victoria Inc.

It is worth noting that the objects of the Association are:

- (i) to promote the professional interest of members;
- (ii) to provide facilities and programs which will assist members in their professional practice;
- (iii) to liaise with other bodies concerned with issues of professional interest to members;
- (iv) to provide representation for members in relation to matters which affect the interest of members generally;
- (v) to represent the views of members to bodies and persons engaged in the administration of criminal justice and the review and development of the Criminal Law, procedure and civil liberties.

We have an office in Douglas Menzies Chambers with an Internet connection available for legal research by members. The Criminal Bar Association also has its own Website at [www.crimbarvic.org.au](http://www.crimbarvic.org.au) providing useful links to the criminal justice system.

The year has seen a number of issues vital to the administration of criminal justice subjected to close scrutiny by the Association.

The availability of adequate legal aid in criminal matters has remained at the very forefront of the Criminal Bar Association's activities. The Association strongly opposed Victoria Legal Aid's proposed limited practitioner panels. In the result Victoria Legal Aid ultimately withdrew the proposal so far as it pertained to barristers although a panel system for solicitors is now in place.

The Criminal Bar Association assisted the Bar Council in its submission to the Senate Inquiry into legal aid by, amongst other things, conducting a survey of members who have substantial legal aid practices. The survey revealed a most disturbing trend. Senior and experienced practitioners were deliberately reducing the amount of legally aided work they were prepared to do as a direct result of the cuts to fees and in particular preparation fees. The recommendations of the Senate Committee and in particular those which call for additional funding of Commonwealth cases are welcomed.

The Association continues to arrange pro bono representation for accused persons in the Court of Appeal and in the Supreme and County Courts to make s.360A applications in circumstances where barristers briefed in the matter are embarrassed to make the application themselves.

The Association has continued to conduct its program of educational seminars which have been most instructive and well attended. Additionally the newsletter has kept members advised of changes to legislation and practice as well as providing a commentary on recent Court of Appeal decisions.

We have responded to proposed legislative and other initiatives of Government affecting criminal practice including submissions on various discussion papers issued by the Model Criminal Code Officers Committee on matters such as Conspiracy to Defraud, Public Order Offences, Administration of Justice Offences and Serious Drug Offences.

On the State level we have contributed to the review of the *Appeals Cost Act*, the *Juries Act* 1967, the *Confiscation Act* 1997, the *Crimes Amendment (Forensic Procedures) Bill* 1997, the *Crimes (Amendment) Act* 1997 (dealing with propensity evidence), the *Crimes (Mental Impairment & Unfitness to be Tried) Act* 1997 and various amendments to the Bail and Sentencing legislation.

Three initiatives of Government present serious concerns for the Association. The review of Committal proceedings, the "Silence Inquiry" and a review of the *Crimes (Criminal Trials) Act* 1993 all of which touch essential aspects of the administration of criminal justice. The Attorney-General has constituted a "Committal Proceedings Consultative Committee" which is working its way through various proposals for the reform of committal proceedings. The Committee is constituted by representatives of the government, the judiciary, the magistracy, both DPP's, legal aid and the Bar.

The Association has made a submission to the Scrutiny of Acts and Regulations Committee's "Silence Inquiry". The right to silence is presently the subject of extensive debate at all levels of the legal system in Australia. The possibility that in Victoria the right might be abrogated or substantially modified should cause all lawyers very great concern. The review of the *Crimes (Criminal Trials) Act* 1993 also raises for consideration the right to silence in the context of mandatory pre-trial disclosure.

## **ANNUAL REPORT OF THE COMMERCIAL BAR ASSOCIATION**

In 1997/98, the Commercial Bar Association has been engaged in a series of continuing commercial legal education seminars conducted by the Chairman and Secretary of each section of the Association. The Victorian Bar 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	Allan Myers Q.C.
Vice President (Convenor)	David Denton RFD
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:	David Denton RFD
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

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. 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.

Also in the past year members of the Association have met with the judiciary to discuss aspects affecting commercial law practice and procedure. Dr Rory Derham completed a review of the NSW Law Reform Commission report on Set Off and this was provided to the Victorian Bar Council. The Association has made written representations to the Attorney - General seeking to gather the State Government's support for the acquisition by the State of the Old High Court Building for use as a Supreme Court Commercial Courts Complex.

Any enquiries in relation to the activities of the Commercial Bar Association should be directed to David Denton, Clerk "A" on 9600 1777 or email: [denton@chancery.com.au](mailto:denton@chancery.com.au).

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

The year has witnessed some major developments in matters of interest to the Association and its members. On the negative side, the effects of reductions in legal aid funding have continued to affect family law and practice in many ways:

- Increased numbers of in-person litigants have seen duty lists and directions hearings bogging down as large numbers of unrepresented parties are taken through the case management processes required by the Court's simplified procedures introduced in 1996;
- Contested final hearings involving litigants in person on at least one side of the case are now commonplace and appeals by unrepresented parties (who obtain representation for the appeal!) have produced guidelines from the Full Court of the Family Court identifying the essentials of procedural fairness which must be afforded to such litigants;
- The effects include that such matters often take longer, are more difficult to settle, and appear likely to be costing the community far more than any savings made in legal aid expenditure.

The Association has provided the Bar Council with examples of cases in which the absence or termination of legal aid has produced injustice, to assist the Bar in making representations on behalf of the Bar. Further examples occur almost daily. The Association also provided comments for the Bar Council on the draft of the proposed State – Commonwealth legal aid agreement.

On the positive side:

- The appointment of the Honourable Justice Paul Guest to the bench of the Family Court on the 1 May 1998 was welcomed by the Association, the Court, and the wider legal community as both a significant enhancement of the Court's judicial resources and also as appropriate recognition of the leader of the Bar in this jurisdiction. Before his appointment, His Honour was Chairman of the Family Law Bar Association for 12 years and in that time maintained a high level of commitment to the Association and the interests of its members which manifested itself in many ways.
- A month after His Honour's appointment, the appointment of the Honourable Justice Heather Carter was welcomed and saw another of the Association's longstanding members and willing contributors take up judicial office.
- In the course of the year, and particularly in recent months, the Association has made representations or submissions to the Court, and has been requested by the Bar Council to provide reports or comments to assist it in the formulation of submissions on behalf of the Bar. On each occasion, a senior member of the Association has been asked to convene an ad hoc committee and undertake the work on behalf of the Association and the response from those asked to convene committees and those asked to participate has been one of willingness to complete the task to a high standard, often within a tight time frame.

On the social side, the Association's Christmas cocktail party was held at the Australian Club and was well attended by the members. Guests included the Chief Justice of the Family Court and the occasion was regarded as a great success.

## **ANNUAL REPORT OF THE WOMEN BARRISTER'S 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 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.

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.

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.

The educational and social activities of the Association have continued in 1997/98.

The Women Barristers' Association has become a foundation member association of Australian Women Lawyers. Its patron is Justice Gaudron and was launched at the Australian Legal Convention on 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 CHILD CARE FACILITIES COMMITTEE**

The Committee has now been successful in implementing its major task of the last two year.

A fully equipped Parents Room will open shortly on the ground floor of Owen Dixon Chambers East. The Committee wishes to thank the Bar Council for its support of this project.

The Committee has been actively involved in the planning of the proposed childcare facilities at the new Federal Court.

## **ANNUAL REPORT OF THE CONCILIATORS FOR SEXUAL HARASSMENT AND VILIFICATION STANDING COMMITTEE**

In 1997 two additional conciliators were appointed. David Habersberger Q.C. and Debra Mortimer joined Ron Castan Q.C. and Jane Patrick, in order to maximise the availability of conciliators.

The experience in the last year has been consistent with the experience since conciliators were appointed in 1995. There have been a small number of enquiries to the conciliators. These have ranged from concerns by barristers about the behaviour of another barristers and concern from administrative staff about the behaviour of barristers to concern about the briefing practices of solicitors. The last matter was considered to be outside the scope of the relevant rules under which the conciliators operate and was referred to the Chairman of the Bar Council. The other matters were dealt with informally by way of discussion with the person making the enquiry and, in one case, informal contact with the barrister who was the subject of concern. None of these matters progressed to a formal complaint.

One formal complaint of a major nature was dealt with by way of conciliation prior to this reporting year. As this is the first written report from the conciliators, we note that the complaint referred to was dealt with over a number of months by the conciliators. It involved a serious matter concerning a barrister and a person working with barristers, which was eventually resolved. All concerned with the process were of the view that the procedures set out in the Rules of Conduct provided an appropriate and constructive way to deal with issues of this nature, and that all involved would have been considerably disadvantaged, had the conciliation procedures not been available.

Experience suggests that the system operates in an effective way when needed. The conciliators are concerned that those affected may not be aware of the availability of the conciliators for matters involving sexual harassment and vilification across a wide range of grounds. The conciliators intend to address this concern in the next year.

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

Once again the Equality Before the Law Committee has had a very active year.

The study into the Equality of Opportunity for Women at the Victorian Bar conducted by Associate Professor Rosemary Hunter and Helen McKelvie has now been completed and submitted to the Bar Council. The study began as an initiative of the Equality Before the Law Committee and is the first stage of a two-stage process to identify, and then address, any barriers impeding the advancement of women at the Bar.

This is the first report of its kind in Australia, or indeed elsewhere. The study involves an audit of appearances in the Superior Courts and Tribunals. It

includes confidential interviews conducted with solicitors, judges and other judicial officers selected on a random sample basis. It contains valuable information and findings and is compelling reading for all lawyers.

The Committee looks forward to assisting the Bar Council in relation to the findings arising out of the report.

Concern that the effects of the cuts to legal aid on women in civil disputes were not being canvassed elsewhere led the Equality Before the Law Committee to make submissions to the Legal and Constitutional References Committee Legal Aid Inquiry. Members of the Committee also met with representatives from the Women's Legal Resource Group to discuss the problem.

The Committee carried out a review of the NSW Law Reform Commission's Discussion Paper on People with Intellectual Disabilities and the Criminal Justice System. The Committee arranged a meeting with and sought the advice of Lance Pilgrim, Deputy President of the Guardianship List, Victorian Civil and Administrative Tribunal and Ann Condon, the Disability Services Co-ordinator at the Melbourne Magistrates' Court. The Committee is currently considering ways to ensure that members of the Bar are aware of and have access to relevant information concerning the sentencing and management of the increasing number of people with a disability entering the criminal justice system.

More recently, the Committee has prepared detailed submissions on the Genetic Privacy and Non-Discrimination Bill 1998. The Committee's submissions have now been forwarded to the Legal and Constitutional Legislation Committee on behalf of the Bar Council.

## **ANNUAL REPORT OF THE ETHICS COMMITTEE**

In the last Annual Report the Committee noted that the provisions of the *Legal Practice Act* 1996 ("the Act"), which came into operation on 1 January 1997 had resulted in major changes to the role of the Committee. In particular, in matters raising issues of conduct the Committee no longer has any determinative role in that it no longer conducts summary hearings. Rather, the role of the Committee is simply one of investigation and to determine, at the conclusion of the investigation, whether or not a charge should be laid under the Act. The Act also requires the Committee to attempt to settle "disputes" (as defined by the Act) between a barrister and a person to whom that barrister has provided legal services: this is a new area of jurisdiction for the Committee.

The dispute jurisdiction has increased the workload of the Committee considerably. This is demonstrated by the figures in the accompanying Table. Many conduct matters arise out of distinct and concise situations. Disputes, on the other hand, generally require consideration of the complete relationship between the client and the practitioner. Accordingly, many dispute files are quite large and require careful analysis to obtain a full understanding of the situation. Section 126 of the Act requires the Committee to attempt to settle the dispute and to take any action it considers necessary to assist the parties to reach an agreement. In furtherance of this requirement the Committee has, on occasions, discussed the dispute with the barrister concerned and made recommen-

dations; has had discussions with both the barrister and the clients concerned; and, has on a number of occasions (where it seemed appropriate) employed a barrister mediator to attempt to negotiate the dispute. The Committee has found that mediation, in the appropriate cases, is a very satisfactory method of resolving disputes. If the Committee is unable to settle the dispute the client may take the matter to the Tribunal for conciliation.

In the last Report it was noted that there were some problems with the drafting of provisions of the Act and that the Committee, through the Bar Council, had suggested some amendments to the Act. Unfortunately, some of the problems identified at the time of the last Annual Report still require rectification and further drafting problems have been identified.

There is one matter that causes the Committee great concern and inconvenience. For whatever reason, barristers are becoming more tardy in their response to communications from the Committee. This makes the task of the Committee much harder and it does not create good relations between the public, who have a right to complain if they feel aggrieved by the services provided by a barrister, and the Bar. Relations between the Bar and the public cannot be improved by the Committee advising complainants that the barrister concerned has still not replied to correspondence. Counsel are reminded that the Rules of Conduct specifically provide for a barrister to respond forthwith to any requirement from the Ethics Committee and to reply to correspondence from the Committee when asked to do so: see Rule 74. The Act enables the Committee to require a response within 14 days of the request of information. The provisions of the Rule and the Act were drawn to the attention of counsel in "In Brief" earlier this year, but the position has not improved. The Committee is still concerned that too many members of counsel do not respond to correspondence from the Committee promptly and without further reminder letters. So far the Committee has avoided laying a charge against a barrister based on a breach of Rule 74, but the patience of the Committee is rapidly wearing thin.

The Committee normally meets every second Tuesday, at lunchtime. From time to time special meetings are held to dispose of any excess workload or to deal with a matter requiring special or lengthy consideration. During the period 1 July 1997 to 30th June 1998 the Committee has held 31 meetings.

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

The Honourable Justice Paul Guest,  
E Noel Magee Q.C.,  
Rodney J McInnes, and  
Katharine Williams.

Finally, the Committee expresses its heartfelt gratitude and thanks to Debbie Jones, the Investigations Officer. Ms Jones is the public face of the Committee and the person who ensures the smooth working of the Committee. She carries an enormous and very important work load and the Bar as a whole needs to be aware of the important role she plays and the help she provides. The Bar too should be very grateful to Ms Jones.

COMPLAINTS/DISPUTES	01/7/95 to 30/6/96 (12 months)	01/07/96 to 31/12/96 (6 months)	01/1/97 to 30/6/97 (6 months)	01/7/97 to 30/6/98 (12 months)
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Number of matters referred by the Chairman of the Victorian Bar Council to the Ethics Committee under the provisions of the *Legal Profession Practice Act 1958* which *disclosed* complaints of disciplinary offences

12      10      —      —

Number of matters referred by the Chairman of the Victorian Bar Council to the Ethics Committee under the provisions of the *Legal Profession Practice Act 1958* which *did not disclose* complaints of disciplinary offences

65      39      —      —

Number of matters pending determination on whether a disciplinary offence is disclosed within the provisions of the *Legal Profession Practice Act 1958*

10      —      —      —

Number of matters of disciplinary offences investigated under the Ethics Committee's own motion pursuant to the provisions of the *Legal Profession Practice Act 1958* or *Legal Practice Act 1996*

1      —      —      5

Number of complaints and/or Requests for Dispute Resolution received and investigated by the Ethics Committee pursuant to the provisions of the *Legal Practice Act 1996*

—      —      26      86

<b>COMPLAINTS/DISPUTES</b>	<b>01/7/95 to 30/6/96 (12 months)</b>	<b>01/07/96 to 31/12/96 (6 months)</b>	<b>01/1/97 to 30/6/97 (6 months)</b>	<b>01/7/97 to 30/6/98 (12 months)</b>
Number of complaints or/and Requests for Dispute Resolution <u>referred by the Legal Ombudsman to the Ethics Committee</u> pursuant to the provisions of the <i>Legal Practice Act 1996</i>	—	—	9	18
Total number of complaints and disputes dealt with by the Ethics Committee during the reporting period.	88	<u>49</u>	<u>35</u> 84	109
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	—
Number of notifications of investigations received from the Legal Ombudsman	—	—	11	23



## SUMMARY OF COMPLAINTS AND DISPUTES

1 July 1997 to 30 June 1998

	Complaints		Disputes		Complaints/ Disputes*		Total
	Number of complaints of misconduct or unsatisfactory conduct received by and investigated by the Ethics Committee or investigated of its own motion	Number of complaints of misconduct or unsatisfactory conduct referred by the Legal Ombudsman to the Ethics Committee	Number of requests for dispute resolution received by the Ethics Committee	Number of requests for dispute resolution referred by the Legal Ombudsman to the Ethics Committee	Number of combined complaints and disputes received by and investigated by the Ethics Committee	Number of combined complaints and disputes referred to the Legal Ombudsman to the Ethics Committee	
TOTAL	46	3	13	1	32	14	109
COMPLAINTS							
In Progress	7	—	—	—	7	3	17
Withdrawn/ Not Pursued	3	—	—	—	3	—	6
Dismissed							
Under s.141(1)	12	—	—	—	3	2	17
Under s.151(5)	18	1	—	—	18	9	46
Referred to Tribunal	6	2	—	—	1	—	9
DISPUTES							
In Progress	—	—	2	—	11	4	17
Withdrawn/ Not Pursued	—	—	2	—	3	—	5
Dispute Settled	—	—	2	—	1	—	3
Dispute Not Settled	—	—	7	1	17	10	35
TOTAL	46	3	13	1	64	28	155

\*Totals do not agree because a single complaint may have two aspects — complaint and dispute.

## ANNUAL REPORT OF THE READERS' COURSE SUB-COMMITTEE

Each year two intakes of Readers complete the Readers' Course. The September 1997 intake comprised 30 Readers and 4 practitioners from Papua New Guinea. The March 1998 intake comprised 53 Readers and 3 practitioners from Papua New Guinea.

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 Bar Council has recently imposed a limit of 40 on the number of Readers in any one intake. This has been in contemplation for some years, but was prompted by the last intake, the numbers of which almost overwhelmed the resources available. It was the largest intake for many years, and was larger than is consistent with good teaching practice. In order to retain the quality for which the Course is recognised, it was seen as essential to cap the numbers in each intake.

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 the 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 CONTINUING LEGAL EDUCATION SUB-COMMITTEE**

The Bar Council resolved that the existing Readers' Practice Course Committee and the Academic and Continuing Legal Education Steering Committee should be disbanded and a new standing committee, entitled the "Legal Education Committee", should be established. In doing so, the Bar Council's aim was to continue to offer a Readers' Course of the highest standard, and at the same time to transform the Bar's currently informal series of continuing legal education seminars into a fully resourced and structured continuing legal education program for barristers. The new Committee will have overall responsibility for education at the Bar. It will have two sub-committees — Readers' Course and Continuing Legal Education — each of which will have specific responsibilities for its particular area of education.

It is intended that the resources and skills of the Readers' Course will, to some extent, be integrated with subsequent continuing legal education courses.

In relation to continuing legal education, the Legal Education Committee's functions will be as follows:

- to formulate and approve the general structure of a continuing legal education program for barristers;
- to implement a continuing legal education program;
- to maintain familiarity with current requirements regarding admission to practice;
- to cultivate and maintain the Bar's relationship with universities;
- to recommend policy for the Bar on all educational and academic matters.

The 1998–9 continuing legal education program will include the following seminars:

- "Professional Negligence Causing Economic Loss: Suing the Advisers" at which the speakers will be Karkar Q.C., Santamaria Q.C. and Whelan Q.C.;

- “Commercial Law – Fiduciary Relationships: Liabilities of Fiduciaries and Accessories” at which the speakers will be Nettle Q.C., Brett Q.C. and Melanie Sloss;
- “Family Law — Insolvency Issues”;
- “Administrative Law — The Establishment of the Victorian Civil and Administrative Tribunal (VCAT)”.

## **ANNUAL REPORT OF THE PROFESSIONAL INDEMNITY INSURANCE COMMITTEE**

In the past year, the Professional Indemnity Insurance Committee has dealt with the existing underwriters in relation to levels of Professional Indemnity Insurance.

Unfortunately, the incidence of claims against Barristers has increased substantially, as have the amounts paid out. This progression is one that is continued over a number of years.

As a consequence, the underwriters of the Bar’s Professional Indemnity Insurance Scheme sought to increase premiums payable substantially, as the present premium levels did not cover the exposure of the underwriters.

After protracted negotiations with the brokers, who canvassed the available underwriters, agreement was reached that the premiums would increase to the levels announced.

Subsequently, another insurer entered the market and offered reduced premiums.

The consequence of this was for the existing underwriter to revise its premiums to match the new insurer, except in the case of people who had a claims history.

Whilst it is to be regretted that premiums increased, it was clear that the premium levels of previous years were inadequate and, notwithstanding the increases, the premiums are still below the “pre-Giannerelli” days.

The Committee is pleased to see another insurer in the market but has enjoyed a good relationship with the present broker and underwriter and appreciates the benefits of continuity of such a relationship.

The increased premiums for Barristers with a claims history is something which is being experienced nationally and conforms with insurance practice in other areas.

I am grateful for the assistance that has been offered by members of the Professional Indemnity Insurance Committee and their continued willingness to assist.

## **ANNUAL REPORT OF THE VICTORIAN BAR DISPUTE RESOLUTION COMMITTEE**

The Alternative Dispute Resolution Committee has continued its practice of monthly meetings save for vacations and dealt with what has become much business in the growing alternative dispute resolution area.

The activities of the Committee have been numerous and time consuming during the course of the year. Members of the Bar continue to attend training courses and become accredited via the Committee as mediators. The Committee organized the Victorian Bar to be a co-sponsor of Fourth National Mediation Conference held in April 1998 in Melbourne. The conference was well attended and the Bar's contribution was repaid in full: it owes a debt to Nathan Moshinsky Q.C. for the time he spent in that regard and consequent favourable publicity for our Bar. Meetings attended by various representatives of the Committee have been held from time to time with external bodies, including the Australian Law Reform Commission. To maintain the Bar's profile as mediation service provider members of the Committee coach and attend seminars through LEADR, Bond University, Deakin University and other bodies or organizations.

This year saw John Lewisohn (and the Chairman) prepare a submission to the Federal Government for the contents of a Federal Government publication in the forlorn hope of a successful windfall profit for the Bar. The Committee is indebted for their efforts.

The Bar, at the Committee's urgings, has joined the Australasian Dispute Centre and its launch by Sir Ninian Stephen was held in the Bar Mediation Centre on 18 May, 1998, see the Winter Edition of the Bar News.

Amongst the activities presently on the agenda is the preparation of a paper providing for mediation models in the new Victorian Courts and Administrative Tribunal at the behest of Mr. Justice Kellam and His Honour Judge Davey. The Vice-Chairman, George Golvan Q.C. prepared a significant paper for the Council of Chief Justices of Australia and New Zealand.

## **The Mediation Centre**

The Centre continues to operate for the benefit of the Bar and has achieved success in lifting the Bar's professional reputation. It has been favourably noted by the Australian Law Reform Commission as a positive step towards law reform and mentioned by *The Age*. Needless to say, the occupancy rates fluctuate as noted in the *Bar News*, Winter Edition 1998, the high point being 90% in May 1998. It is crucial that all members take every opportunity to use the Centre if it is to remain. Its viability is precarious and it remains subsidized by the Bar Council. (Attempts to improve viability by offering a half-day lowered rate were not supported by bookings and confirmed the present pricing structure best maximizes opportunities and meets the appropriate sector in the market).

The Committee especially thanks Helen Henry, Pauline Hannan and the Victorian Bar Staff for their continuing excellent work. It is noteworthy that favourable comments are continuously received about the favourable atmosphere generated in the Centre and their efficiency. New promotional brochures are about to be published.

During the course of the year the Committee circularized the Bar and the response demonstrates a renewed interest in continuing alternative dispute resolution education. That interest is currently being addressed by the Committee.

Numerous other items of business are dealt with by the Committee in the course of the year.

The Chairman of the Committee, Bill Martin Q.C., extends his thanks to the Vice-Chairman George Golvan Q.C. and Michael Whitten, the secretary, for their support and good work, to David Bremner for alleviating the Chairman's burden and likewise to the many others on the Committee, the identity of whom is set out elsewhere in this Annual Report of the Victorian Bar Council.

## **ANNUAL REPORT OF THE ESSOIGN CLUB**

The Committee is pleased to report that over the past year the Club continued to trade profitably. The number dining in the Club at lunchtime has been stable and there was a substantial increase in revenue from catering for special functions of the Bar and from catering for private functions.

The Club can cater for about 100 people. At lunch on Fridays it is not at all uncommon for there to be a need to provide two settings on some tables and not infrequently people have been unable to find a place. In effect almost 10 per cent of the Bar may be found dining in on a Friday. On most week days there will usually be about 30–40 at lunch in the Club.

The Club has continued to provide services to the Bar Council through catering for meetings of sub-committees and for important Bar Council dinners including a memorable dinner to honour Sir Daryl Dawson. It is noted that these services are provided at a considerable discount.

The Committee is also pleased to note the rise in private functions catered by the Club. The Club welcomes this opportunity to provide service to members of the Bar and the Club Manager is always ready to discuss any requirements which members may have for such occasions. The recent completion of the Neil Forsyth Room (the former coffee lounge) provides the opportunity for use for larger groups for drinks functions.

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 the Committee seeks to acquaint new barristers, during the Reader's Course, with the facilities of the Club. Over the coming year the Committee will endeavour 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.

During the year the Essoign Club has hosted a series of Art Exhibitions with a new collection being hung every six weeks or so. To enhance the presentation of the artworks the lighting system was upgraded. The opening functions are generally well attended and provide a valuable opportunity for members and others to enjoy the facilities of the Club on a pleasant social occasion.

In the past the Club's wine collection has had considerable depth and the opportunity has thus existed for the Club to offer wine with some bottle age. The Committee will concentrate this year on developing a good collection which will provide fine wines for drinking in the early part of the next century. It is regarded as important by the Committee that these steps be taken now in the

light of the increasing demand, including overseas demand for quality Australian wine and the escalation of price.

Staff morale is high and there have been no staff changes during the year. The head barman, Greg Cumming, has settled in well and is popular with members. Once again the Manager and staff of the Club are to be congratulated on their fine efforts throughout the year.

The Victorian Bar is unique in Australia in directly providing a facility like the Club. In other States such catering services as are available are provided on an ad hoc or contract basis. The Committee has noted with pride the acclamation of visiting barristers and Judges from other States and indeed overseas.

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, 1998**

	<b>1998</b>	<b>1997</b>
	<b>\$</b>	<b>\$</b>
Operating Profit	282,554	181,350
Accumulated Funds at the beginning of the financial year	<u>1,709,345</u>	<u>1,527,995</u>
<b>ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR</b>	<u><u>1,991,899</u></u>	<u><u>1,709,345</u></u>

The accompanying notes form part of these accounts.

**SPECIAL PURPOSE FINANCIAL REPORT**  
**THE VICTORIAN BAR INC**  
**BALANCE SHEET AS AT 30 JUNE, 1998**

	Notes	1998 \$	1997 \$
<b>Current Assets</b>			
Cash		524,536	271,338
Investments	3.	1,016,338	1,034,139
Receivables	4.	89,306	97,819
Total		<u>1,630,180</u>	<u>1,403,296</u>
<b>Non Current Assets</b>			
Investments	5.	516,300	16,300
Property Plant & Equipment	6.	633,727	692,691
Loan to Essoign Club		62,351	62,351
Total		<u>1,212,378</u>	<u>771,342</u>
<b>Total Assets</b>		<u>2,842,558</u>	<u>2,174,638</u>
<b>Current Liabilities</b>			
Provisions	7.	49,356	62,023
Creditors		76,732	83,125
Subscriptions in Advance		705,759	309,721
Total		<u>831,847</u>	<u>454,869</u>
<b>Non Current Liabilities</b>			
Provisions	8.	<u>18,812</u>	<u>10,424</u>
<b>Total Liabilities</b>		<u>850,659</u>	<u>465,293</u>
<b>Net Assets and Accumulated Funds</b>		<u><u>1,991,899</u></u>	<u><u>1,709,345</u></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, 1998**

**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's constitutional requirement 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, AAS 28 Statement of Cash Flows and AAS 30 Accounting for Employee Entitlements 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 or revenue.

(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.

	1998	1997
	\$	\$
<b>3. Investments</b>		
Cash at call	16,338	334,139
Commonwealth Bank of Australia — Bank Bills	<u>1,000,000</u>	<u>700,000</u>
<b>Total Investments</b>	<u><u>1,016,338</u></u>	<u><u>1,034,139</u></u>
<b>4. Receivables</b>		
Subscriptions in Arrears	2,390	9,876
Prepayments	1,342	—
Sundry Debtors	<u>85,574</u>	<u>87,943</u>
<b>Total Receivables</b>	<u><u>89,306</u></u>	<u><u>97,819</u></u>
<b>5. Non Current Assets</b>		
Shares in Barristers' Chambers Limited at Cost	<u><u>516,300</u></u>	<u><u>16,300</u></u>
<b>6. Property, Plant and Equipment</b>		
Equipment	166,920	156,196
Provision for Depreciation	<u>(90,470)</u>	<u>(48,243)</u>
<b>Total Equipment</b>	<u><u>76,450</u></u>	<u><u>107,953</u></u>
Office Furniture	47,796	43,256
Provision for Depreciation	<u>(9,161)</u>	<u>(4,637)</u>
<b>Total Office Furniture</b>	<u><u>38,635</u></u>	<u><u>38,619</u></u>
Art Works	22,224	22,224
Provision for Depreciation	<u>(9,800)</u>	<u>(7,577)</u>
<b>Total Art Works</b>	<u><u>12,424</u></u>	<u><u>14,647</u></u>
Library	223,662	190,000
Provision for Depreciation	<u>(38,851)</u>	<u>(19,000)</u>
<b>Total Library</b>	<u><u>184,811</u></u>	<u><u>171,000</u></u>
Refurbishment — Douglas Menzies Chambers	390,658	390,658
Provision for Depreciation	<u>(69,251)</u>	<u>(30,186)</u>
<b>Total Refurbishment</b>	<u><u>321,407</u></u>	<u><u>360,472</u></u>
<b>Total Property, Plant and Equipment</b>	<u><u>633,727</u></u>	<u><u>692,691</u></u>

	1998	1997
	\$	\$
<b>7. Provisions</b>		
Provision for Annual Leave	48,288	40,554
Provision for Long Service Leave	<u>1,068</u>	<u>21,469</u>
<b>Total Provisions</b>	<u><u>49,356</u></u>	<u><u>62,023</u></u>
<b>8. Non Current Liabilities</b>		
Provision for Long Service Leave	<u><u>18,812</u></u>	<u><u>10,424</u></u>

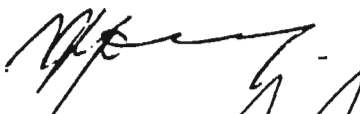
## STATEMENT BY OFFICERS

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.

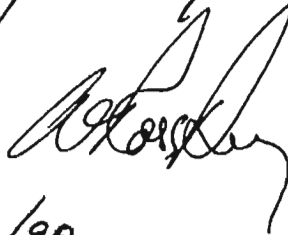
In the opinion of the officers below:

- (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, 1998;
- (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, 1998;
- (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:

24/7/98

**THE VICTORIAN BAR INC**  
**DETAILED PROFIT AND LOSS ACCOUNT**  
**FOR THE YEAR ENDED 30 JUNE, 1998**

	Notes	1998 \$	1997 \$
<b>INCOME</b>			
Subscriptions		1,292,163	1,111,432
Sale of Publications		51	61
Other Income		3,360	1,289
RPA Reimbursement	1.	299,031	162,473
Conferences		8,246	(340)
Interest		72,171	49,212
<b>Total Income</b>		<u>1,675,022</u>	<u>1,324,127</u>
<b>EXPENSES</b>			
General Administration			
Archival Costs		7,372	7,840
Audit and Accounting Expenses		30,607	7,880
Australian Securities Commission		232	445
Bank Charges		4,317	2,864
Conference Expenses		4,225	552
Bar Dinner and Other Functions		78,673	78,852
Bar Dinner Receipts		(29,665)	(30,199)
Bar News Advertising Income		(27,860)	(21,055)
Bar News Expenses		88,557	83,272
Depreciation		35,347	33,376
Directory Income		—	(163)
Donations		1,540	2,285
Floral Tributes		2,711	524
Incorporation Costs		—	42,203
Insurance		550	347
Library (including Depreciation)		80,135	73,232
Miscellaneous		2,038	7,577
Postage		11,221	11,843
Printing and Stationery		104,919	101,462
Publications		6,262	3,490
Rent to Barristers' Chambers Limited		98,922	80,871
Research Studies and Projects		42,755	22,443
Salaries, Employee Provisions,			
Superannuation and WorkCover Costs		387,488	208,342
Telephone		5,891	2,967

	Notes	1998 \$	1997 \$
Travel Expense		16,657	24,012
Australian Bar Association		26,020	25,340
Australasian Disputes Centre		1,000	—
International Bar Association		568	576
Law Council of Australia		106,530	109,395
Lawasia		1,000	1,320
LEADR		140	390
PILCH		1,575	1,575
Ethics Administration			
Salaries and Expenses		131,730	59,310
Readers' Course			
Receipts		(85,660)	(66,376)
Salaries, Expenses and Depreciation		236,567	223,323
Mediation Centre			
Receipts		(87,943)	(48,438)
Salaries, Expenses and Depreciation		108,047	91,100
<b>Total Expenses</b>		<u>1,392,468</u>	<u>1,142,777</u>
<b>OPERATING PROFIT</b>		282,554	181,350
Accumulated Funds at the beginning of the financial year		<u>1,709,345</u>	<u>1,527,995</u>
<b>ACCUMULATED FUNDS AT THE END OF THE FINANCIAL YEAR</b>		<u>1,991,899</u>	<u>1,709,345</u>
<i>Barristers' Benevolent Fund Receipts</i>		34,128	52,355
<i>Barristers' Benevolent Fund Remittances</i>		34,128	52,355

## NOTE TO THE DETAILED PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 30 JUNE, 1998

### 1 RPA Reimbursement

As from 1 January, 1997 the Legal Practice Board reimburses the Victorian Bar for the costs of regulation and registration of legal practitioners regulated by the Bar. The Board also makes a contribution towards the cost of certain legal education programs of the Bar.

Establishment Costs	—	56,743
Regulation	141,460	35,864
Registration	60,744	36,693
Bar News	19,700	—
Readers' Course and Legal Education	46,925	16,125
Library	30,202	17,048
	<u>299,031</u>	<u>162,473</u>



**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 47 to 51 of The Victorian Bar Inc. ("the Bar") for the year ended 30 June 1998. 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 Bar. No opinion is expressed 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 1998 and the results of its operations for the year then ended.

DELOITTE TOUCHE TOHMATSU

J C BRANT  
Partner  
Chartered Accountants

Melbourne,