



The Victorian Bar Inc

Reg. No. A0034304S

ANNUAL REPORT

1 July 2002 – 30 June 2003

Annual Report of The Victorian Bar Inc for the Year Ended 30 June 2003

To be presented to the Annual General Meeting of The Victorian Bar Inc to be held at 5.00 pm on Monday, 1 September 2003, in the Neil McPhee Room, Level 1, Owen Dixon Chambers East, 205 William Street, Melbourne.

Victorian Bar Council

In the annual election held in September 2002, the following members of counsel were elected:

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

Robert F Redlich QC
Michael Rozenes QC
Anthony J Howard QC
John T Rush RFD QC
Philip A Dunn QC
W Ross Ray QC
Robin A Brett QC
Michael W Shand QC
Mark A Dreyfus QC
C F (Kate) McMillan S.C.
Michael J Crennan S.C.

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

Michelle L Quigley
Richard W McGarvie
Jeanette E Richards
Fiona M McLeod
Peter J Riordan
David J Neal

Category C: **Four (4) counsel who are not of Queen's Counsel or Senior Counsel and are of less than six (6) years' standing**

Anne E Duggan
Michael G R Gronow
Debra J Coombs
Kim J Knights

The appointment of Justice Redlich to the Supreme Court of Victoria and Chief Justice Rozenes to the County Court of Victoria created two vacancies in Category A of the Bar Council. At a by-election held on 17 December 2002, Jack I Fajgenbaum QC and David F R Beach S.C. were elected to fill the vacancies.

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Chairman's Report

Service of Those Who Left the Bar Council during the Year

I begin my report by recording the Bar's appreciation of the work of the previous Bar Council and the service of those who retired from the Council in September 2002 and during the year. Brind Zichy-Woinarski QC, Jim Delany, Justin O'Bryan, Katherine Bourke, Paul Duggan, James Gorton and Peter Clarke all retired from the Council as of 5 September 2002. Robert Redlich QC continued to serve as Chairman until his appointment to the Supreme Court on 22 October 2002. Michael Rozenes QC resigned on 4 November, shortly after the announcement of his appointment to succeed Chief Judge Glenn Waldron as Chief Judge of the County Court. Jeanette Richards resigned on 1 June 2003 upon moving to Sydney.

Robert Redlich's service on the Council for over 8 years merits special mention. Major initiatives that came to fruition during his chairmanship include mandatory continuing legal education for barristers in their first three years at the Bar, launched in July 2002, and the finalisation of the plans for the Owen Dixon Chambers East renovations including the new Essoign, and the commencement of work on the first floor. Major ongoing matters have included the review of the Legal Practice Act and role of the Bar in professional regulation and discipline, and Professional Indemnity Insurance. Robert initiated the idea of judges serving as consultants on Bar committees, and he now serves as a consultant member of the Equality Before the Law Committee.

New Members of the Bar Council

On 5 September 2002, Michael Rozenes QC, Michael Crennan S.C., Michelle Quigley (Michelle Quigley was appointed Senior Counsel in December 2002), Fiona McLeod, Anne Duggan, Debra Coombs and Kim Knights joined the Bar Council. Jack Fajgenbaum QC and David Beach S.C. were elected in the 17 December by-election following the resignations of Justice Redlich and Chief Judge Rozenes.

Women on the Bench and at the Bar

The Bar continues to work to promote the Equal Opportunity Model Briefing Policy it adopted following the 1998 Equality of Opportunity for Women at the Victorian Bar report. The Bar Equality Before the Law Committee and the Women Barristers' Association have been active in this regard and their activities in both the government and private sector are detailed in their reports.

The Bar supported the attendance of Equality Before the Law Committee Chair Frances Millane at the World Women's Lawyers Conference of the International Bar Association in London in June 2003, at which she co-chaired a session and delivered a paper on the application of the Model Briefing Policy.

The Bar funded the Equality Before the Law Committee to engage a consultant to report on how the Bar might assist barristers with young children. It also funded and co-hosted with the Women Barristers Association a reception at the Federal Court following the Women and the Law presentation during the Commonwealth Law Conference.

Last year saw the unveiling of the first portrait in the *Images of Women in the Law* series – a contemporary photographic portrait of the Honourable Justice Sally Brown of the Family Court of Australia. That now hangs in the foyer of Owen Dixon West.

This year, the Bar Council has commissioned a photographic portrait of the five women who have been appointed to the Supreme Court of Victoria – the Honourable Justices Susan Kenny,

Rosemary Balmford, Marilyn Warren, Julie Dodds-Streeton and Katherine Williams.

Silks Gift to the Bar of Sculpture

Some 90 Queen's Counsel and Senior Counsel each donated \$1,000 for the commissioning of a sculpture for the entrance foyer of Owen Dixon Chambers. A committee of Hartog Berkeley QC, Peter Jopling QC, Robin Brett QC, Campbell Thompson and Michelle Gorton recommended noted Australian sculptor Paul Selwyn. The sculpture was unveiled by the Honourable Sir John Young at a reception on 24 March 2003.

Legal Aid Funding and Other Electoral Issues

The Legal Aid Taskforce established by the Bar and the Law Institute organised a demonstration on the steps of the Melbourne Magistrates' Court on 25 July 2002 to bring to public attention the crisis in legal aid funding for Magistrates' Court summary criminal matters. On 14 August, the Attorney-General announced a "\$7.63 million funding boost to Victoria Legal Aid". This was, however, the annual allocation from the Public Purpose Fund administered by the Legal Practice Board, and the increase in funding from the previous year's grant was a little over \$1 million.

The Taskforce organised another round of demonstrations on 14 October 2002, once again on the steps of the Melbourne Magistrates' Court, and also in several country centres – Geelong, Ballarat, Bendigo, Shepparton and Moe. I addressed the Melbourne demonstration, as also did Chris Maxwell QC of this Bar and of Liberty Victoria.

On 13 November 2002, the Attorney-General announced that, if re-elected, the government would increase legal aid funding by \$3.5 million a year for 4 years – a total of \$14 million from consolidated revenue.

Leading up to the election, a joint sub-committee of the Bar and the Law Institute was established to identify issues of concern to the profession and raise them with the political parties, and in public debate. The Bar joined the Law Institute in a joint media release calling for a sensible law and order debate.

I also wrote to the Attorney-General, the Shadow Attorney-General and to other representatives of the major political parties asking for a statement of their policies in relation to three areas of particular concern to the Bar, namely, increased funding for legal aid in Victorian courts and tribunals, the amendment of the Legal Practice Act to require barristers to insure with the Legal Practitioners Liability Committee and any proposed changes to Victorian sentencing law, with particular reference to mandatory sentencing or minimum mandatory terms. Responses were received from the ALP, the Liberal party, the National Party, the Australian Democrats and the Greens, and were published to all members of the Bar without comment in a special pre-election issue of the Bar Council newsletter *In Brief*.

The end result in the allocation of the \$3.5 million a year additional legal aid funding is that slightly less than 80% of that funding has been allocated to professional fees in Magistrates' Court summary crime and Children's Court matters. Regrettably, VLA saw fit to increase the barrister's fee on a summary crime plea by only \$24 (9%), whereas the lump sum fee paid to the solicitor on a summary crime plea has been increased by \$120 (26%).

The Bar Council worked closely with the Criminal Bar Association on this matter.

I met with VLA and wrote to the Attorney-General during the Cabinet Budget process in March 2003 to urge that the entire \$3.5 million a year be applied to professional fees in summary crime, which had been significantly reduced over the last ten years or more.

The Attorney-General announced in his Budget release on 6 May 2003 that VLA had allocated \$3 million of the additional \$14 million to Community Legal Centres and to the establishment of a VLA regional office in Horsham. The Managing Director of VLA then published his draft

proposal for the allocation of the remaining annual balance of \$2.75 million with the meagre \$24 increase in the summary crime brief fee.

I and other members of the Bar Council and Criminal Bar Association had several meetings with VLA. We put to VLA the division of labour between solicitors and counsel in practice in these matters, and the inequities in the proposed allocations. We made written submissions and met with the Managing Director of VLA to discuss those submissions. We sought to appear before the VLA Board to present our case. That was refused, and I then wrote to each Board member. The VLA Board adopted the Managing Director's proposal without accommodation of our objections.

I recognise in this matter the particular efforts of Reg Marron of the Criminal Bar Association Committee and of CBA members Kellie Blair, Shaun Ginsbourg and Oscar Roos; and of Bar Council members Philip Dunn QC and David Neal and particularly the role of the Bar's Legal Policy Officer, Ross Nankivell, who worked tirelessly on submissions in support of the Bar's position.

The Bar Council will continue to work for increased funding for legal aid and for equity in the VLA scales and guidelines to bring them into line with the actual and appropriate current practice in legal aid Magistrates' Court summary criminal matters, in which counsel in fact do much of the preparation that would, in other areas of practice, be done by the solicitor.

Professional Indemnity Insurance

The major development this year was the direction by the Legal Practice Board ("the Board") in its 11 March 2003 resolution requiring that professional indemnity insurance for barristers be obtained under a master policy with a single insurer. The Board requested the Bar Council to conduct a formal tender based on, but not limited to, the terms and conditions required by the Board, and then to recommend a single master policy for approval.

This is a significant departure from previous practice. Last year, for example, the Board had before it policies submitted by AmRe, Suncorp Metway ("Suncorp"), Ace, Heath Lambert and Aon Risk Services. Last year, the Bar Council submitted to the Board that it should approve all such policies so barristers could then choose their own policy and insurer. Last year, in the end, the Board approved the policies of AmRe, Suncorp and Heath Lambert.

This did not, however, result in barristers having any real choice of insurer because, upon the Board deciding to approve the Suncorp policy, AmRe withdrew – its policy having at all times been conditional on it being the only insurer. Ace also withdrew, adopting the approach of offering to insure all barristers or none. Heath Lambert was not an alternative in that it was never interested in offering insurance to the Victorian Bar at large and obtained approval only for the limited purpose of being able to continue covering the very small number of Victorian barristers with whom it had a longstanding relationship.

The Board's initial decision on 7 June 2002 had been that it regarded the AmRe master policy as so superior to any of the other policies that it considered the public interest best served by approving only that policy, notwithstanding the elimination of choice. Its reversal of that decision on 20 June 2002 and consequent approval of the Suncorp policy as an additional approved policy resulted in the substitution of a Suncorp monopoly for what would have been an AmRe monopoly – and the loss of what the Board judged to have been the best policy – the policy put forward by Affinity Risk Partners and AmRe, and essentially the policy we now have for 2003-04 with Affinity Risk Partners and Great Lakes.

The situation for the last two years has been complicated by the fact that both the Bar and the Board had, for most of that time, seen insurance for barristers with the statutory insurer of Victorian solicitors, the Legal Practitioners Liability Committee ("LPLC"), as the preferred first

option, ahead of any commercial insurance. LPLC insurance, if it were to be made available to barristers, would be required by the Legal Practice Act, as it is for all solicitors, eliminating all possibility of alternative policies and choice by individual barristers.

In March 2002, the Bar Council had resolved to seek amendment of the Legal Practice Act to enable and require barristers to insure with the LPLC. This had the support of the Board and of the LPLC and, incidentally, of the Law Institute. It was not until 30 May 2002 that the Bar was advised that the government legislative schedule would not permit the proposed legislation to be introduced in time for that insurance for the 2002-03 year. There seemed, however, some prospect of government support for it for the 2003-04 year. On 1 August 2002 the Bar Council resolved to make a further submission to government for amendment of the Legal Practice Act to enable and require insurance with the LPLC.

In late December 2002, the Bar was advised that the government was not prepared to support the proposed amendment. In January 2003, the Bar stepped up its efforts in relation to commercial insurance, redesigning the claims database website it had created the previous year and updating that database. It also engaged an insurance broker to canvass the market for underwriters.

The Bar's experience in exploring and negotiating options for commercial insurance over the previous year supported the Board's view that a master policy approach offered the best prospects of persuading insurers to offer cover universal cover for all present and former barristers on the best available terms. The Bar Council obtained the advice of senior and junior counsel that they saw no legal impediment to the master policy approach in competition law or otherwise. Counsel were specifically briefed with the written comments received from members of the Bar in relation to the 2002 AmRe master policy proposal. The Bar understands that the Board had also received independent legal advice on the matter. The Bar Council also gave careful consideration to the fact that a master policy would eliminate the possibility of choice by individual barristers.

On 11 March 2003, the Board resolved to require a master policy and to request the Bar Council to conduct a formal tender. On 19 March 2003, the Bar Council issued invitations to tender to 15 insurers and the LPLC. The Bar's insurance broker set about contacting the insurers seeking to persuade them to submit a bid and to offer assistance in the process.

As at the closing deadline, 1.00 pm on 14 April 2003, only one bid had been received – that of Affinity Risk Partners and Great Lakes.

Suncorp did not lodge any bid by the deadline but subsequently sent Victorian Bar Inc its proposed individual premium rates, a pro forma individual policy of insurance and a letter dated 14 April 2003 requesting approval of its policy for 2003/4. Suncorp did not lodge any master policy wording that responded to the Bar Council's invitation to tender. In its letter, Suncorp stated that it was prepared to guarantee that it would provide cover to all current practising barristers and also to all former barristers on application and receipt of premium but no policy wording was provided to give effect to this statement of intention.

Two other insurers, American International Group (which has a AAA rating) and the Market Syndicate of Lloyds, indicated that they would have lodged a tender if they had had more time.

The Bar Council considered it appropriate in all the circumstances to have regard to the information from Suncorp. On 24 April 2003 the Bar Council resolved to recommend to the Board approval of the Affinity Risk Partners and Great Lakes master policy based, in summary, on its judgement that Great Lakes offered better value for money and the prospect of stable and sure professional indemnity insurance cover. On 2 May 2003, the Board accepted that recommendation and resolved to require all barristers to insure with Affinity Risk Partners and Great Lakes for the required primary layer of \$1.5 million insurance.

The outcome of this process is that the Bar has obtained universal cover for all practising

barristers who apply and pay the stipulated premium. There are no loadings save in exceptional circumstances. The terms and conditions offer greater protection to the consumers of legal services than have been provided by previous barristers' policies – a level of protection that is very close to that offered by the LPLC policy covering solicitors. The policy also covers all former barristers, including all judicial officers who were barristers, by way of run off cover without payment of any premium or application by them. The Bar has written to all former barristers advising them of this, and I have had a number of expressions of gratitude from them for the generosity of the practising Bar in this regard.

Affinity Risk Partners and Great Lakes have agreed to maintain the Bar database of claims and notifications which is important both to risk management and to the Bar's ability to obtain and negotiate insurance in the future. The Bar has approached the Department of Justice to request appropriate regulations under the Legal Practice Act to regulate the supply of this confidential information to the Bar. The Department responded that Parliamentary Counsel takes the view that this needs to be done by amendment of the Legal Practice Act rather than by regulation. Further action has been deferred pending decisions in relation to the overall review of the Legal Practice Act.

I record my thanks to Michael Shand QC (Chairman of our Professional Indemnity Insurance Committee) and to David Bremner (our Executive Director) for their remarkable efforts in this matter, and to every member of the Professional Indemnity Insurance Committee.

Establishment of Professional Standards Education Committee

The Bar Council has established a new standing committee, the Professional Standards Education Committee, to consist of two members each from the Ethics Committee, the Professional Indemnity Insurance Committee and the Legal Education and Training Committee. That committee will work on programs to educate members in ethical and good practice standards and to encourage strategies designed to minimise the incidence of circumstances that might give rise to claims of professional negligence.

Continuing Legal Education

The Bar's Continuing Legal Education (CLE) program for all barristers of less than three years standing was officially launched by Federal Court Chief Justice Michael Black at a reception held at the Essoign Club on 31 July 2002.

The March 2003 intake of Readers who signed the Bar Roll on 22 May is the first group to whom this requirement applies. For a period of three years commencing 1 July 2003 each of those barristers is required to complete 10 hours of accredited CLE programs each year.

In February 2003, The Victorian Attorney-General announced publicly that he was giving serious consideration to making CLE mandatory for all Victorian practitioners. He asked the Bar to consider the question of mandatory CLE for the Bar as a whole.

The Bar has a long tradition of excellence, and of barristers taking individual responsibility for continuing professional education and development. There is a substantial program of presentations, discussions and seminars organised by the various specialist Bar Associations – the Commercial Bar Association alone conducts approximately 20 sessions each year.

Reservations having been expressed informally by some barristers and Bar Associations about the need for and utility of CLE being made compulsory, I sent a circular to every member of the Bar inviting the submission of views on the matter in writing. Submissions were received from five of the Bar Associations and from a small number of individual barristers. A majority of submissions both of the Bar Associations and of the individuals supported mandatory CLE.

After careful consideration of all the issues raised in the submissions, the Bar Council resolved

unanimously that it is, in principle, in favour of mandatory CLE being extended to all practising members of the Bar and requested the Continuing Legal Education Sub-Committee to prepare a detailed proposal as soon as practicable.

The Australian Competition and Consumer Commission

In July 2002, the ACCC raised a complaint it had received concerning the Bar's agreement with the barristers' Clerks that the clerks not provide services to barristers who are not members of the Bar. The ACCC asserted concerns that such an agreement might be in violation of section 45 and section 4D of the Trade Practices Act. No particulars of the complaint were given. A request for particulars was met with nothing more than the bare allegation and advice that the complainant(s) had advised the Commission that they wish to remain anonymous. A further request for particulars of the complaint was also refused.

Finally in its September 2002 Trade Practices Act notice to furnish information and documents, the ACCC disclosed that the conduct complained of occurred "at a time unknown to the Commission prior to May 1998". We suspect this "new" complaint is a re-run of a 1998 complaint to the Victorian Legal Ombudsman.

In 1998, the Victorian Legal Ombudsman conducted an investigation under section 82(2) of the Legal Practice Act into the same complaint in relation to the clerking agreements. The Bar cooperated fully in that investigation and responded to the lengthy report "Restrictions on the Availability of Clerking Services: A Competitive Analysis" produced for the Legal Ombudsman by the Allen Consulting Group. The Bar heard nothing further and assumes that the Legal Ombudsman took no further action in the matter.

There has, at this point, been no activity on the ACCC enquiry for over seven months. The requested information and documents were furnished to the ACCC in October and further questions were answered in early December 2002. Nothing more has been heard since then.

For more than ten years now, various state and federal competition theorists have been claiming that the divided profession and the practice rules of the independent Bars are anti-competitive. For more than ten years, we have responded fully and frankly to each complaint explaining how these rules are in no way anti-competitive, and explaining their important role in the regulation of the profession and the provision of legal services to the community. We shall continue to do so.

Review of the *Legal Practice Act 1996*

The Attorney-General initiated a review of the Legal Practice Act in June 2000. The report of Professor Peter Sallmann and Ms Richard Wright was published in November 2001. In February 2003, the Attorney commissioned Ms Jane Tongs to audit and report on the cost of legal professional regulation by the Bar and the Law Institute.

The Bar has made submissions to Professor Sallmann and Ms Wright, to Ms Tongs and to the Attorney himself addressing the principal objectives for the review set by the Attorney, namely the simplification of the regulatory system and cost efficiency. A constant theme in our submissions has been the role of an independent Bar in the administration of justice and the critical importance of the role of the Bar in professional regulation – in the issuing of practising certificates and in dealing with complaints about the conduct of barristers.

Ms Tongs reported favourably on the quality and cost effectiveness of the role of the Bar and the Bar Ethics Committee in professional regulation.

The Legal Practice Act review is in relation to the regulation of the profession as a whole. Accordingly the Bar has been liaising and working with the Law Institute throughout the process. Most recently, the Bar put to the Attorney a proposal for professional regulation in

which the professional associations would be responsible to a Legal Services Board, and would continue to issue practising certificates. Under this proposal, all complaints about conduct or fees would be directed to a Legal Services Commissioner to be appointed by the Board, who would refer them to the appropriate professional association. Our proposal is consistent with the system in NSW and with what we understand of the system to be introduced in Queensland. It will, we believe, promote openness and accountability, enhance effectiveness and efficiency, simplify the structure and content of the Legal Practice Act, and be cost effective.

On Friday, 25 July 2003, the Attorney-General announced the framework for proposed legislation. In general terms the framework for the future regulation of the legal profession, as announced, appears to follow the New South Wales model. The Attorney-General in his press release spoke of the important role of the professional associations in the regulating of the profession. The detail of the legislation and its implementation are still matters of concern. The Bar is invited to participate in the process of legislative preparation.

Commonwealth Law Conference

The 13th Commonwealth Law Conference was held on Melbourne 13-17 April 2003, hosted by the Commonwealth Lawyers Association, the Law Council of Australia and the Law Institute of Victoria.

More than 1500 lawyers from 44 countries attended the conference and eminent speakers included Chief Justice Gleeson, the Chief Justices of England and Wales, Canada and New Zealand, the European Commissioner for External Relations (Christopher Patten), Dr. Mary Robinson (former UN High Commissioner for Human Rights and former President of Ireland) and Ms Cherie Booth QC.

Many members of the Bar participated as speakers, rapporteurs and participants. Members also participated in various hospitality programs including billeting, home entertainment and mentoring judicial delegates.

The Bar took responsibility for the organisation of the Commonwealth Moot Competition for the Turnbull Shield. Thirty-nine judges attending the conference, more than half of them from overseas, sat in panels of three for the thirteen rounds of the competition in courts 1 and 2 of the Supreme Court, with members of the Bar substituting on account of last minute scheduling problems. The final round was judged by Lord Woolf (Lord Chief Justice of England & Wales) Sir Dennis Byron (Chief Justice of St. Lucia) and the Honourable Paul De Jersey (Chief Justice of Queensland). David Bremner did his customarily excellent job in organising everything.

Law Council of Australia

In September 2002, on the motion of the Law Society of NSW, the LCA constitution was amended to introduce a tiered system of voting to reflect membership numbers and financial contributions. The Bar Associations have, of course, fewer members than the solicitors' bodies. The Victorian Bar proposed amendments to protect the interests of the Bars in matters of special interest to us, so as to exclude from the tiered voting "any matter that is directly related to litigation, advocacy or the judiciary", and for any dispute as to whether a matter is so related to be resolved by the LCA President. That amendment was carried. Tiered voting also does not apply to matters relating to membership of LCA, constitutional amendment, or the election of the Executive. There was a further amendment in December reducing the number of members for tier one classification from 6250 to 6000.

In matters to which tiered voting applies, constituent bodies with 6000 or more members will have 3 votes; those with between 1000 and 5999 members will have 2 votes; and those with less than 1000 members will have 1 vote.

The Law Council has now been incorporated as the Law Council of Australia Limited. As of 1 July 2003, all business of the LCA is transferred to the incorporated body.

Renovations to Owen Dixon Chambers East

The refurbishment deed between the Bar and Barristers' Chambers Limited ("BCL") was executed in July 2002 and the contract for renovations let to Hooker Cockram Limited in August. Work began on the first floor, and on the lifts, in September. On completion of the first floor in May 2003, work began on the top three floors.

The disruption, not only to those who have had to vacate their chambers, but to those still in Owen Dixon East with construction going on around them, has been considerable. The Bar Council has been attentive to barristers' concerns, and worked with BCL in monitoring the situation and doing what it can to make the best of a difficult situation.

The renovations have also caused a shortage of accommodation, particularly of accommodation affordable to new barristers coming out of their reading. The Bar Council and BCL have done what they can to facilitate and encourage the sharing of chambers, and there has been a good response to that.

The opening of the completed first floor, with its common areas – the Richard Griffith Library, the Neil Forsyth Room, the Bar Council Chamber, the Neil McPhee Room and other Readers Course facilities and, of course, the Essoign – has been a significant achievement. We can see in the first floor how good the new Owen Dixon Chambers East is going to be.

The Essoign

The new Essoign commenced operations on 26 May 2003. Our new manager, Nicholas Kalogeropoulos, has established a personal, cheerful and welcoming ambiance. Both in its day-to-day operations as a café, bar and bistro, and as a venue for various Bar receptions and dinners, the new Essoign is a success.

Jayne Menesdorffer, our previous manager and chef was planning to resign from the Essoign in order to move to the country, but volunteered to stay on to ensure a smooth transition and good start in the new premises. It was a good start and the Bar thanks Jayne for that and for her 9 years of good food and service. Our new chef, Rufus Daniell, began on 23 June 2003.

I thank also the members of the Essoign Club Development Committee: Anthony Howard QC (Chairman), Michael Colbran QC, Philip Dunn QC, Paul Santamaria S.C., Sara Hinchey, and Sharyn May (of Bibra and May, food and service consultants) and, since he joined us in December 2002, Nicholas Kalogeropoulos. I also acknowledge the efforts of David Bremner who not only served on this committee but has re-organised accounting procedures and with Mrs Mal De Silva, continues to oversee financial affairs of the Essoign.

The Bar has a substantial financial commitment in the new Essoign. I commend it to all members as a very pleasant place for refreshment and socialising.

The Bar Dinner

The new venue, Zinc at Federation Square on the bank of the Yarra River, and the new format of (mostly) short speeches, were well received. We had 413 attendees compared to 258 last year. Chief Justice Gleeson spoke, Judge Michael Strong sang, Pamela Tate S.C. (now Victoria's first woman Solicitor-General) gave the junior silk speech and Chief Judge Michael Rozenes responded. Each was at his or her inimitable best, and I thank them for making this an enjoyable and memorable evening. They set a standard that will be hard to match.

I also record our thanks to the sub-committee: Michael Crennan S.C. (Chairman), Peter Riordan, Susan Borg, Sara Hinchey and James Gorton. Thank you also to Anna Whitney who

was on the sub-committee and maintained her excellent standards in the organisation of this event.

The Oral History Project

The Bar has engaged Juliette Brodsky, an experienced broadcast journalist, and her colleague Peter Robertson to commence work on an oral history of the Bar, by way of a pilot project.

They plan to video-record interviews with two retired senior members of the Bar on their lives and experiences as barristers. These interviews will then be developed as flash files and uploaded to the Bar website.

It is anticipated that this exercise may be a precursor to a larger exercise which will result in a comprehensive history of the Bar being established and maintained into the future. This history may consist not only of memorabilia and documents but also of recorded histories of people and events, which may be accessed not only through the media of film, audio and print but also via the internet.

Submissions on Proposed Legislation and Law Reform

Routinely the Bar is consulted by State government and by the State opposition parties in relation to proposed legislation, very often at short notice. From the Commonwealth more commonly we receive notice of enquiries by various House and Senate Committees. We receive discussion papers, issues papers and reports from various law reform commissions – in particular, the Australian Law Reform Commission and the Victorian Law Reform Commission. The law reform papers are often bound volumes of many hundreds of pages – the product of a team of researchers over a course of months.

Unfailingly, members of the Bar, on an entirely pro bono basis, review these various materials, meet to discuss them, and formulate submissions, working with the Bar's Legal Policy Officer, Ross Nankivell.

Submissions cover a broad range of areas of law and practice. This last year, the Bar has made submissions on, for example, "People with Intellectual Disabilities at Risk: A Legal Framework for Compulsory Care", "Securing Compliance: Civil and Administrative Penalties in Australian Federal Regulation", "Uniform Succession Laws: The Recognition of Interstate and Foreign Grants of Probate", "The Protection of Human Genetic Information", "The Judicial Conduct and Complaints System in Victoria", and amendments to the Bankruptcy and Family Law Acts to counter claimed schemes to avoid payment of taxation, particularly by barristers, to name but a few. We have made submissions on a number of Family Court initiatives concerning, for example, rules for the use of Expert Evidence, Guidelines for Child Representatives and on parts of a whole new set of rules for the Family Court.

We have also made submissions on a number of proposals claimed to be necessary to meet the perceived heightened threats of organised crime and terrorism such as the ASIO Legislation (Terrorism) Bill, passed recently but with significant amendments, and the earlier conversion of the National Crime Authority into the Australian Crime Commission, placing the powers of a Royal Commission into the hands of the heads of the police forces and prosecution agencies.

The Criminal Bar Association is consulted independently of the Bar as a whole, and makes its own submissions in its own area of law. We liaise closely, sometimes making parallel submissions, both written and oral (as with the Australian Crime Commission Bill). More often, particularly in the case of Victorian Criminal Law legislation, the Bar adopts and endorses the Criminal Bar Association submission.

The Bar also relies heavily and works closely with members of the Family Law Bar Association in the quite heavy load of material in that area, and with other subject area Bar

associations in their areas of specialisation.

The quality of the Bar's submissions in all areas has been outstanding. This is in large part due to the magnificent work of the Bar's Legal Policy Officer, Ross Nankivell. His contribution to this important work cannot be overstated.

Connections with the South Pacific

Since 1987, the Bar has welcomed practitioners from Papua New Guinea and other South Pacific nations into the Bar Readers Course. We have had 63 practitioners from Papua New Guinea, 11 from Vanuatu, 3 from Indonesia and 1 from the Solomon Islands.

Since 1990, the Bar has also conducted intensive advocacy workshops in Papua New Guinea, most recently in October 2002 and again in April 2003.

This outreach to and support of practitioners in the South Pacific is the passionate project of Barbara Walsh, our Manager of Legal Education and Training, whom we honoured in August 2002 with a reception to celebrate her 15 years of excellent service to the Bar.

Legal Assistance

This has been the third year of the administration of the Bar legal assistance scheme by the Public Interest Law Clearing House. There has been a dramatic increase in the number of enquiries and applications to the Bar scheme, and in the number of matters referred to and accepted by barristers. The Bar has this year effectively doubled the amount of its financial contribution to PILCH for the management of the scheme.

The demand for legal assistance in immigration matters far exceeds the supply. Of particular note this year are the successful Asylum Seeker seminars in April and May 2003 organised by Rachel Doyle. This series of three seminars effectively constituted a comprehensive training program in migration cases for barristers. Between 60 and 70 people attended the seminars including, as guests, members of the Federal Court and Federal Magistrates' Service. As a direct result of these seminars, 63 barristers have expressed willingness to accept pro bono work in migration matters and to accept Order 80 referrals in the Federal Court. Systems have been established with the Federal Court and with PILCH for more senior and experienced barristers to mentor junior barristers in Order 80 referrals.

Another significant development this year is that since October 2002, PILCH has also managed the Law Institute legal assistance scheme. Now all three major organised pro bono assistance schemes in Victoria – those of the Bar, the Law Institute and of PILCH itself – are managed and co-ordinated together, a major convenience for those seeking assistance.

Thanks

I know Robert Redlich would want to join me in thanking our colleagues on the Bar Council for their work and support throughout the year. In particular, I thank my two Vice Chairmen, Robin Brett QC and Ross Ray QC, and Michael Shand QC for his extraordinary work on Professional Indemnity Insurance and also, following the election of Ross Ray to the Vice Chairmanship, as Treasurer. This has been the third year of very effective service by the Honorary Secretary and Assistant Secretary team of Richard Attiwill and Sharon Moore.

The Bar is well served by our administrative staff who throughout the year demonstrated in their work great efficiency and loyalty. I thank all members of Bar staff for the continuing efforts on behalf of the Bar.

Jack Rush
Chairman

6 August 2003

Officers of the Bar Council

<i>Chairman</i>	Robert F Redlich QC (to 22 October 2002) John T Rush RFD QC (from 7 November 2002)
<i>Senior Vice-Chairman</i>	John T Rush RFD QC (to 22 October 2002) Robin A Brett QC (from 7 November 2002)
<i>Junior Vice-Chairman</i>	Robin A Brett QC (to 22 October 2002) W Ross Ray QC (from 7 November 2002)
<i>Honorary Treasurer</i>	Michael W Shand QC
<i>Assistant Honorary Treasurer</i>	Michelle Quigley S.C.
<i>Honorary Secretary</i>	Richard H M Attiwill
<i>Assistant Honorary Secretary</i>	Sharon E Moore

VICTORIAN BAR STAFF

<i>Executive Director</i>	David Bremner
<i>Executive Officer</i>	Anna Whitney
<i>Legal Officer</i>	Ross Nankivell
<i>Manager, Legal Education and Training</i>	Barbara Walsh
<i>Legal Education and Training Officer</i>	Elizabeth Rhodes
<i>Legal Education and Training Assistant</i>	Deborah Morris
<i>Investigations Officer, Ethics Committee</i>	Debbie Jones
<i>Assistant to the Ethics Committee</i>	Catherine Mukhtar (from 15 July 2002)
<i>Accountant/Membership Records</i>	Mal De Silva
<i>Secretary</i>	Wendy McPhee
<i>Receptionist</i>	Tania Giannakenas
<i>Administrative Assistants</i>	Rebekah Thompson and Daphne Ioannidis
<i>Archivist</i>	Alison Adams
<i>Mediation Receptionists</i>	Helen Henry, Pauline Hannan, Kay Kelly, Pat Lurye

EXECUTIVE COMMITTEE OF THE BAR COUNCIL

<i>Chairman</i>	Robert F Redlich QC (to 22 October 2002) John T Rush RFD QC (from 7 November 2002)
<i>Senior Vice-Chairman</i>	John T Rush RFD QC (to 22 October 2002) Robin A Brett QC (from 7 November 2002)
<i>Junior Vice-Chairman</i>	Robin A Brett QC (to 22 October 2002) W Ross Ray QC (from 7 November 2002)
<i>Honorary Treasurer</i>	Michael W Shand QC
<i>Members</i>	Anthony J Howard QC Philip A Dunn QC W Ross Ray QC C F (Kate) McMillan S.C.

Honorary Secretary
Assistant Honorary Secretary

Jeanette E Richards (to 1 June 2003)
Michael G R Gronow
Richard H M Attiwill
Sharon E Moore

PORTFOLIOS OF BAR COUNCIL MEMBERS

Bar Rules

Jack I Fajgenbaum QC, Mark A Dreyfus QC, Fiona M McLeod and Michael G R Gronow

Barristers' Chambers Limited

Robin A Brett QC

Clerking

Philip A Dunn QC, C F (Kate) McMillan S.C. and Anne E Duggan

Commercial Bar

Michael W Shand QC and Anne E Duggan

Common Law Bar and Compensation Bar

John T Rush RFD QC, Michelle L Quigley S.C., Debra J Coombs

Costs

Michael J Crennan S.C. and Debra J Coombs

Courts and Civil Procedures

Mark A Dreyfus QC, Fiona M McLeod, Anne E Duggan and Kim J Knights

Criminal Bar

Philip A Dunn QC, W Ross Ray QC and Dr David J Neal

Dispute Resolution Committee

Richard W McGarvie and Fiona M McLeod

Equality Before the Law

John T Rush RFD QC, Robin A Brett QC and C F (Kate) McMillan S.C.

Family Law Bar

Anthony J Howard QC and Peter J Riordan

Federal Courts and Industrial Law

Mark A Dreyfus QC, C F (Kate) McMillan S.C., Michael J Crennan S.C. and Richard W McGarvie

Law Council

W Ross Ray QC

Legal Aid

Anthony J Howard QC, Philip A Dunn QC and Dr David J Neal

Library and Technology

Michael W Shand QC, Michael G R Gronow and Kim J Knights

Major Events

Anthony J Howard QC, John T Rush RFD QC, Peter J Riordan and Debra J Coombs

Pro Bono

Anthony J Howard QC, Michael J Crennan S.C., Michael G R Gronow and Kim J Knights

Professional Indemnity Insurance

Michael W Shand QC and Peter J Riordan

Property Law

Michael J Crennan S.C., Michelle L Quigley S.C. and Richard W McGarvie

Readers' Course and Continuing Legal Education

W Ross Ray QC, Michelle L Quigley S.C. and Dr David J Neal

Bar Companies and Associations

(as at 30 June 2003)

BARFUND PTY LTD – BOARD OF DIRECTORS

(as trustee for the Victorian Bar Superannuation Fund)

Ross McK. Robson QC (Chairman)

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David S Levin QC (Alternate)

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David M Maclean

Paul J Cosgrave (Alternate)

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COMMITTEE OF MANAGEMENT**

John T Rush RFD QC (Chairman, Victorian Bar Council)

Michael W Shand QC (Honorary Treasurer, Victorian Bar Council)

BARRISTERS' CHAMBERS LIMITED — BOARD OF DIRECTORS

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Caroline M Kenny

Wendy A Harris

Daryl F Collins (Chief Executive Officer)

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David E Curtain QC

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James H Mighell

Dr John P M de Koning (Honorary Secretary)

Gunilla A Hedberg

Sara L Hinchey

THE MELBOURNE BAR PTY LTD

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David F R Beach S.C.

Mark T Settle

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Neil J Young QC

John E Middleton QC

David E Curtain QC

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List B — Paul A Scanlon QC

List D — Ross H Gillies QC

List F — Philip A Dunn QC

List G — Charles M Scerri QC

List H — Paul D Elliott QC

List L — Phillip G Priest QC

List M — Bernard R Fitzgerald

List P — Richard R S Tracey QC

List R — Russell L Berglund QC

List S — Rodney M Garratt QC

List W — Brendan A Murphy QC

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Geoffrey R Martin (Honorary Treasurer)

Emma M Swart (Secretary)

COMMERCIAL BAR ASSOCIATION

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Melanie Sloss S.C. (Senior Vice-President)

Albert A Monichino (Vice-President (Convenor))

John R Dixon (Treasurer)

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John H L Forrest QC (Vice-Chairman)

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Richard J Stanley QC

Peter J Galbally QC

John T Rush RFD QC

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David F R Beach S.C.

Timothy P Tobin S.C.
David J Martin (Secretary)
Trevor S Monti
Andrew McH Ramsey
Frank D Saccardo
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John H Tebbutt (Liaison Officer)
John A O'Brien (Treasurer)

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Edwin J Lorkin (Secretary)
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Chryssa Anagnostou (Assistant Convenor)
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Helen M Symon S.C.
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Michelle L Quigley S.C.
Samantha L Marks
Kim M Pettigrew

Dinusha S Joseph
Kim J Knights
Sylvia Maramis
Jaqueline Robertson
Patricia E Dobson
My Anh Tran

Standing Committees of the Bar Council

(as at 30 June 2003)

Aboriginal Law Students Mentoring Committee

Stephen W Kaye QC (Chair), Jeanette G Morrish QC, David A Parsons S.C., Colin D Golvan S.C., Elizabeth J Hollingworth S.C., John E Goetz, Campbell F Thomson, Amanda Glaister, Susan C Dowler, Paul J Hayes, Edward J C Heerey and David J L Bremner (Executive Director)

Applications Review Committee

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Ethics Committee

Committee: C F (Kate) McMillan S.C. (Chair), James D Merralls AM QC, Paul A Willee RFD QC, William F Lally QC, Martin Bartfeld QC, Mark A Dreyfus QC, Peter H Clark S.C., Paul G Lacava S.C., Gerald A Lewis S.C., Michelle L Quigley S.C., Cameron C Macaulay, Neil J Clelland, Pauline L Shiff, Kerri E Judd, Peter J Riordan; *Staff:* Debbie Jones (Investigations Officer) and Catherine Mukhtar (Assistant to Committee)

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Anthea E L MacTiernan

Human Rights Committee

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Anthony J Howard QC (Chair), Patrick F Tehan QC, Gerald A Lewis S.C., Michelle L Quigley S.C., Elizabeth J Hollingworth S.C., Denis B X Smith, Richard W McGarvie, Fiona M McLeod, Samantha E Burchell, Matthew D Townsend, Emma M Swart, Nicholas D Horner, David J L Bremner (Executive Director), John A Emerson and Emma Hunt

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Legal Education and Training — Continuing Legal Education Sub-Committee

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The Honourable Justice David L Harper, David G Collins S.C., Timothy P Tobin S.C., Neil J Clelland, P Mark Taft, Caroline E Kirton, Donna Bakos, Matthew N Connock, Robert W Taylor, Sara L Hinchey, Martin L Grinberg, Paul J Lawrie and Joyce G Tooher

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Hartog C Berkeley QC, Frank X Costigan QC, Brian J Shaw QC, Andrew J Kirkham RFD QC, Dr Chris N Jessup QC, Susan M Crennan QC, Neil J Young QC, John E Middleton QC, David E Curtain QC and D Mark B Derham QC

Professional Indemnity Insurance Committee

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Paul A Willee RFD QC, (Acting Chairman), Michael W Shand QC, Gerald A Lewis S.C., Paul D Santamaria S.C., Cameron C Macaulay, Matthew N Connock and Debra J Coombs

Victorian Bar Dispute Resolution Committee

William J Martin QC (Chair), George D Golvan QC (Deputy Chair), Nathan A Moshinsky QC, Henry Jolson QC, G John Digby QC, David S Levin QC, Michael D G Heaton QC, Gerald A Lewis S.C., James Cyngler, Marc T Bevan-John, Ross G Maxted, Frances Millane, Gerald A Hardy, Georgina Grigoriou, Carmel M Morfuni, William E Alstergren, Cornelia N Fourfouris-Mack, Michael H Whitten, C Elizabeth Brophy and Allan B Goldsworthy

Victorian Bar News

Editors: P Gerard Nash QC, Paul D Elliott QC, Judy Benson; *Editorial Board:* Julian W K Burnside QC, John T Rush RFD QC, Graeme P L Thompson; *Editorial Committee:* John V Kaufman QC, Olyvia Nikou S.C., William F Gillies, Carolyn H Sparke, Georgina L Schoff, Paul

T Duggan, Peter A Clarke, Nicola M Gobbo, Victoria E Lambropoulos, Richard L Brear (Editorial Assistant) and Peter W Lithgow (Book Reviews)

Victorian Bar Theatre Company Steering Committee

D Mark B Derham QC (Chairman), Simon K Wilson QC, Paul D Elliott QC, Jeanette G Morrish QC, Graeme P L Thompson, Paul E Bennett, Darren A Mort, William E Alstergren, Georgina L Schoff, Peter T Nugent, James P Gorton, Paul J Hayes, Nicholas A T Harrington, Elizabeth T Johnson, Anne L O'Connell, Sarah L Fregon and David J L Bremner (Executive Director).

Joint Standing Committees

(as at 30 June 2003)

Bar/BCL Communications Committee

D Mark B Derham QC (Chair), Michael W Shand QC, David S Levin QC, Peter W Lithgow, William E M Lye, Geoffrey Bartlett, David J L Bremner, Michael Feramez and Ian Green

Law Aid (Bar/LIV)

Richard J Stanley QC, Peter J Galbally QC, David F R Beach S.C. and Mary Anne Hartley

Listing Problems Committee (Bar/LIV)

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

Medico-Legal Standing Committee (Bar, LIV & AMA)

David A Kendall QC, Michael A Scarfo, Christopher M O'Neill and Mary Anne Hartley

Police/Lawyers Liaison Committee

Ian D Hill QC (Chair), Lex Lasry QC (Alternate), Warwick J Walsh-Buckley (CBA Representative), Boris Kayser and Carolyn M Burnside

Bar Appointees

(as at 30 June 2003)

Appeal Costs Board

Anthony E Hooper QC

Australasian Disputes Centre

William J Martin QC

Australian Bar Association — Council

John T Rush RFD QC (Delegate) and Robin A Brett QC (Alternate)

Australian Red Cross — International Humanitarian Law Advisory Committee

Position Vacant

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

Charles Gunst QC

Council of Law Reporting

James D Merralls AM, QC and Charles Gunst QC

Council of Legal Education

Jack I Fajgenbaum QC and C F (Kate) McMillan S.C.

County Court — Building Cases Users Group

Richard J Manly S.C.

County Court — Business Process Re-engineering Project

Robin P Gorton QC and David F R Beach S.C.

County Court — Rules Committee

Peter T Fox and Michael J Corrigan

County Court — WorkCover Users Group

Robin P Gorton QC, Robert W Dyer, John J Noonan and James P Gorton

Federal Court — Corporations List Users Group

Simon P Whelan QC and David J O'Callaghan (Alternate)

Federal Court — E-Filing Committee

Julian W K Burnside QC, Michael W Shand QC and William E M Lye

Federal Court — Intellectual Property Users' Group

Bruce N Caine S.C.

Federal Court — Migration List Users Group

Richard R S Tracey QC, Anthony L Cavanough QC, Kevin H Bell QC, Maree E Kennedy S.C., Thomas V Hurley, Debra S Mortimer, Warren S Mosley and Richard M Niall

Federal Court — Native Title Committee

David A Parsons S.C.

Federal Court — Users Committee

Ross C Macaw QC, Richard R S Tracey QC, Garry T Bigmore QC, John W de Wijn QC and Bruce N Caine S.C.

Firearms Appeal Committee

Carolyn H Sparke

International Bar Association — Human Rights Liaison Officer

Jack I Fajgenbaum QC

La Trobe University Law School — Legal Profession Consultative Council

Ross C Macaw QC

La Trobe University Proctorial Board

Frank X Costigan QC

Law Council of Australia Holdings Limited

W Ross Ray QC (Representative & Director) and John T Rush RFD QC (Alternate Representative)

Law Council of Australia — *Australian Lawyer* Editorial Committee

P Gerard Nash QC

Law Council of Australia — Access to Justice Committee

Duncan L Allen

Law Council of Australia — Equalising Opportunity in the Law Committee

Kim M Pettigrew

Law Council of Australia — Young Lawyers Standing Committee

Rachel M Doyle and Katharine J D Anderson

Law Institute of Victoria — Commonwealth Law Conference 2003

W Ross Ray QC and C F (Kate) McMillan S.C.

Law Institute of Victoria — Fee Disputes Conciliator

Jeremy Ruskin QC

Lawyers Engaged in Alternative Dispute Resolution (LEADR)

William J Martin QC and Dr Damien J Cremean

Legal Practice Board

John E Middleton QC

Legal Practice Board — Legal Costs Committee

Nicholas J D Green QC

Legal Profession Tribunal — Advocate Members

Frank X Costigan QC, Lex Lasry QC, Richard R S Tracey QC, Peter J Jopling QC, Anthony G Southall QC, David S Levin QC, Jeremy W Rapke QC, Helen M Symon S.C., Aristomenis Garantziotis S.C., Elizabeth J Hollingworth S.C., Sue A Winneke and Christopher J Ryan

Legal Profession Tribunal — Conciliators

Nathan A Moshinsky QC, Henry Jolson QC, John H L Forrest QC, Richard J Spicer, Robert W Dyer, Paul W McDermott, Georgina Grigoriou, Elspeth Strong, Michael F Wheelahan, Jennifer Brennan and Kevin J Thompson

Leo Cussen Institute for Continuing Legal Education

The Honourable Justice Mark S Weinberg, P Gerard Nash QC (Alternate), Helen M Symon S.C. and Fiona M McLeod (Alternate)

Magistrates' Court — Civil Rules Committee

Ian R McEachern, Gregory L McNamara and Franz L Holzer

Magistrates' Court — WorkCover Users Group

Debra J Coombs

Migration/Refugee Review Tribunal

Maree E Kennedy S.C.

Monash University Law Faculty Advisory Panel (Integration of Skills and Ethics Project)

W Brind Zichy-Woinarski QC

Monash University Law Faculty Board

Paul A Willee RFD QC and P Gerard Nash QC (Alternate)

Public Interest Law Clearing House (PILCH)

Richard W McGarvie and Fiona M McLeod (Alternate)

Salvation Army Victoria Court and Prison Chaplains Advisory Board

Andrew B J Combes

Supreme Court — Academic Course Appraisal Committee

Jack I Fajgenbaum QC

Supreme Court — Board of Examiners

Ronald K J Meldrum QC, Peter J Jopling QC, Joseph G Santamaria QC (Deputy To Position Vacant), William F Lally QC (Deputy To Meldrum QC) and C F (Kate) McMillan S.C. (Deputy

To Jopling QC)

Supreme Court — Building List Users Committee

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

Supreme Court — Chief Justice's Civil Listing Committee

Richard J Stanley QC

Supreme Court — Chief Justice's Committee for Religious Observances

Anthony E Radford

Supreme Court — Chief Justice's Computer Committee

Julian W K Burnside QC, Paul A Willee RFD QC and David S Levin QC

Supreme Court — Chief Justice's Library Committee

Melanie Sloss S.C. and Stephen G E McLeish

Supreme Court — Chief Justice's Rules Committee

Nemeer Mukhtar QC and Peter T Fox

Supreme Court — Civil Litigation Committee

Peter B Murdoch QC, Stephen W Kaye QC, John H L Forrest QC, Elizabeth J Hollingworth S.C., and Peter J Riordan

Supreme Court — Commercial Causes Users Committee

Julian W K Burnside QC, Simon K Wilson QC, Timothy J North S.C. and Stewart M Anderson

Supreme Court — Commercial List Users' Committee

Peter J Bick QC, David H Denton RFD S.C., Albert Monichino and Peter J Riordan

Supreme Court — Costs Co-ordination Committee

Michael W Shand QC

Supreme Court — Court Management

Stephen W Kaye QC and Robin A Brett QC

Supreme Court — Probate Users' Committee

Richard R Boaden and Shane P Newton

University of Melbourne Law Faculty

Allan J Myers QC and Neil J Young QC

Victoria Law Foundation (including Grants Committee)

Kim J Knights

Victoria Legal Aid — Community Consultative Committee

Dr David J Neal

Victorian Association for the Care and Resettlement of Offenders (VACRO)

Philip A Dunn QC

Victorian Civil and Administrative Tribunal Consultative Users Groups

— Anti-Discrimination List Users Group

Herman Borenstein S.C., Melanie P Young and Jennifer M Firkin

Victorian Civil and Administrative Tribunal Consultative Users Groups

— Credit List Users Group

Paul J Hayes

Victorian Civil and Administrative Tribunal Consultative Users Groups

— **Domestic Building List Users Group**

J A Hugh Foxcroft S.C. and John G Bolton

Victorian Civil and Administrative Tribunal Consultative Users Groups

— **General List Users Group**

Mark A Dreyfus QC and Mark G Klemens

Victorian Civil and Administrative Tribunal Consultative Users Groups

— **Guardianship List Users Group**

Carolyn H Sparke

Victorian Civil and Administrative Tribunal Consultative Users Groups

— **Occupational & Business Regulation List Users Group**

Mark A Dreyfus QC, Brian L Bourke, E Lloyd Bryant, John F M Larkins, Thomas V Hurley and Mary Anne Hartley

Victorian Civil and Administrative Tribunal Consultative Users Groups

— **Planning List Users Group**

Michael H Wright QC and Christopher J Wren

Victorian Civil and Administrative Tribunal Consultative Users Groups

— **Retail Tenancies List Users Group**

Dr Clyde E Croft S.C. and Georgina Grigoriou

Victorian Heritage Council

John L Dwyer QC

Victorian Workcover Authority Committee

Robin P Gorton QC (Chair), Robert W Dyer, John J Noonan and Katherine L Bourke

General Meetings

GENERAL MEETINGS OF THE BAR

The last Annual General Meeting of the Bar was held on 2 September 2002.

BAR COUNCIL MEETINGS

For the year ended 30 June 2003 the Bar Council held 27 ordinary meetings.

The 2002/2003 Bar Council first met on 5 September 2003. Between that date and 31 July 2003 there have been 25 ordinary meetings. Attendance at these meetings was as follows:

Robert F Redlich QC (to 22/10/02)	5	David F R Beach S.C. (from 17/12/02)	12
John T Rush RFD QC	25	Michelle Quigley S.C.	20
Robin A Brett QC	24	Richard W McGarvie	21
W Ross Ray QC	19	Jeanette E Richards (to 01/06/03)	12
Michael Rozenes QC (to 24/11/02)	6	Fiona M McLeod	18
Jack I Fajgenbaum QC (from 17/12/02)	16	Peter J Riordan	18
Anthony J Howard QC	20	Dr David J Neal	15
Philip A Dunn QC	16	Anne E Duggan	18
Michael W Shand QC	25	Michael G R Gronow	23
Mark A Dreyfus QC	24	Debra J Coombs	24

EXECUTIVE COMMITTEE MEETINGS

For the year ended 30 June 2003 the Executive Committee held 16 ordinary meetings.

SUBSCRIPTIONS

For the period 1 July 2002 to 30 June 2003 the Bar Council fixed annual subscriptions (including GST) for members of the Bar as follows:-

Division A, Part I

Queen's Counsel/Senior Counsel	\$3,100
Over 15 years	\$1,850
Over 14 years	\$1,800
Over 13 years	\$1,800
Over 12 years	\$1,750
Over 11 years	\$1,650
Over 10 years	\$1,600
Over 9 years	\$1,200
Over 8 years	\$1,100
Over 7 years	\$1,000
Over 6 years	\$900
Over 5 years	\$800
Over 4 years	\$750
Over 3 years	\$700
Over 2 years	\$600
Over 1 year	\$550
Under 1 year's standing	\$300
Readers (September 2002)	\$150
Readers (March 2003)	\$40

Division A, Part II

Crown Prosecutors and Public Defenders	\$370
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Division A, Part III

Interstate and Overseas Queen's and Senior Counsel	\$490
Interstate and Overseas Juniors	\$370

Division B, Part III

Ministers of the Crown and Members of Parliament	\$370
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Division B, Part IV

Solicitors-General and Directors of Public Prosecutions	\$370
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Division B, Part VII

Crown Counsel and Parliamentary Counsel	\$370
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Division B, Part VIII

Other Official Appointments

\$370

Division D

Academics

\$370

Personalia

(as at 30 June 2003)

OBITUARIES

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

John Birrell on 13 July 2002

William E Paterson QC on 5 September 2002

Bruce G Ross on 15 September 2002

The Honourable Justice Geoffrey Flatman on 18 September 2002

His Honour Judge Eric E Hewitt QC on 12 October 2002

The Honourable Justice Robert R Douglas RFD on 26 November 2002

John I Patmore on 7 December 2002

Russell D Barton on 13 December 2002

Peter E McGavin on 20 February 2003

Peter N Way on 19 March 2003

John F Lyons QC on 22 March 2003

Peter A Liddell QC on 15 April 2003

Elizabeth (Liz) Marie-Therese Murphy on 24 April 2003

The Honourable Richard E McGarvie AC on 24 May 2003

Roselyn F Tremayne on 18 June 2003

JUDICIAL APPOINTMENTS

Family Court of Australia

On 26 August 2002 The Honourable Justice Peter Young was appointed as a Judge of the Family Court of Australia.

Supreme Court of Victoria

On 23 July 2002 The Honourable Justice Nettle was appointed as a Judge of the Supreme Court of Victoria.

On 23 July 2002 The Honourable Justice Dodds-Streeton was appointed as a Judge of the Supreme Court of Victoria.

On 22 October 2002 The Honourable Justice Redlich was appointed as a Judge of the Supreme Court of Victoria.

On 22 October 2002 The Honourable Justice Williams was appointed as a Judge of the Supreme Court of Victoria.

On 29 April 2003 The Honourable Justice Morris was appointed as a Judge of the Supreme

Court of Victoria.

County Court of Victoria

On 11 September 2002 His Honour Judge Bourke was appointed as a Judge of the County Court of Victoria.

On 11 September 2002 His Honour Judge Coish was appointed as a Judge of the County Court of Victoria.

On 11 September 2002 Her Honour Judge Gaynor was appointed as a Judge of the County Court of Victoria.

On 22 October 2002 His Honour Judge Howie was appointed as a Judge of the County Court of Victoria.

On 22 October 2002 Her Honour Judge Campton was appointed as a Judge of the County Court of Victoria.

On 25 November 2002 His Honour Chief Judge Rozenes was appointed as a Judge of the County Court of Victoria.

On 8 April 2003 His Honour Judge Punshon was appointed as a Judge of the County Court of Victoria.

Senior Counsel

On 17 December 2002 the following members of the Victorian Bar were appointed Senior Counsel in Victoria:

Gerald A Lewis, Bruce G Walmsley, Julian P Leckie, Paul F O'Dwyer, P Nimal Wikramanayake, Vincent A Morfuni, Timothy P Tobin, Jeremy W St. John, Terrence P Murphy, Aristomenis Garantziotis, John B Richards, Timothy J North, Stephen A Shirrefs, Paul D P Santamaria, Bruce N Caine, Frances I O'Brien, Frank Parry, Colin D Golvan, Paul E Anastassiou, Melanie Sloss, Michelle L Quigley, Michael L Sifris, Maree E Kennedy, Elizabeth J Hollingworth and Pamela M Tate.

Welcomes

On 30 July 2002 The Honourable Justice Nettle was welcomed to the Bench of the Supreme Court of Victoria by Robert Redlich QC, Chairman of the Victorian Bar Council.

On 31 July 2002 The Honourable Justice Dodds-Streeton was welcomed to the Bench of the Supreme Court of Victoria by Robert Redlich QC, Chairman of the Victorian Bar Council.

On 26 August 2002 The Honourable Justice Young was welcomed to the Bench of the Family Court of Australia by Robert Redlich QC, Chairman of the Victorian Bar Council.

On 12 September 2002 His Honour Judge Bourke was welcomed to the Bench of the County Court of Victoria by Robin Brett QC, Junior Vice-Chairman of the Victorian Bar Council.

On 13 September 2002 Her Honour Judge Gaynor was welcomed to the Bench of the County Court of Victoria by Robert Redlich QC, Chairman of the Victorian Bar Council.

On 16 September 2002 His Honour Judge Coish was welcomed to the Bench of the County Court of Victoria by Jack Rush QC, Senior Vice-Chairman of the Victorian Bar Council.

On 24 October 2002 His Honour Judge Howie was welcomed to the Bench of the County Court of Victoria by Jack Rush QC, Senior Vice-Chairman of the Victorian Bar Council.

On 25 October 2002 Her Honour Judge Campton was welcomed to the Bench of the County Court of Victoria by Robin Brett QC, Junior Vice-Chairman of the Victorian Bar Council.

On 31 October 2002 The Honourable Justice Williams was welcomed to the Bench of the Supreme Court of Victoria by Jack Rush QC, Chairman of the Victorian Bar Council.

On 11 November 2002 The Honourable Justice Redlich was welcomed to the Bench of the Supreme Court of Victoria by Jack Rush QC, Chairman of the Victorian Bar Council.

On 26 November 2002 His Honour Chief Judge Rozenes was welcomed to the Bench of the County Court of Victoria by Jack Rush QC, Chairman of the Victorian Bar Council.

On 14 February 2003 The Honourable Justice Heydon was welcomed to the Bench of the High Court of Australia by Jack Rush QC, Chairman of the Victorian Bar Council.

On 11 April 2003 His Honour Judge Punshon was welcomed to the Bench of the County Court of Victoria by Jack Rush QC, Chairman of the Victorian Bar Council.

On 14 April 2003 Her Honour Judge Wilmoth was welcomed to the Bench of the County Court of Victoria by Jack Rush QC, Chairman of the Victorian Bar Council.

On 29 April 2003 The Honourable Justice Morris was welcomed to the Bench of the Supreme Court of Victoria by Jack Rush QC, Chairman of the Victorian Bar Council.

Farewells

On 30 August 2002 the legal profession met to pay tribute to the Honourable Justice McDonald on the occasion of his retirement from the Bench of the Supreme Court of Victoria. Robert Redlich QC, Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 25 September 2002 the legal profession met to pay tribute to His Honour Judge Jones on the occasion of his retirement from the Bench of the County Court of Victoria. Robert Redlich QC, Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 7 October 2002 the legal profession met to pay tribute to His Honour Judge Hassett on the occasion of his retirement from the County Court of Victoria. Jack Rush QC, Senior Vice-Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 21 November 2002 the legal profession met to pay tribute to His Honour Chief Judge Waldron AO on the occasion of his retirement from the Bench of the County Court of Victoria. Jack Rush QC, Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 5 December 2002 the legal profession met to pay tribute to His Honour Judge Dove on the occasion of his retirement from the County Court of Victoria. Robin Brett QC, Senior Vice-Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 19 December 2002 the legal profession met to pay tribute to His Honour Judge Walsh on the occasion of his retirement from the County Court of Victoria. Jack Rush QC, Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 14 February 2003 the legal profession met to pay tribute to the Honourable Mr Justice Beach on the occasion of his retirement from the Bench of the Supreme Court of Victoria. Jack Rush QC, Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

On 30 April 2003 the legal profession met to pay tribute to the Honourable Justice Olney on the occasion of his retirement from the Bench of the Federal Court of Australia. Jack Rush QC, Chairman of the Victorian Bar Council, spoke on behalf of the Bar.

Roll of Counsel

(as at 30 June 2003)

Division A, Part I

Victorian Practising Counsel — Queen's and Senior Counsel — Male	184
— Queen's and Senior Counsel — Female	14
Victorian Practising Counsel — Junior Counsel — Male	1030
— Junior Counsel — Female	262

Division A, Part II

Crown Prosecutors and Public Defenders	23
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Division A, Part III	
Interstate and Overseas Counsel	147
Division B, Part I	
Governors	1
Division B, Part II	
Judges	175
Division B, Part III	
Ministers of the Crown and Members of Parliament	9
Division B, Part IV	
Solicitors-General and Directors of Public Prosecutions	4
Division B, Part V	
Masters and Judicial Registrars	8
Division B, Part VI	
Magistrates and Full-time Members of Statutory Tribunals	76
Division B, Part VII	
Crown Counsel and Parliamentary Counsel	6
Division B, Part VIII	
Other Official Appointments	2
Division C, Part I	
Retired Judges and other Judicial Officers	67
Division C, Part II	
Retired Holders of Public Office other than Judicial Officers	8
Division C, Part III	
Retired Counsel	79
Division D	
Academics	15
TOTAL	2110

Between 1 July 2002 and 30 June 2003 the following 99 persons signed the Roll of Counsel:

Anton P Trichardt, Geoffrey M Gibson (re-signed), Sellathurai Sivarasa, A David C Miller (re-signed), Richard A Fink (re-signed), Patricia R Riddell (re-signed), Miranda R Forsyth, Stewart F McNab, Marita H Foley, Kaylene A Dawson, Louie E Hawas, Samuel D Hay, Christos Moshidis, Kathleen M Rowe, Michelle R Wallace, Antonius J Vriends, Stewart J Maiden, Amber Harris, Andrew T Broadfoot, Timothy J Donaghey, Patrick J Wheelahan, Brett L Powell, Dr Renata Alexander, Angela Cranenburg, Lisabella G De Ferrari, P Andrew Cassidy, Declan P

Manly, Marguerite M P Desmond, Penelope A Neskovicin, Joseph M Connellan, Peter J Matthews, Stephen M Roseman, Gerard J O'Hara, Timothy J F McEvoy, Shane P Thomas, Frederick C Stuart, Zev J Wagen, Yildan K Hardjadibrata, Bruce D Nibbs, Cecilia M O'Brien, Nicholas G K Healy, Leighton R C Gwynn, Edward J Remer, Dee Brooker, E Teri Konstantinou, Gary B Hevey, Carmen M-F Randazzo (re-signed), David J McKenzie (re-signed), George A Georgiou (re-signed), Julie Condon (re-signed), Arnold E Dix (re-signed), Linda Z Rowland (re-signed), Rodrigo A Arellano (re-signed), Roger C Ilitch (re-signed), Michael J Rivette (re-signed), Shane N Tyrrell, Malcolm W Harding, Scott R Johns, David J Kent-Hughes, Jeremy L Smith, Jennifer L Beard, Jason M Harkess, Andrew J Fraatz, Garry J Hindson, Elizabeth J Miller, Simon Rubenstein, Peter F Agardy, Hamish L Redd, David J N Purcell, Michael T Schulze, Jason P Kane, Alastair J Ritchie, James P McQuillan, Vicki L Marty, Elizabeth K Langdon, St John Hibble, Nabil F Orow, James B Boulton, Theodosios R Alexander, Claire M Harris, Russell B Hammill, Simon P Zebrowski, Amanda R Ring, Sergio M Petrovich, Richard M Antill, Suzanne B McNicol, Marcus J Hoyne, Penny A Cefai, Diana I Piekusis, Simon A Tisher, Alexandrina Manova, Niki R Wilson, Daniel P Holding, Thomas S Pikusa, Gino Pierorazio, Francis D O'Loughlin, Patrick G A Montgomery, Jane K MacDonnell, Sonja Roglic (re-signed),

Between 1 July 2002 and 30 June 2003 the names of the following Interstate and Overseas Counsel were entered on the Roll of Counsel:

Wayne G Muddle, Timothy C Watts, Michael S Pickin, John P Rowland QC, Timothy D O J North S.C.

Members whose names were removed from Division A, Part I (Victorian Practising Division):

Roland M L Price, Michele S Lasky, Rozanna Zalewski, Edward J O'Donohue, Konstantin F Tringas, Richard J Thompson, Maryann S Gassert, Roderick A F Saunders, Christian Jose, David C Avent, Amanda J Ducrou, Gary A Cazalet, Peter Mellas, Dominic Lennon, Leslie M Schwarz, Marko Cvjeticanin, Paul R Pentony, John Tesarsch, Daniel Porceddu, Alan H Swanwick, Miranda R Forsyth, Russell J Stubbs, Jeffery A Gyles, Randall J Kune

Member whose name was removed from Division A, Part II (Crown Prosecutors and Public Defenders):

Nigel A Parkinson

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

Richard A Hogan, Brian R M Hayes QC, Peter Dwyer, Robert J Weber S.C., David G T Nock S.C., Ronald E Williams QC, Wayne G Muddle

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

Michele M Williams, Patrick R C Southey

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

Andrew J Paterson, Peter J Hannan, David J Wheelahan, S Rory Derham, Katharine R Kemp, Temi Artemi, Roland G Anthony, Jeanette E Richards

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

The Honourable Justice Julie Dodds-Streeton, The Honourable Justice Geoffrey Nettle, The Honourable Justice Peter Young, His Honour Judge Michael Bourke, His Honour Judge Phillip Coish, Her Honour Judge Elizabeth Gaynor, The Honourable Justice Robert Redlich, Her Honour Judge Jane Campton, His Honour Judge K Ross Howie, His Honour Chief Judge Rozenes, The Honourable Justice Stuart Morris, His Honour Judge Roy Punshon

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

Anthony G Lupton

Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part VI (Magistrates & Full-time Members of Statutory Tribunals):

Donna Bakos, Peter A Reardon, Carmel M Morfuni

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

Neil J Williams QC, Ian C Duffy, F Garry Moorhead, Julia A Bruce, John W Burns, Charles H Francis AM RFD QC, David B Blackburn, J Anthony Magee, John G Larkins QC, Ian W J Bowditch, Leo La Fontaine, Ian A Arnold

Member whose name was transferred from Division A, Part II (Crown Prosecutors and Public Defenders) to Division B, Part II (Judges):

The Honourable Justice Terrence Buddin

Members whose names were transferred from Division A, Part II (Crown Prosecutors and Public Defenders) to Division C, Part III (Retired Counsel):

John P Dickson QC, Richard M Read

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

Anne M Sheehan, Paul F Dalkie, Charles A Sweeney QC, J Romesh Weeramantry

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

His Honour Judge Colin O'Connor, The Honourable Justice Annabelle Bennett, His Honour Judge Dean Clayton, The Honourable Justice Ruth McColl, The Honourable Justice William Nicholas

Member whose name was transferred from Division A, Part III (Interstate and Overseas Counsel) to Division C, Part III (Retired Counsel):

Daniel E Horton QC

Member whose name was transferred from Division A, Part III (Interstate and Overseas Counsel) to Division D (Academics):

Clifton S Baker

Member whose name was transferred from Division B, Part II (Judges) to Division B, Part VIII (Other Official Appointments):

The Honourable Justice Tony Pagone

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

The Honourable Justice Allan W McDonald, The Honourable Justice Robert L Hunter, His Honour Judge John T Hassett, His Honour Judge Gordon H Spence, His Honour Judge Barry R Dove, His Honour Judge Frank Walsh, His Honour Chief Judge Glenn R D Waldron AO, The Honourable Mr Justice Barry W Beach, The Honourable Justice Terence R H Cole, The Honourable Mr Justice Vince Bruce, His Honour Judge Hubert T Frederico, His Honour Judge Mervin C Kimm, The Honourable Justice Howard W Olney

Member whose name was transferred from Division B, Part IV (Solicitors General and Directors of Public Prosecutions) to Division A, Part I (Victorian Practising Counsel):

Douglas Graham QC

Member whose name was transferred from Division B, Part V (Masters and Judicial Registrars) to Division A, Part I (Victorian Practising Counsel):

Mark N Wilson

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

Brendan F Kissane

Member whose name was transferred from Division B, Part VII (Crown Counsel and Parliamentary Counsel) to Division A, Part III (Interstate and Overseas Counsel):

Stephen P Pallaras QC

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

Gaetano (Tony) Pagone QC

Member whose name was transferred from Division C, Part I (Retired Judges and Other Judicial Officers) to Division A, Part I (Victorian Practising Counsel):

Constantine G Nikakis

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

Glenn B Johnston

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 3 February 2003. The services were held at St Paul's Cathedral, St Patrick's

Cathedral, East Melbourne Synagogue, St Eustathios Cathedral and Fo Guan Sun Temple.

Social Functions

At a function held in the Essoign Club on 2 September 2002 Readers were welcomed to the Victorian Bar.

A Readers and Mentors dinner was held in the Essoign Club on 21 November 2002 and the guest speaker was the Honourable Justice Nettle.

At a function held in the Essoign Club on 3 March 2002 Readers were welcomed to the Victorian Bar.

A Readers and Mentors dinner was held in the Essoign Club on 22 May 2002 and the guest speaker was Her Honour Judge Gaynor.

On 10 October 2002 the Chairman and members of the Victorian Bar Council held a dinner in the Essoign Club in honour of the retiring members of the Victorian Bar Council and other members of the Bar.

On 30 October 2002 the Chairman and members of the Victorian Bar Council held a reception in the Essoign Club in honour of new appointments to the judiciary.

On 11 November 2002 the Chairman and members of the Victorian Bar Council held a reception in the Neil Forsyth Room on the occasion of the retirement of Charles Francis AM RFD QC.

On 16 November 2002 the Chairman and members of the Victorian Bar Council held a dinner in the Essoign Club in honour of the Presidents of the Country and Suburban Law Associations.

On 12 December 2002 the Chairman and members of the Victorian Bar Council held a dinner in the Neil Forsyth Room in honour of the former Chairman of the Victorian Bar Council, the Honourable Justice Redlich and former member of the Bar Council, His Honour Chief Judge Rozenes.

On 11 February 2003 the Bar Council held a reception in the Neil Forsyth Room for Justice Richard Goldstone of the Constitutional Court of South Africa.

The 2003 Victorian Bar Annual Dinner was held on 24 May 2003 at ZINC at Federation Square. The dinner was well attended by members of the Bench and Bar.

The honoured guests were:

State

The Honourable Justice Nettle
The Honourable Justice Dodds-Streeton
The Honourable Justice Redlich
The Honourable Justice Williams
The Honourable Justice Morris
His Honour Chief Judge Rozenes
His Honour Judge Gullaci
His Honour Judge Bourke
Her Honour Judge Gaynor
His Honour Judge Coish
His Honour Judge Howie
Her Honour Judge Campton
His Honour Judge Punshon
Her Honour Judge Wilmoth
Charles H Francis AM QC
Michael J Dodson AM

Commonwealth

The Honourable Justice Hayne AC
The Honourable Justice Heydon
The Honourable Justice Young

Jack Rush QC, Chairman of the Victorian Bar Council, proposed the toast to the Queen and

to the people of Australia. Guests were entertained by His Honour Judge Michael Strong.

The Honourable Chief Justice Gleeson, Chief Justice of the High Court of Australia, proposed the toast to the Bars of Australia.

Jack Rush QC welcomed the honoured guests of the Bar and introduced the Junior Silk, Pamela Tate S.C., who addressed the honoured guests. His Honour Chief Judge Rozenes responded to the toast.

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 16 December 2002, The Law Institute regained the Sir Henry Winneke Trophy by defeating the Victorian Bar in the annual cricket match played at the East Malvern cricket ground. Scores: Law Institute 2/134 (Connor 1/17; Klotz 1/22) d. Vic Bar 8/124 (Stevens 54).

Golf

The annual golf tournament between the Bench and Bar against the Law Institute of Victoria was held at Kingston Heath Golf Club on 17 December 2002. The Law Institute won the tournament and regained the Sir Edmund Herring Trophy.

Hockey

On 19 October 2002, at a match played at the State Hockey Centre, Victoria, the Victorian Bar team defeated the New South Wales Bar by 3 goals to 0.

At a match played at the State Hockey Centre on 24 October 2002, the Law Institute team defeated the Victorian Bar team by 1 goals to 0, thus regaining the Scales of Justice Cup. The J R Rupert Balfe Trophy was awarded to Nick Tweedie of the Victorian Bar.

Tennis

On 18 December 2002, the Annual Tennis match against the Law Institute of Victoria for the J X O'Driscoll Challenge Trophy was held at the Kooyong Tennis Centre in Malvern. Victorian Bar won the match.

In commemoration of Justice Geoff Flatman and Judge Tony Smith, the Bar Council and Law Institute jointly commissioned a new perpetual trophy to be awarded each year to the best contributing pair. This trophy was won in its inaugural year by the Bar Team of Daryl Williams and Rob Williams. On behalf of their respective late husbands, Beverley Smith and Margaret Flatman, with her son Sam, were on hand at the ceremony to present the trophy to the winning pair.

Yacht Regatta

The Wigs & Gown Squadron was held on 19 December 2002 in Hobsons Bay. The Thorsen Trophy was awarded to Graeme Clarke. The Neil McPhee Trophy (line honours) was won by Howard Fox QC.

Annual Reports of Associations and Committees

ANNUAL REPORT OF BARRISTERS' CHAMBERS LIMITED

The refurbishment of Owen Dixon Chambers East has dominated the affairs of Barristers' Chambers Limited this past year.

In August 2002, a contract was let with Hooker Cockram Limited to carry out the balance of the refurbishment. Members of the Bar will recall that the first stage involved the complete reconfiguration and refurbishment of the entrance to both Owen Dixon Chambers East and Owen Dixon Chambers West. This was a major undertaking which involved the Commonwealth Bank temporarily moving premises and creating a new entrance through the portion of Owen Dixon Chambers East originally occupied by the State Savings Bank of Victoria.

The refurbishment of floors one to thirteen commenced in September 2002. The first portion to be undertaken was the refurbishment of the first floor of Owen Dixon Chambers East which had previously been occupied by barristers. Under the refurbishment project, the first floor has now been occupied by the Essoign Club (which was previously on the thirteenth floor), the Victorian Bar Council chamber (which was previously on the twelfth floor), the library (which was previously on the thirteenth floor) and the Readers' Course rooms (which were previously in Douglas Menzies Chambers).

The first floor was completed in May of 2003 and a magnificent floor it is. It is difficult to conceive the transformation that has taken place in this forty year old building. The builders, led by David Gurr and Mick Broersen put in an extra effort to ensure that the floor was finished as soon as practicable. BCL is most grateful for their efforts. The task was complicated by the fact that much asbestos had to be removed.

Michael Colbran QC, the Chairman of the Essoign Club and Tony Howard QC, the Chairman of the Essoign Club Development Committee and their respective committees are to be congratulated on their contribution to the final result. Robert Pahor, our architect, has achieved a wonderful design.

At the stage of preparing this report, the builders are currently undertaking the conversion of the thirteenth floor to barristers' chambers and the refurbishment of levels eleven and twelve. These floors will be available to be occupied as chambers in September 2003. The plan is for the builder to undertake the refurbishment of three floors at a time. The refurbishment is anticipated to be completed in late 2004. The upgrading of the lifts will be completed in July 2003.

The refurbishment project has meant, however, a great deal of inconvenience and disruption to counsel occupying Owen Dixon Chambers East. The occupants of the first, eleventh and twelfth floors have had to be accommodated elsewhere in chambers offered by BCL. Fortunately, however, BCL had vacant space in Isaacs Chambers which itself had been brought about because BCL was able to move a large number of barristers from Isaacs Chambers into the second, third and fourth floors of Owen Dixon Chambers West in mid 2002. Those floors became available after the County Court Judges moved to the new County Court.

As can be imagined, the disruption to counsel in Owen Dixon Chambers East has been quite significant. During the refurbishment, many counsel have had to double up or take smaller rooms. BCL wishes to place on record its appreciation for the understanding, tolerance and patience shown by the counsel who have had to be temporarily housed elsewhere during the renovations. Their positive attitude towards the move is a fine example of the collegiality and

goodwill which exists between members of the Bar.

The administrative offices of The Victorian Bar Inc. headed by Mr David Bremner have been moved out of Owen Dixon Chambers East to the second floor of Douglas Menzies Chambers. Once again, BCL has received excellent cooperation from the Bar in this move.

Turning to the Board of BCL, during the year, Her Honour Justice Dodds-Streeton was appointed to the Supreme Court of Victoria. Whilst a Director, Julie provided excellent service to the company and was involved in many of the major undertakings of BCL. Only a few can be mentioned here. They included the creation of the position of Chief Executive Officer and the selection and appointment of Mr Daryl Collins to that post. This has turned out to be a most successful appointment. Further, Julie was very much involved in handling the Legionella scare and also dealing with the telecommunication companies which sought to set up facilities in BCL's buildings. Julie was actively involved in making sure proper insurances were in place, punctilious in attending board meetings and efficiently attended to all tasks she undertook on behalf of BCL. Julie was a first rate director and her loss to the Board has been significant. The company has been able to fill the vacancy created by the resignation of Julie with the appointment of Wendy Harris.

During the year, the Board worked very closely with the Bar Council. I would like to place on record the Board's appreciation for the good relationship that the company had with the Bar Council including its past Chairman Robert Redlich QC, as he then was, and the current Chairman Jack Rush QC. Robin Brett QC, the Bar Council representative on the Board, has been extremely diligent and has made a significant contribution to the Board.

During the year, the Victorian Bar Inc. increased its commitment to BCL with a further capital injection of \$500,000. This and future annual contributions are essential to BCL's future.

The company wishes to acknowledge the loyal and efficient service of its Chief Executive Officer Daryl Collins, its Company Secretary Geoff Bartlett and the rest of the hardworking company staff.

Finally, could I also place on record my appreciation of the support I have received from all the members of the Board. They are: Robin Brett QC, John Digby QC, David Levin QC, Michael Colbran QC, Paul Anastassiou S.C. (Deputy Chairman), Peter Lithgow, Caroline Kenny, Wendy Harris and Daryl Collins (Chief Executive Officer). The Board is extremely hardworking and has functioned productively and harmoniously during the year.

When I joined the Board in 1994, the company had a deficiency of assets over liabilities of some \$3 million. Today some nine years later, the company now has a healthy balance sheet, has a fully renovated Douglas Menzies Chambers and will soon have a high quality asset in a refurbished Owen Dixon Chambers East.

The Bar is well served by Barristers' Chambers Limited.

Ross McK. Robson

Chairman

ANNUAL REPORT OF THE BARRISTERS' BENEVOLENT ASSOCIATION OF VICTORIA

Subscriptions received during the twelve months to 30 June 2003 amounted to \$20,475 which was the lowest amount received over the past seven years. Subscriptions in past years were:-

- 2001/2002 \$44,935
- 2000/2001 \$34,961

- 1999/2000 \$29,650
- 1998/1999 \$39,580
- 1997/1998 \$34,128
- 1996/1997 \$52,355

While the Association had a capital fund of \$977,795 at 30 June 2003, this reserve can be easily eroded unless subscriptions are maintained at a reasonable level. Members of the Association and of the Victorian Bar are urged to bear in the mind the critical role that the Association can play in assisting fellow members or their families who require financial support. Subscriptions to the Association are currently considered to be tax deductible.

During 2002/2003 the Association made four payments to beneficiaries. One payment was by way of an interest-free loan, two were gifts and the fourth was a combination of an interest-free loan and a gift.

Net interest from investments received during the year amounted to \$45,734.

At 30 June 2003, the capital fund, which is represented by investments in trustee securities, stood at \$977,795 and outstanding loans totalled \$149,777.

Financial Statement for Year Ended 30 June 2003

	2003	2002
	\$	\$
Capital Fund at 1 July 2002	979,818	895,271
Receipts		
Subscriptions Received During the Year	20,475	44,935
Loan Repayments Received		3,000
GST Refunds Received	77	220
Net Interest Earned During the Year	45,734	46,392
	<u>1,046,104</u>	<u>989,818</u>
Payments		
Advances to Members	68,309	10,000
Capital Fund as at 30 June 2003	<u>977,795</u>	<u>979,818</u>
Plus Sundry Debtors	149,777	111,500
Total Assets as at 30 June 2003	<u>1,127,572</u>	<u>1,091,318</u>

John T Rush and Michael W Shand
Committee of Management

ANNUAL REPORT OF THE VICTORIAN BAR SUPERANNUATION FUND

The last financial year has been another poor one on financial markets. The bear market on the Stock Exchange has now lasted for some two years. Hopefully the bad times are over. Fortunately, however the Fund, through sound management, is likely to produce a positive result for this year. The Trustee of the Fund, Barfund Pty Ltd, has worked diligently through the year with its asset consultant, JANA Investment Advisers Pty Ltd, to ensure that the assets of the Fund have been prudently invested.

During the year, the board has dealt with a detailed audit of its affairs by the Australian Prudential Regulatory Authority. APRA raised very few concerns with the board and all in all the Trustee received an excellent report on its stewardship by APRA.

The Board of Barfund has also worked diligently seeking to introduce a new service for members, that of an allocated pension. This has been a large task and is still being worked on at the date of writing this report. The Trustee believes it will provide an excellent means of providing a tax effective pension to retired members.

Under the new regulation of the financial sector, it is necessary for the Barfund to be licensed as an Australian Financial Services provider. Currently the Trustee is working with its solicitors Mallesons Stephen Jaques in making application for such a licence.

The level of regulation of the Fund has reached levels where a great deal of the Board's time is taken up with regulatory requirements. This has not meant that any less attention has been given to the investment of members' moneys, but it has meant that the work done by the Directors has increased. There is a risk that the box ticking method of ensuring good stewardship of the Fund will become such an onerous feature of a trustee's activities that the true obligations of a trustee could tend to be overshadowed by these activities.

The Trustee wishes to acknowledge the loyal and efficient service of its secretary Mr John Ames and the assistance provided to the Fund by Debbie Jones.

Could I also place on record my appreciation for the dedicated service of my fellow Directors and alternate Directors. They are Philip Kennon QC (Deputy Chairman), Jonathan Beach QC, Melanie Sloss S.C. and David Maclean. During the year, the alternate Directors were David Levin QC and Paul Cosgrave.

This year David Levin QC retires as my alternate Director. David served in that position since 14 December 1994. The Board follows the practice of having alternate Directors attend all meetings so that when called on they will be abreast of the Trustee's affairs. David has been punctilious in his attendance and has given the Trustee much good service. David played a major role in setting up the Trustee's web site as well as assisting with many other aspects of the Fund's activities. On behalf of the Trustee, I wish to thank David for his generous service.

Since I became a trustee in 1980, the Fund has grown from some \$1.5 million to some \$90 million. The Fund provides an excellent service to members of the Bar and their families. Many barristers are extremely busy and unable to give proper attention to their affairs. Also, many barristers have found that "do it yourself" funds, although fine in theory, in practice are a burden and often do not perform as well as expected. The Victorian Bar Superannuation Fund well serves the members of the Bar.

Ross McK. Robson
Chairman

ANNUAL REPORT OF THE CHILDREN'S COURT BAR ASSOCIATION

This year the membership of the Association has continued to grow and we are pleased at the numbers of new counsel joining as well as the continued support of experienced barristers who maintain an interest in the jurisdiction.

Members of the Association attended the highly successful International Association of Youth and Family Judges and Magistrates XVI World Congress 2002 held in Melbourne in October 2002. We thank the President of the Court Her Honour Judge Coate for extending the opportunity for members to attend at discounted registration.

The Association held its first continuing legal education session with a presentation by Children's Court Magistrate Mr Peter Power aimed at introducing barristers to the practice

issues in the family division of the court. It was very well attended by both new and experienced barristers and we thank His Worship for his excellent presentation and willingness to answer our many questions.

We were finally successful in achieving an increase in appearance fees paid by legal aid in both the family division and criminal division with effect from 1 July 2003. Barristers practising in the family division were also able to access the discounted rate on professional indemnity insurance offered to those with predominantly criminal law practices.

The Association continued to liaise with the court through the court users group and the Association continues to raise issues of concern in the practice of the court and will be invited to contribute further to the court's review of pre-hearing conferences.

Members of the Association assisted the court with the development of the new website and attended the function at the court to celebrate the launch.

Office Bearers

<i>President</i>	Robert T Burns
<i>Secretary</i>	Emma M Swart
<i>Treasurer</i>	Geoff R Martin

Emma M Swart

Secretary

ANNUAL REPORT OF THE COMMERCIAL BAR ASSOCIATION

The Commercial Bar Association ("**CommBar**") is an association of members of the Victorian Bar, practising predominantly in commercial law.

The primary objectives of CommBar are:

- (a) to provide a forum for discussion amongst barristers of recent legislative and judicial developments in commercial law;
- (b) to provide continuing legal education for the Victorian Bar, especially amongst junior members of the Bar;
- (c) to provide an opportunity for members of the Bar to become acquainted with other members of the Bar who share a common interest in a commercial law related area of practice; and
- (d) to comment upon proposed legislative and procedural reform in commercial law related areas of practice when requested by the Bar Council to do so.

Membership of the Victorian Bar automatically makes one a member of CommBar with the right to fully participate in all CommBar activities. CommBar is particularly committed to encouraging the participation of junior members of the Bar in CommBar activities.

As at 30 June 2003, the Executive Office Bearers of CommBar were:

<i>President</i>	David H Denton S.C.
<i>Senior Vice-President</i>	Melanie Sloss S.C.
<i>Vice-President (Convenor)</i>	Albert Monichino
<i>Treasurer</i>	John Dixon

The Section Chairs and Secretaries were:

Banking and Finance

<i>Chair</i>	Peter Bick QC
<i>Secretary</i>	Andrew Kirby

Assistant Secretary Anup Sidhu

Construction Law

Chair John Digby QC
Deputy Chair Richard Manly S.C.
Secretary Andrew Kincaid
Assistant Secretary Caroline Kirton

Corporations and Securities Law

Chair David H Denton S.C.
Secretary Caroline Kenny
Assistant Secretary Dino J Currao

Environmental, Planning and Local Government

Chair Jeremy Gobbo QC
Secretary Susan Brennan

Insolvency Law

Chair Nunzio Lucarelli QC
Secretary Kim Knights
Assistant Secretary Andrew Hanak

Insurance and Professional Negligence

Chair Peter Riordan
Secretary Cameron Macaulay
Assistant Secretary Kate Anderson

Intellectual Property and Trade Practices

Chair John Emmerson QC
Secretary Andrew Maryniak
Assistant Secretary Sara Hinchey

Property and Probate

Chair Peter Best
Secretary Robert Shepherd
Assistant Secretary David Batt

Public Law

Chair Richard Tracey QC
Secretary Stephen McLeish
Assistant Secretary Richard Wilson

Revenue Law

Chair Alexandra Richards QC
Secretary Simon Steward

During the past year, CommBar has continued to be the major provider of commercial CLE to the Bar and is happy to continue to discharge this function. It has presented 21 continuing legal education seminars conducted by the various sections of CommBar, as follows:

<i>Section</i>	<i>Date</i>	<i>Topic</i>	<i>Speaker</i>
Property and Probate Law	24 Jul 2002	Recent cases and developments in the law of testator's family maintenance (family provision).	Richard Phillips

Section	Date	Topic	Speaker
Insurance and Professional Negligence	16 Sep 2002	Identifying fiduciary relationships, following the High Court decision in <i>Pilmer v The Duke Group Ltd (in liq)</i> [2001] HCA 31 (the facts of which involved the retaining of a firm of accountants by a takeover suitor to value a proposed target company for the purposes of making a takeover bid).	Allan Myers QC
Construction Law	9 Oct 2002	The decision of the Court of Appeal in <i>Energy Brix Australia Corporation Pty Ltd v National Logistics Co Ordinators (Morewell) Pty Ltd</i> [2002] VSCA 113 (dealing with jurisdiction to hear an appeal from an order refusing leave to appeal an Arbitrator's decision under s.38 of the <i>Commercial Arbitration Act 1984 (Vic)</i>).	Joshua Wilson
Revenue Law	14 Nov 2002	The recent decision of the Full Federal Court concerning part IVA of the <i>Income Tax Assessment Act 1936</i> , in: <i>Hart v FCT</i> [2002] FCAFC 222 (26 July 2002).	Greg Davies QC and Julianne Jaques
Property and Probate Law	27 Nov 2002	The new Retail Leases Bill which proposes to provide a new regulatory scheme for retail leases, replacing that under the <i>Retail Tenancies Reform Act 1998</i> .	Peter Best
Planning and Environment Law	10 Dec 2002	Legal issues arising from the Metro Strategy.	Chris Canavan QC and Jeremy Gobbo QC
Commbar	23 Jan 2003	The Uniform Commercial Code and American commercial law, drawing comparisons with Australian commercial law.	Professor Henry Gabriel
Corporations and Securities	12 Mar 2003	The United Nations Convention on the International Sale of Goods (CISG).	Dr Bruno Zeller
Construction Law	20 Mar 2003	Issues arising in relation to termination of building contracts.	Richard Manly S.C. and Graeme Hellyer
Commbar	25 Mar 2003	The award of costs in civil proceedings.	John Kaufman QC
Insolvency Section	29 Apr 2003	Reflections on Part 5.3A of the <i>Corporations Act 2001</i> .	Justice Goldberg

Section	Date	Topic	Speaker
Corporations and Securities	7 May 2003	Forensic accounting methods for calculating damages in a commercial dispute.	Joe Dicks
Banking and Finance	13 May 2003	The consequences of the accreditation of financial advisers and others by banks in light of the Federal Court decision of <i>Smith v State Bank of NSW Ltd</i> (2001) 188 ALR 729.	Maryanne Loughnan
Public Law	27 May 2003	<i>Plaintiff S157/2002 v The Commonwealth</i> (2003) 77 ALJR 454, in which the High Court revisited the law governing privative clauses in the context of the so-called “Tampa” laws aimed at restricting judicial review of immigration decisions.	Julian Burnside QC and Georgina Costello
Revenue Law	28 May 2003	<i>Essenbourne v FCT</i> [2002] FCA 1577 (17 December 2002) which concerned a test case on the taxation of “employee benefits trusts”.	Terry Murphy S.C.
Planning and Environment Law	2 June 2003	The relevance of private economic considerations in planning decisions.	Tony Southall QC
Intellectual Property and Trade Practices	3 June 2003	Taking into account profits: Is it ever profitable?	Adrian Ryan
Insurance and Professional Negligence	10 June 2003	The High Court decision in <i>Burke v LFOT Pty Ltd</i> [2002] HCA 17.	Joseph Santamaria QC and Robert Peters
Construction Law	11 June 2003	The <i>Building and Construction Security of Payment Act 2002</i> .	David Levin QC
Insolvency Section	17 June 2003	The practice and conduct of a liquidator’s examination.	Simon Gardiner
Banking and Finance/ Corporations and Securities	25 June 2003	Current developments in the law on insider trading, including the Rene Rivkin case.	Simon Rubenstein

We thank the speakers referred to above for taking the time to develop and deliver their presentations. Where possible, outlines of presentations are posted on the CommBar page (under “News”) on the Victorian Bar’s website (www.vicbar.com.au).

Also notably in the past year:

- (a) a farewell dinner was hosted by CommBar in conjunction with the Common Law Bar Association on 8 May 2003 to mark the retirement of the Honourable Justice Barry Beach;
- (b) CommBar made a submission to the Victorian Bar Council opposing the introduction of mandatory continuing legal education for the whole of the Victorian Bar. [CommBar publications are available on the CommBar page (under "Publications") on the Victorian Bar's website];
- (c) four representatives of CommBar (Denton S.C., Bick QC, Peter Riordan and Monichino) were appointed to the Supreme Court of Victoria's "Commercial List Users' Group", chaired by the Honourable Justice Byrne. The committee has met on a monthly basis to discuss the future operation of the Commercial List. As part of its work on that committee, CommBar has prepared a draft discussion paper in relation to the normative objectives of the Commercial List of the Supreme Court of Victoria; and
- (d) the President has met with the State Attorney-General and dealt with matters of interest to CommBar.

The Victorian Bar has provided administrative and financial support necessary to CommBar to carry on its activities, for which CommBar is grateful. Special thanks are extended to Ross Ray QC, Chair of the Legal Education and Training Committee, and Barbara Walsh, Manager of Legal Education and Training.

All enquiries in relation to the activities of CommBar, suggestions as to seminar topics or offers to present seminars, should be directed to Albert Monichino, Clerk "A" on 9225 8247 or e-mail to monichino@vicbar.com.au.

David H Denton and Albert A Monichino

President and Vice-President (Convenor)

ANNUAL REPORT OF THE COMMON LAW BAR ASSOCIATION

During the period of 1 July 2002 to 30 June 2003, the Common Law Bar Association has been active in the following areas:-

- (a) Liaising with the Transport Accident Commission concerning matters of practice in relation to the operation of the Transport Accident Act, in particular, serious injury applications and, in general, discussing matters of common interest.
- (b) Making submissions to State Government in relation to proposals to abolish the privilege afforded by Section 28 of the Evidence Act.
- (c) Making submissions to State Government on proposals to introduce pre-litigation procedures in civil proceedings, in particular successfully opposing specific proposals contained in a draft for a Bill to introduce pre-litigation procedures and cost thresholds in personal injury matters.
- (d) Giving consideration to the adoption of the Commonwealth Evidence Act in Victorian Courts so as to be able to advise the Litigation Committee of the Supreme Court as to the adoption of the Commonwealth Evidence Act in Victorian State Courts.
- (e) Making representations to the Supreme Court Litigation Committee as to amendments proposed to be made to Order 44 of the Court Rules.
- (f) Liaising with the Chairman of the Victorian WorkCover Authority, discussing matters of mutual interest pertaining to the operation of the Accident Compensation Act.
- (g) Liaising with the Bar Council on a number of matters but, with particular reference to the

- Bar's response to the Discussion Paper entitled "*Judicial Conduct and Complaint System*".
- (h) Advising its Members of legislative amendments pertaining to matters relating to personal injury law.
 - (i) In conjunction with the Commercial Law Bar Association, hosting a dinner in honour of the Honourable Barry Beach QC following his retirement.
 - (j) Embarking upon a Continuing Legal Education Program. Thus far, four seminars have been conducted, each of which has been particularly well attended. The Continuing Legal Education Program and further seminars will continue.
 - (k) Making submissions to Government regarding major alterations to the existing law that relates to personal injury claims which fall outside the operation of the Accident Compensation Act or the Transport Accident Act. In particular, opposing the operation of the Wrongs and Limitations (Insurance Reform) Bill.
 - (l) Liaising with the Law Council of Australia regarding a number of matters which effect common law claims, but particularly with reference to structured settlements, tax reforms, and the operation of the Social Security Act.
 - (m) Making submissions to Government, both Commonwealth and State, as to proposals to alter or amend the law relating to medical negligence and public liability claims.

At the present time, there are 78 Members of Counsel who are Members of the Common Law Bar Association.

At the present time, Office Bearers of the Association are:

R H Gillies QC	(Chairman)
J H L Forrest QC	(Vice-Chairman)
D J Martin	(Secretary)
M A Hartley	(Treasurer)

Committee Members:

J Rush QC, R J Stanley QC, P Galbally QC, J Jordan S.C., D Beach S.C., T Tobin S.C., F Saccardo, T Monti, A Ramsey, M Wheelahan, S McGregor, K Bourke

David J Martin

Secretary

ANNUAL REPORT OF THE CRIMINAL BAR ASSOCIATION OF VICTORIA INC

During the past twelve months the Criminal Bar Association of Victoria Inc (CBA) has continued to deal with a myriad number of issues relevant to the objects of the CBA namely to:

- Promote the professional interest of its members;
- Provide facilities and programmes which will assist members in their professional practice;
- Liaise with other bodies concerned with issues of professional interest to members;
- Provide representation for members in relation to matters which affect the interest of members generally; and
- Represent the views of members to bodies and persons engaged in the administration of criminal justice and the review and development of criminal law, procedure and civil liberties.

The range and complexity of the CBA's activities over the last year in furtherance of those objects have been extensive and has necessitated the Executive Committee meeting at least weekly in addition to the numerous meetings undertaken with various organisations relevant to

the criminal justice system both State and Federal.

By way of illustration some of the more significant activities and issues undertaken and addressed during the last twelve months include:

- Continued involvement in the Victorian Criminal Justice Coalition in order to monitor and influence the “law and order” policy development of the major political parties in Victoria.
- Involvement in helping to organise and co-sponsor the 8th International Criminal Law Congress held in Melbourne in October 2002 as well as involvement in the organisation Committee of the 13th Commonwealth Law Conference held in Melbourne in April 2003.
- The Annual Dinner at the Victoria Club attended by over 160 members and guests held in honour of the appointment of Chief Judge Rozenes and the retirement of Judge Hassett. Chief Judge Rozenes was a recent chair of the CBA while Judge Hassett was a foundation member of the CBA and a long time member of the Executive of the CBA prior to his appointment to the County Court.
- The holding of a number of Seminars as part of the Bar’s Continuing Legal Education program on diverse and practical topics of relevance including:
 - the experiences of Richard Bourke (a former secretary of the CBA) as a long term volunteer to “Reprieve” in America working on death penalty cases;
 - the law of Provocation in Murder Trials;
 - the operation of the new Victorian Drug Court program;
 - the operation of the Koori Court; and
 - the legislative scheme concerning the Confiscation of Profits and Assets in criminal cases.
- The issuing of Media Releases on matters of public importance on such issues as the trend towards Mandatory Minimum Sentencing especially in the context of “law and order” debates as part of pre-election bidding process and concerns about the serious erosion of fundamental human rights associated with so called “anti terrorism” legislation such as the provisions contained in the ASIO Bill 2003.
- The production and distribution of our Newsletter containing items of interest concerning the activities of the CBA, its members and developments in the criminal law generally.
- The continued reconstruction and improvement of the CBA Website at www.crimbarvic.org.au containing copies of CBA Newsletters, CBA submissions re legislative proposals, links to major legal research websites, court lists and events of interest to members.
- Continued Membership of the Legal Aid Taskforce together with representatives of the Bar Council and the Law Institute to review the level of legal aid fees paid in summary matters. This group was instrumental in convincing the State Government of the need to allocate significant extra funding in respect to legal fees in summary matters although at the time of making this report the final apportionment of those extra funds is yet to be finalised.
- The continued liaison with judicial officers and officials of the Supreme Court, County Court, Magistrates’ Court and Children’s Court concerning the effective and efficient conduct of court lists and associated practices and procedures in criminal matters.
- The continued development of strong links to the Law Council of Australia especially through increased CBA participation in the activities of the Criminal Law National Liaison Committee of the Law Council.
- A strong focus on Law Reform issues especially in making detailed submissions on the development of appropriate legal policy or commenting on draft legislation and appearing as necessary before State and/or Federal Parliamentary Committees to advocate appropriate legislative outcomes and initiatives.

Over the last twelve months those functions have continued to grow both in number and complexity. Examples of such matters undertaken by the CBA in the last year include:

- Alcohol Interlock Guidelines;
- Bail Act amendments (re arson charges);
- Crimes (Stalking) Bill 2002;
- Summary Offences Act amendments (re sex tourism);
- Confiscation (Amendment) Bill;
- Vagrancy Act amendments;
- Victims of Crime Assistance Act amendments;
- Control of Weapons and Firearms Act;
- Guideline Judgements proposals;
- “Working with Children” Checking Procedures discussion paper;
- Firearms (Trafficking and Handgun Control) Bill;
- Cross Border Investigative Powers discussion paper;
- Correction and Sentencing Acts (Home Detention) Bill;
- Forensic Sampling and the Use of DNA databases in Criminal Investigations;
- Proposed amendments to the Appeals Cost Fund Act;
- Night Court proposals;
- The maintenance of the dual track system of corrections and sentencing as it applies to 17 to 21 year old offenders;
- Victorian Law Reform Commission discussion papers re:
 - Defences to Homicide;
 - People with Intellectual Disabilities at Risk – Compulsory Care;
 - Sexual Offences Report;
- Australian Law Reform Commission report re Human Genetic Information – Criminal Law Elements;
- Australian Crime Commission Bill;
- ASIO Act Amendments and
- Proposals re mandatory security clearances for all counsel appearing for legally aided clients in “security sensitive” cases.
- Working effectively with the Bar Council to ensure that our views are represented on matters of concern to our membership and on matters of interest to the whole Bar. In the past 12 months such issues have included Professional Indemnity Insurance and especially the special circumstances of barristers who practice in the criminal law; the level of Legal Aid Fees; adequate processes of consultation with agencies of Government regarding the development of legal policy; the development of the Bar’s Continuing Legal Education Program; the Judicial Conduct and Complaints Bar sub-committee and the implications of any proposal to introduce the Uniform Evidence Act in Victorian courts. Although we value our independence we have an excellent relationship with the Bar Council and its officers and are grateful for the assistance and support the Bar and its officers provide.
- The CBA is particularly pleased to continue its close association with and support of the Bar’s Readers’ Courses which continues to provide to readers an extremely professional, practical and wide ranging course preparatory to practice as a barrister.
- Liaison on an on-going basis in relation to issues including:
 - The Juvenile Justice Ministerial Roundtable Conferences;
 - New Criminal Listing Procedures introduced on a trial basis in the County Court;
 - The County Court Committee concerning the operation of the Appeals Cost Fund Act;
 - Justice Teague’s Committee re the criminal Division of the Supreme Court;
 - The Office of the Correctional Services Commissioner Stakeholders Forum;

- The Establishment of Project Innocence in Victoria;
- During the past twelve months the CBA was delighted that the following members of the CBA were appointed to judicial office:
 - Justice Robert Redlich
 - Chief Judge Michael Rozenes
 - Judge Joseph Gullaci
 - Judge Michael Bourke
 - Judge Liz Gaynor
 - Judge Roy Punshon
 - Magistrate Donna Bakos and
 - Magistrate Peter Reardon.
- Sadly Justice Geoff Flatman, a long serving former Executive member of the CBA, passed away in September 2002. His influence in the development of the criminal law will be greatly missed.

Very many members of the CBA have contributed willingly to the workload of the Association over the last year and each of them deserves special thanks and recognition. Without such assistance the work of the CBA could not be undertaken effectively. The Committee looks forward to that support continuing into the future and we encourage all members to participate fully in the affairs of the CBA and to contact committee members with suggestions on how the Association might be improved or strengthened. All seminars conclude with drinks and, together with our dinners, are valuable social events that we encourage all members to attend.

Lex Lasry
Chairman

ANNUAL REPORT OF THE WOMEN BARRISTERS' ASSOCIATION

In November 2003 the WBA celebrates ten years of association. Over the last ten years the Association has gone from strength to strength, expanding our areas of activity with an astonishing pace. A summary of our activities follows.

Commonwealth Law Conference April 2003: On Monday April 14th WBA hosted a session at the Commonwealth Law Conference entitled “Women and the Law” including many eminent speakers sharing stories of struggles, success and accomplishment. The session was followed by a very successful reception for the speakers at the Commonwealth Law Courts co-hosted by Chief Federal Magistrate Diana Bryant and the Victorian Bar. The Law Council Equal Opportunity Awards were presented at this reception.

Equal Opportunity: WBA remained active in the promotion of initiatives to improve work opportunities and work place flexibility. A number of our committee members are members of the Bar’s Equality Before the Law Committee and the Bar Council and this has supported this work greatly. The work has included continued promotion of the model briefing policy to government agencies and private firms. Firms undertaking government work must now adopt the policy to their government work and in July this year will be audited on their performance. It is hoped that the Attorney General will extend the application of the policy to all briefing indemnified by the government and that the private sector will adopt the policy voluntarily.

WBA and EBTL have secured funding for a work place consultant Jane Smyth to report on

work and family balance at the bar and we continue to press for common office facilities for barristers working part-time on parental leave.

Judge Gaynor has undertaken an important project with Victoria Legal Aid seeking to promote women barristers working in crime.

Seminar Series: WBA has organised seminars for individual firms through the year and has contributed to in-house CLE for barristers including the well attended recent session entitled “Getting into personal injuries” with representatives from TAC and VWA.

Awards: Recently our nominee Her Honour Judge Rachelle Lewitan was awarded an inaugural Women Lawyers Achievement Award for her contribution to women in the profession at a celebratory dinner. Justice Marilyn Warren spoke of the importance of “Promoting Difference” and encouraged us all to continue the work by reaching out to junior women and taking on roles of responsibility wherever we can.

AWL: WBA remains an active member of Australian Women Lawyers and its various subcommittees. The various women lawyers’ organisations share ideas and support each other’s work through AWL including equality of opportunity advances and AWL provides a united national voice for addressing issues of national concern, especially with Commonwealth government and Courts.

Mentoring/Encouraging Relationships: WBA has held many social functions this year to celebrate the appointment of judges, appointments to silk and welcome new women readers to the bar. WBA also held an annual dinner at the North Fitzroy Star and has continued to encourage the role of informal mentoring. Towards this end WBA has continued to hold informal regular lunches at the Metropolitan Hotel and newly refurbished Essoign.

This year for the first time WBA conducted an informal seminar for prospective parents. An informative discussion was held concerning issues and advice for parents at the bar.

Contribution to Law Reform: WBA has continued to offer submissions and commentary on law reform and government policy this year.

Fiona M McLeod

Convenor

ANNUAL REPORT OF THE ABORIGINAL LAW STUDENTS MENTORING COMMITTEE

During the last year a number of indigenous law students have been mentored by members of the Bar. The Committee is grateful to members of counsel who have so willingly made themselves available to act as mentors. We have received positive feedback from students who are involved in the mentoring system, and who have expressed the view that they have significantly benefited from the assistance provided to them by their mentors. The Committee is continuing to actively consult with and contact the Universities and Tertiary Institutions in order to encourage more indigenous students to take advantage of our mentoring system.

The Committee has also expanded its activities to encourage indigenous school students to take an interest in the profession and hopefully to undertake a law course on completion of their secondary education. For that purpose, some members of the Committee have each undertaken responsibility for specific Koori Open Door Education Schools throughout Victoria. Those members have spoken to the schools. One member, Susan Dowler, has travelled to Swan Hill in order to do so. It is hoped that indigenous secondary students will also undertake work experience and mentoring from members of the Victorian Bar.

The Committee has continued to work with the Indigenous Law Students Mentoring Committee chaired by Mr Justice Eames of the Supreme Court. For that purpose Mr Justice Eames has been invited to attend meetings of the Committee, together with a representative of the Indigenous Lawyers and Law Students Association.

On Friday 20 June 2003, the Committee hosted a function at the new premises of the Koori Heritage Trust at 295 King Street, Melbourne. The function was an excellent opportunity for the Committee to introduce itself to indigenous students, and to explain to them the mentoring services which the Bar provides. The evening was also a useful opportunity for members of the Committee to visit the premises of the Koori Heritage Trust, which has a long association with the Victorian Bar. The new premises are now open, and they contain a fascinating collection of Koori art, artefacts and cultural history. It is hoped that members of the Bar will support the activities of the Trust by joining as members of it and by paying visits to it.

On behalf of the Aboriginal Law Students Mentoring Committee, I again thank those who have made themselves available to act as mentors to indigenous students.

Stephen W Kaye
Chairman

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

Conciliators

The Bar's Sexual Harassment Conciliators for 2002-2003 were: David Curtain QC, Frank Costigan QC, Michael Crennan SC, Richard Maidment SC, Joy Elleray, Richard McGarvie, Debra Mortimer, Fiona McLeod, Melanie Young, Sarah Fregon.

Complaints

There have been no incidents reported this year.

Readers' Course

Conciliators addressed the March 2003 Readers' Course intake concerning the role and function of Sexual Harassment Conciliators, and the ethical rules which give rise to their position. As before, this occasioned some interesting discussion from the readers, and provided some useful feedback for the Conciliators. The session has become a formal and regular part of each Readers' Course.

Awareness

The Conciliators remain of the view that the level of awareness about the existence, role and availability of Sexual Harassment Conciliators, and indeed of the ethical rules which give rise to their position, remains unacceptably low. In particular, the Conciliators are concerned to raise levels of awareness amongst secretarial and administrative staff employed at the Bar.

David E Curtain
Convenor

ANNUAL REPORT OF THE EQUALITY BEFORE

THE LAW COMMITTEE

On average the Committee met monthly throughout the year.

In December 2001, the Bar Council merged the Equal Opportunity Working Party and the Child Care Committee with the Committee. Accordingly, amongst its priorities the Committee continues to work to implement the recommendations made in the *Equality of Opportunity For Women at the Victorian Bar* Report as well as to pursue measures promoting equal opportunity for women at the Bar.

In 2002, the Committee divided much of its work between sub-committees. It also established a Judicial Panel for the Committee to consult with. In November 2002, the Committee met with the Panel and discussed a range of ideas for improving equal opportunity for women at the Bar.

In December 2002, the Committee Chair met with Michael Slattery QC, the Chair of NSW's Equal Opportunity Committee to discuss his proposal for an alternative to the Victorian Bar's Model Briefing Policy. The NSW's alternative consisted of a Policy/contract containing quotas. The NSW Bar Council subsequently rejected the alternative. The Committees have agreed to look at shared initiatives in the future.

The Committee and its sub-committees have been active in the following areas:

a) The Model Briefing Policy Sub-Committee

This sub-committee works on initiatives for extending the adoption of the Bar's Equal Opportunity Model Briefing Policy and for improving briefing practices.

In August 2002, on behalf of the Bar Council and WBA the Committee Chair made a submission to the Federal Attorney-General and the Office of Legal Service Coordination seeking to amend the statutory Legal Service Directions. The amendments sought require Commonwealth Departments and Agencies to establish an equal opportunity briefing policy, record and report on their briefing practices and require briefing agencies, which provide legal services to them to do likewise. The finalisation of the review of the Directions and the Report to the Attorney-General is awaited.

Victoria Legal Aid is currently considering a proposal put to it by the Committee in November 2002 for VLA to establish a Pilot Project in the 2003-2004 year based on the Model Briefing Policy. The proposal contemplates in-house training in briefing practices and recording and annual reporting on briefings. The proposal also envisages promotion by VLA of the Model Briefing Policy to its referral panel of solicitors and the development by VLA of a best briefing practice model for a statutory authority based on equal opportunity principles.

In March 2003, the Committee Chair and the Bar Council Chair met with VLA's Chair, its General Manager and Practice Division heads to discuss the Pilot Project proposal.

In December 2002, the Committee Chair met with representatives of the Department of Justice to discuss the finalisation of its guidelines for briefing for Panel firms under its Legal Services Contract. No guidelines have been published to date as the Department is still finalising its Report to the State Attorney-General. The first anniversary of the Panel contracts falls on 1 July 2003 and it is expected that Panel firms will report on their briefing practices in accordance with the terms of the contract, despite the absence of guidelines.

In December 2002, the Committee Chair met Ilana Atlas, the Westpac Banking Corporation's Group Secretary and General Counsel. A proposal was put to the Westpac for it to adopt an equal opportunity briefing policy and to develop a best practice model that may be adapted for use by other banks and corporations. The proposal also includes amendment to the terms of its tender documents and contract for the provision of legal services to it so as to require legal service providers on its Panel to comply with an equal opportunity briefing policy, maintain a record of their briefing practices and submit to a

compliance audit if required to do so by Westpac. The proposal has been well received by Westpac.

In May 2003, the Chair of the Committee was invited by the Host Committee of the IBA's 2nd World Women Lawyers' Conference to co-chair a session and deliver a paper at the conference on 30 June 2003 on careers of women at the Victorian Bar. The paper to be delivered is on *Equal Opportunity and the Briefing Dollar/Pound*.

b) Parenting and Childcare Sub-Committee

In 2002, the Bar Council allocated \$4000 to the Committee to engage a consultant to report on measures for making the Bar more "child friendly". This sub-committee is currently working with the consultant, Jane Smythe, to develop a suitable program.

The Parents room on the ground floor of Owen Dixon Chambers has been fitted out for use. There is also ongoing discussion with the Bar Council about making available work areas for barristers who have taken parental leave and do not have chambers.

c) Surveys Sub-Committee

At the request of the Committee in 2001 and 2002 a number of the State and Federal Courts and VCAT carried out surveys of appearances of men and women barristers. This was done so as to determine whether since the publication of the *Equality of Opportunity for Women at the Victorian Bar* Report the appearance rate of women in courts remained disproportionate to their numbers at the Bar. The data collected appears to confirm that women are not briefed at a rate that reflects their presence at the Bar and that they are not briefed regularly in more senior work. The Committee is preparing a report on the data collected. It takes this opportunity to thank the Judges, the Deputy Vice President and the Court and VCAT staff who assisted in the collection of the data.

d) Images Series Sub-Committee

The Bar Council has approved the commissioning of a further portrait in the "Images of Women in the Law" Series. Murray Yann photographer has been retained to photograph the past and present female Court of Appeal and Supreme Court Judges, Justices Kenny, Balmford, Warren, Dodds-Streeton and Williams. It is anticipated that the portrait will be unveiled prior to Justice Balmford's retirement in September 2003.

e) Mentoring

All readers in recent intakes have been assigned to senior mentors. A function for mentors and readers was held in early 2003.

f) Access to Justice

In February 2003, the Committee prepared the Victorian Bar's "Comments to the Law Council of Australia on the Proposals for the Commonwealth Age Discrimination Legislation".

The Committee is currently considering a Draft Position Paper prepared by Ian Turley on "Civil Actions Concerning Wrongs by Police Officers".

On 18 February 2003, the Committee prepared the Bar Council's "Submission Re: Proposed Legislation to Appoint Part-Time Magistrates" to the Department of Justice. The content of this submission was substantially adopted by WBA in its later submission to the Department. In February, after discussion with the Chief Magistrate to ascertain his response to the Government's proposal, the Committee Chair, the Chair of the Bar Council and Kim Pettigrew, representing WBA, attended a meeting with representatives of the

Department. In summary the submission opposes the appointment of permanent part time Magistrates and recommends full tenured appointments with the introduction of flexible work practices for Magistrates to allow the Court to offer alternatives to full time sitting and working conditions.

In 2002, Robin Brett QC retired as Chair of the Committee and remains a member of the Committee. Justice Redlich left the Committee but has remained as a member of the Judicial Panel and Kim Pettigrew a long standing-member of the Committee and Equal Opportunity Working Party retired from the Committee. Their work in their different roles has been invaluable and that is particularly evident from their individual contributions to equal opportunity initiatives for women at the Bar. The Committee thanks them.

Finally, I acknowledge and thank the current Committee members for their hard work and support on the many agenda items before the Committee and the members of the Judicial Panel who have offered advice and support to the Committee throughout the year.

Frances Millane

Chair

ANNUAL REPORT OF THE LEGAL EDUCATION AND TRAINING COMMITTEE

The Legal Education and Training Committee has two sub-committees. They are the Continuing Legal Education sub-committee and the Readers Course sub-committee. I will deal with each of them separately.

Readers' Course Committee

The Readers' Course Committee is constituted by Ross Ray QC, Chair, The Honourable Justice Harper, Brind Zichy-Wornaski QC, Julian Burnside QC, Jennifer Batrouney S.C., Paul Santamaria S.C., David Collins S.C., Tim Tobin S.C., Donna Bakos M, Neil Clelland, Mark Taft, Caroline Kirton, Matthew Connock, Robert Taylor, Sarah Hinchey, Martin Grinberg, Paul Lawrie and Joyce Tooher.

The Bar again had two intakes of Readers this year. Each course provides feedback to the committee which is then used to critique and improve the course structure for the next intake.

The Victorian Bar has continued its commitment through this Readers' Course to practitioners from the Pacific Region. This has been extended by 2 teaching teams attending Papua New Guinea in the last 12 months to teach advocacy to government lawyers.

The constant evolution of the course ensures that materials are subjected to scrutiny. We do, however, maintain the emphasis on practical advocacy exercises. We include aspects of practice management for Readers to prepare them for their future life at the Bar. The course continues to be guided in its content by the Committee but the specific management is done by the Manager of Legal and Education and Training, Barbara Walsh, her assistant Elizabeth Rhodes and Deborah Morris. The course maintains its excellent standard because of the generous commitment to it by members of the Bar and Bench in this State.

The senior mentoring program continues to assist the integration of Readers into the Bar. This integration will be further assisted by the move of the Readers' Course into the refurbished accommodation on the 1st floor of Owen Dixon Chambers East. The legal education centre is based there and is immediately adjacent to the Essoign. This will further the collegiate spirit, learning and regulatory benefit from mixing more frequently with other advocates.

Continuing Legal Education Committee

In 2001, the Victorian Bar Council resolved to examine the question of whether the Bar Council should establish a continuing legal education program. This committee was established to investigate and report upon that matter. On the 7 February 2002 the Bar Council, adopted in principle, key recommendations made by this committee for the establishment and operation of a CLE Program. It was resolved that CLE provided many potential benefits to the Bar and the education and assistance provided in the Readers Course should not cease at the conclusion of that course.

A program of optional CLE was endorsed by the Bar Council. It was made mandatory for barristers of less than 3 years call with a progressive implementation from March 2003.

The Victorian Bar Council on Thursday 12 June 2003 moved as follows:

- (a) that the Bar Council in principle is in favour of mandatory continuing legal education being extended to all practising members of the Bar; and
- (b) that the Continuing Legal Education sub-committee be asked to prepare a detailed proposal for the implementation of mandatory continuing legal education as soon as practicable.

It is the intention of the committee to implement a program for the professional education of barristers that:

- (a) contains a significant intellectual or practical content that is relevant to the practice of law;
- (b) is relevant to a barrister's immediate or long-term needs in the barrister's professional development and the practice of law; and
- (c) is conducted by members of the legal profession or other suitable professions who possess practical or academic experience in the subjects provided.

The existing CLE Program at the Bar is co-ordinated by Barbara Walsh, the Manager of Legal Education. It is provided primarily by the various Bar Associations. The Commercial Bar Association has led the way and will provide approximately 20 CLE sessions this year. The other associations, including the Women Barristers' Association, the Criminal Bar Association, the Common Law Bar Association, the Family Bar Association and the Children's Court Bar Association, all provide up to 5 sessions per year. The committee is continuing to work on the creation of a thoughtful, flexible program that will benefit members of the Bar and therefore the community.

It is likely that this committee will be separated from the Readers Course' Committee structure and a new chairman will be appointed to focus on the implementation of this important new venture for the Bar.

W Ross Ray
Executive Chair

ANNUAL REPORT OF THE ETHICS COMMITTEE

During the year the Ethics Committee met at its regular fortnightly meetings on 23 occasions. Members of the Committee also met as a sub-committee on a number of occasions in the course of investigating complaints to hear from the complainant and the barrister. In addition, each member of the Ethics Committee gave rulings to individual barristers and also gave guidance to barristers when

necessary. The members of the Committee were available on a 24 hour 7 day a week basis.

The availability of members of the Ethics Committee, the time and effort put into the combined obligations of the Ethics Committee is outstanding. On behalf of the Victorian Bar, I thank each and every member of the Committee for the work done by them on the Ethics Committee. In particular, Paul Lacava S.C. needs special mention for his enormous contribution to the work of the Committee. He is always available for barristers seeking rulings and guidance and his depth of knowledge on ethics is invaluable to the Committee and to barristers generally.

During the year the Ethics Committee published a number of Bulletins in *In Brief* for the guidance of members. Bulletins covered the topics of “Whether an application for an intervention order pursuant to s.4 *Crimes (Family Violence) Act* (as extended by s.21A *Crimes Act* where stalking is involved) constituted a direct access matter for the purposes of Rule 170 of the Rules of Conduct – Bulletin 1 of 2003”; “Counsel appearing with Limited Instructions – Bulletin 2 of 2003” and “Independence of Counsel – Bulletin 3 of 2002”.

During the year Ian Hill QC (26 November 1997 – 15 October 2002), Jim Delany (4 November 1998 – 15 October 2002) and Sharon Johns (14 November 2000 – 15 October 2002) retired from the Committee. I thank each of the retiring members for their valuable contribution to the Ethics Committee over the years.

The new members of the Ethics Committee this year were James Merralls AM QC, Peter Clark S.C., Neil Clelland and Pauline Shiff.

The Ethics Committee continued with its education sessions in the Readers’ Course conducting one session during the first week of the course followed by a half day workshop at the end of the course. I thank Appeal Justice Buchanan, Justice Harper and Justice Warren for their involvement in the ethics part of the Readers’ Course as well as the individual members of the Committee who contributed their time and energy to the course.

Mrs Cath Mukhtar commenced as the assistant to the Ethics Committee on 15 July 2002. Cath has shown an obvious enjoyment for her work and she has settled into the job quickly. The Committee has been greatly assisted by her work on the files.

Mrs Debbie Jones, the Investigations Officer of the Ethics Committee, has continued to provide her excellent and valuable contribution to the Committee. The Committee and the Bar are indebted to her for her sound advice, her efficiency and her dedication to the job.

Kate McMillan
Chairman

SUMMARY OF COMPLAINTS AND DISPUTES UNDER THE LEGAL PRACTICE ACT 1996 FROM 1 JULY 2002 TO 30 JUNE 2003

	Number of Investigations conducted by the Ethics Committee of its own motion		Number of matters received by and investigated by the Ethics Committee		Number of matters received by the Ethics Committee and referred to the Legal Ombudsman		Number of matters received by the Legal Ombudsman and referred to the Ethics Committee		Total	
	Previous	Current	Previous	Current	Previous	Current	Previous	Current	Previous	Current
MATTERS LODGED										
In progress at start of period	1	1	26	23			8	7	35	31
Received during the period	3	5	95	76	1		17	13	116	94
In progress at end of period	1	3	23	20			7	7	31	30
Matters dealt with in the period	3	3	98	79	1	0	18	13	120	95
No of allegations in the matters dealt with	4	3	159	142	1	0	43	27	207	172
	COMPLAINTS				DISPUTES				Total	
	Number of Investigations conducted by the Ethics Committee of its own motion		Number of conduct complaints received by and investigated by the Ethics Committee		Number of conduct complaints received by the Ethics Committee and referred to the Legal Ombudsman		Number of conduct complaints received by the Legal Ombudsman and referred to the Ethics Committee		Number of disputes received by the Ethics Committee	
RESULT FOR ALLEGATIONS DEALT WITH COMPLAINTS										
Outside jurisdiction			7	2	1		2			10 2
Withdraw/not pursued			4	7						4 7
Dismissed under s141(1)			29	23				5		29 28
No further action s151(3)(c)				2						0 2
Dismissed under s 151(4)										0 0
Dismissed under s 151(5)	2	2	48	36			12	5		62 43
Reprimand/caution s151(3)(b)	1	1	2	1			2			5 2
Referred to Tribunal s151(3)(a)	1		2	3						3 3
	4	3	92	74	1	0	16	10		113 87
DISPUTES										
Outside jurisdiction								13 30	3 7	16 37
Withdraw/not pursued								1 3		1 3
Settled								12 2		12 2
Not settled								41 33	24 10	65 43
								67 68	27 17	94 85
Total	4	3	92	74	1	0	16	10	67 68	27 17 207 172

ANNUAL REPORT OF THE HUMAN RIGHTS COMMITTEE

The role of the Human Rights Committee is to report to the Bar Council and to make recommendations about matters within its sphere of interest. The Committee deals with matters referred to it by the Bar Council but also considers matters on its own motion. The members of the Human Rights Committee for 2002/3 were as follows:

Jack I Fajgenbaum QC (Chair)	The Honourable Justice Robert Osborn
Remy van de Weil QC	Alexandra Richards QC
Herman Borenstein SC	Peter Golombek
John Riordan	James Delany
Debra Mortimer	Pauline Schiff
Wendy Harris	Shane Lethlean
Susan Brennan	Yusef Zaman
Judy Benson (Secretary)	

The Human Rights Committee met formally on 6 November 2002 and 30 April 2003. Its main topics of consideration were:

1. A reference from the Bar Council into the Commonwealth Government's proposed *ASIO Legislation Amendment (Terrorism) Bill 2002* which was being considered by the Senate Legal and Constitutional Reference Committee late in 2002. The Human Rights Committee unanimously carried a resolution recommending that the Bar Council object to the legislation as a matter of urgency on the basis of its serious intrusions into rights otherwise held sacred in the Australian community in the absence of any evidence information or policy explanation by the government that terrorism or the threat of terrorism uniquely demands such intrusions. The Committee enumerated 10 heads of objection to the Bill and forwarded these to the Bar Council with the resolution.

The Bar Council at its meeting on 7 November 2002 adopted the resolution of the Human Rights Committee in relation to the *ASIO Legislation Amendment (Terrorism) Bill 2002* and that resolution was incorporated into the Bar's 8 November 2002 written submission to the Australian Senate Legal and Constitutional Committee Inquiry into that Bill.

Jack Fajgenbaum QC, Chair of the Human Rights Committee, and Lex Lasry QC, Chairman of the Criminal Bar Association gave evidence on behalf of the Victorian Bar at the public hearing of the Inquiry in Melbourne on 22 November 2002.

2. A reference from the Bar Council into the Commonwealth Government's *Australian Human Rights Commission Bill 2003*. The Committee opposed the Bill in its present form on four basic grounds and Debra Mortimer on the Committee's behalf drafted a Submission to the Senate Legal and Constitutional Reference Committee in broad terms supporting the submissions of HREOC, and Liberty Victoria and the Law Council for approval by the Bar Council.

At the Bar Council meeting on 1 May 2003, Jack Fajgenbaum QC reported on the Human Rights Commission Legislation Bill 2003. The Bar Council resolved to adopt the submission drawn by Debra Mortimer, and that she be thanked for her work. The submission dated 2 May 2003 was delivered to the Australian Senate Legal and Constitutional Legislation Committee Inquiry into that Bill.

Judy Benson
Secretary

ANNUAL REPORT OF THE LEGAL ASSISTANCE COMMITTEE

The Victorian Bar, through its legal assistance scheme (the scheme), continues in its endeavour to increase and improve the accessibility of pro bono legal assistance provided by Victorian barristers to the community. The scheme, which is now in its third successful year of administration by the Public Interest Law Clearing House (PILCH), is overseen by the Bar's Legal Assistance Committee (LAC) to which PILCH reports regularly. The scheme costs about \$84,000 pa to operate and whilst it is substantially funded by the Bar, it is appropriate to acknowledge the significant financial assistance of \$65,867 provided to it for 2002/2003 by the Legal Practice Board as its contribution to the Bar's access to justice program.

Over 400 barristers - more than 25% of the practicing list - have volunteered to participate in the scheme. Many others, although not formally registered, welcome requests to assist when approached. The Bar Council extends its thanks to those barristers who volunteer and provide their work to the scheme. Such generosity on the part of the Bar is noteworthy, particularly in light of a public misconception that lawyers are generally greedy and self-interested professionals.

Applications received by the scheme are assessed on the basis of legal merit, lack of means and whether assistance is required in the 'interests of the administration of justice'. The majority of applications come from individuals, many with complex legal problems and no other options for legal assistance. Referrals made to barristers may be for advice, drawing documents and/or appearance work. Matters dealt with cover diverse areas of law including administrative law, migration, crime, family, general commercial and civil, personal injury, employment, debt and bankruptcy and tenancy and discrimination.

Demand upon the scheme continues to increase. In 2002/2003 the scheme received 289 inquiries, an increase of approximately 32% compared with the previous year. Of these inquiries, 70 referrals were made to barristers, an increase of 43%. Where appropriate, applicants were also referred to other services such as Victoria Legal Aid, an ombudsman, a community legal centre or another community based organisation.

As well as operating the scheme, PILCH also administers its own public interest referral service and, since October 2002, the Law Institute's legal assistance scheme. This "one stop shop" arrangement sees the three major organised pro bono schemes in Victoria being housed in the same office and sharing the same administrative structure. This provides a number of advantages, including maximising public access to the services, improving cross referral between schemes and ensuring consistency of approach. The Bar is pleased to be a part of this model of co-operative pro bono service delivery, which is an Australia wide first.

The scheme has recently welcomed Susannah Sage as its first part time Manager, employed by PILCH. Susannah's credentials, which are wide and varied, include a recent stint as a technical advisor to the justice sector in the Solomon Islands and before that, working as an associate to a judge of the Federal Court. Her primary role will be to manage the scheme and its clients, while fostering the development of pro bono work at the Bar.

In 2002/2003, migration law was the area of greatest need, with many applications to the scheme coming from asylum seekers held in detention. The LAC's Asylum Seekers' sub-committee, convened by Michael Gronow, has continued to meet in 2002-2003 in order to assist in the co-ordination of pro bono legal assistance to refugees. Members of the Bar, PILCH and other organizations represented on the sub-committee have been involved in a number of successful initiatives during 2002/2003. These have included:

- Assistance in the provision by committed lawyers at Legal Aid Victoria of a duty solicitor scheme at migration directions days at the Federal Court and the Federal Magistrates Court.
- The conduct of an 'audit' of organizations involved in the provision of pro bono legal assistance to refugees in Victoria. The results of the survey will assist those advising refugees and asylum seekers in identifying the bodies and organizations best able to help them and in preventing duplication of effort.
- Working with the Federal Court and the Federal Magistrates Court schemes in coordinating the provision of assistance.
- Assisting in the conduct of two very successful and well attended seminar programs to educate barristers in the conduct of migration cases. These were organized respectively by Julian Burnside QC and Rachel Doyle.
- Finally, promotion of a mentoring scheme whereby less experienced barristers can receive guidance from those more experienced when acting pro bono in migration/asylum seeker matters.

The sub-committee is pursuing the possibility of obtaining additional private funding to employ a part time lawyer/migration agent to work with both PILCH and other interested bodies in this very important area of need.

This is by no means a comprehensive statement of all the pro bono activities of Victorian barristers. While the focus of this report is on the work of the scheme, it is important to acknowledge that barristers also give generously of their expertise and time in many other ways. This includes participation in the work of other refugee and migration organizations such as Spare Lawyers for Refugees, the Refugee Information and Advice Network, the Asylum Seekers Resource Centre and several interstate organisations, especially in South Australia and Western Australia. Members of the Bar also support the schemes administered by the Federal Court and the Federal Magistrates Service, community legal centres and by accepting pro bono matters directly from clients and others in the course of running their own practices. PILCH and the LAC act co-operatively with these schemes, activities and bodies in coordinating the provision of pro bono legal assistance.

The work of the Bar scheme, along with the additional activities outlined, constitutes a very important community service which the Victorian Bar can feel justly proud of. However, this work can and should never be seen a substitute for the provision by governments of an adequate and just legal aid service for the whole of the community.

In conclusion, I am pleased to offer the Bar's thanks and appreciation to the Co-Executive Directors of PILCH, Samantha Burchell and Emma Hunt (and to Paula O'Brien who has recently replaced Emma whilst she is on maternity leave), and to all of their staff, who have operated the scheme with commitment, dedication, professionalism and good humour.

Anthony J Howard
Chair

ANNUAL REPORT OF THE PROFESSIONAL INDEMNITY INSURANCE COMMITTEE

The Committee met and considered a variety of issues that arose in connection with the obtaining of professional indemnity insurance for the Bar for 2003/4. The Committee met on the following dates:

8 October 2002

28 October 2002
12 November 2002
3 December 2002
19 February 2003
23 April 2003

The Committee recommended the appointment of an independent broker for the Bar. The Bar Council subsequently resolved to retain Ray Armstrong of Marsh Insurance Brokers to obtain alternative proposals for professional indemnity insurance for 2003/4.

Members of the Bar Council Executive including the Chairman of the Bar met on 12 September and 8 November 2002 with representatives of Suncorp Metway, the Bar's insurer for 2002/3 and Peter Steele and Ross Kildey of Business Insurance Group Australia Pty Ltd, the agent for Suncorp Metway – the meetings were useful and constructive.

The LPLC – the statutory insurer

In December 2002, the Bar Council lodged a further submission with the Attorney-General in support of the Bar's submission to amend the *Legal Practice Act* 1996 to require all Victorian barristers to insure with the Legal Practitioners Liability Committee. Members of the Bar Council Executive followed up this submission with a meeting with representatives of the Department of Treasury and Finance and the Department of Justice. Subsequently, prior to the Christmas break, the Bar received word from the Government that they would not be introducing the desired legislation in the autumn session of Parliament.

In the course of January 2003, the Bar arranged for its professional indemnity insurance claims data base web site to be redesigned and for the status of claims already recorded to be updated.

Legal Practice Board

At its meeting on 6 February 2003, the Legal Practice Board resolved to appoint Heath Lambert Group as insurance broker and consultant to the Board to arrange a review and recommendation for a master policy for professional indemnity insurance for barristers for 2003/2004. The master policy was to cover the compulsory primary layer of cover i.e. \$1.5 million.

Heath Lambert subsequently issued an invitation to a number of professional indemnity insurers seeking participation in a review of insurance requirements for barristers. Responses to the review were sought by no later than 24 February 2003.

At its meeting on 11 March 2003, the Legal Practice Board resolved to request the Bar to conduct a tender to obtain professional indemnity insurance for barristers for 2003/4. The Board also requested that the insurance be sought on a master policy basis whereby the Victorian Bar Inc would be a party to any contract of insurance.

The Board also indicated that it may approve the terms and conditions of only one insurer for practising barristers for the primary layer of insurance of \$1.5 million per barrister for 2003/4.

Invitation to tender

On 19 March 2003, the Bar Council issued to 15 insurers and the LPLC an invitation to tender to provide professional indemnity insurance to Victorian barristers under a master policy. The insurance was for both the primary layer of \$1.5 million and for top up cover to \$20 million.

The invitation addressed in considerable detail the Bar's requirements for insurance and called on the tenderer to state its position on premiums, loadings, discounts, policy wording and claims management. It also sought details of how any discount or rebate on account of claims experience would work.

The tender responses

The response to the invitation to tender which closed at 1.00 pm on 14 April 2003 was as follows:

- a) Affinity Risk Partners submitted a bid relying on a detailed master policy tender made on behalf of Great Lakes Reinsurance (UK) PLC (“Great Lakes”).
- b) Suncorp did not lodge any tender by the deadline but subsequently sent Victorian Bar Inc its proposed individual premium rates, a pro forma individual policy of insurance and a letter dated 14 April 2003 requesting approval of its policy for 2003/4. Suncorp did not lodge any master policy wording that responded to the Bar Council’s invitation to tender. In its letter, Suncorp stated that it was prepared to guarantee that it would provide cover to all current practising barristers and also to all former barristers on application and receipt of premium but no policy wording was provided to give effect to this statement of intention.
- c) American International Group and the Markel Syndicate of Lloyds advised that they would have lodged tenders if they had had more time to prepare them. The Bar’s broker had sought out these prospects.
- d) Various other insurers declined to tender.

Bar Council recommendation

Even though only one tender was received before the deadline, the Bar Council considered it appropriate in the circumstances to have regard to the information supplied by Suncorp in deciding what recommendation to make to the Board.

After considering the information before it, the Bar Council met on 24 April 2003, and resolved that:

- a) it recommend to the Legal Practice Board the approval of the Master Policy and ancillary terms and conditions proposed by Affinity Risk Partners and Great Lakes;
- b) that those terms include provision in the Master Policy for the run off liabilities of all former barristers; and
- c) that the Bar Council disclaim offering any view on the financial position of the respective bidders for insurance.

The Legal Practice Board approves terms and conditions of insurance

On Friday, 2 May 2003, the Legal Practice Board resolved to require that professional indemnity insurance for the primary layer of \$1.5 million for each Victorian barrister be underwritten by way of a master policy issued by Great Lakes through its agent Munich-American RiskPartners Australia Pty Ltd and proposed by Affinity Risk Partners (Brokers) Ltd (“Affinity Risk Partners”).

Comparison and reasons

The reasons for the recommendation of the Bar Council were:

- a) Great Lakes offered better overall value for money and the prospect of stable and sure professional indemnity insurance cover. At the primary layer, it set a total fixed premium pool. Great Lakes agreed that if the total of individual premiums paid by barristers for the primary layer exceeded that maximum pool by more than 5%, they would refund the difference to those insured barristers. The Great Lakes final premiums for the primary layer and top up insurance are attached; the premiums indicated for the top up layers include the premium for the primary layer. Suncorp did not propose a total maximum premium pool.

Policy wording

- b) The Great Lakes master policy wording offered greater protection to barristers and their clients and more closely matched the cover offered to all Victorian solicitors by the Legal Practitioners Liability Committee (“the LPLC”). For the primary layer of cover, Great Lakes has at the date of this report insured all current barristers who applied and paid the stipulated premium without any right to refuse to cover any particular barrister – a total of 1,480 barristers. The policy also includes conditions which have not formerly been available to Victorian barristers (although are available to Victorian solicitors through the LPLC) under which the insurer:
- (i) will not avoid the policy for non disclosure of material facts and circumstances;
 - (ii) will not cancel the policy, except for non payment of premium;
 - (iii) will not take advantage of a right of set off to avoid paying a claim;
 - (iv) will not exclude liability for fraud or dishonesty by the insured and the insured must indemnify the insurer against any payment to the client;
 - (v) will not exclude liability for claims by related parties except for claims against the barrister by the barrister’s service or administration company.

These features are clearly in the public interest, ensuring that insurance is ultimately available to consumers of legal services from both solicitors and barristers alike in the circumstances noted. They ensure that clients of barristers have the same protection of insurance as clients of solicitors. In that way, they promote greater confidence in the barrister branch of the profession. The protection offered by the Suncorp policy in relation to the matters referred to above was, by comparison, inferior.

These features also serve the interests of barristers, subject to two provisos:

- (i) that if a breach of the Certificate of Insurance substantially prejudices the insurer’s conduct or settlement of a claim, the barrister must indemnify the insurer to the extent that the breach has prejudiced the interests of the insurer;
- (ii) if the insurer makes a payment (including defence costs) under the Certificate of Insurance in relation to a claim involving a dishonest or fraudulent act or omission on the part of a barrister, the barrister must indemnify the insurer in relation to the dishonest or fraudulent act or omission and the insurer has the right to recover that payment from that barrister.

Loadings

- c) Great Lakes did not impose loadings on any barrister for prior claims or notification experience or for particular areas of law eg taxation. Suncorp has imposed such loadings in past years.

Former barristers

- d) Automatic cover is provided for the run off liabilities of all former Victorian barristers without the need for a declaration and with no right to the insurer to decline to cover a particular former barrister. The cost of this cover (some 10% of premiums) is included in the premiums paid by practising barristers and the cover is provided on basically the same terms as the cover for practising barristers. Since 1995, there have been some 440 former barristers including 46 judges.
- e) The Bar Council considered but rejected an alternative approach of confining the universal automatic run off cover to barristers who cease practice after 1 July 2003. Although this alternative has cost advantages and would help members’ hip pockets, in the view of the Bar Council, it lacked a generosity of spirit and a proper focus on the public interest ‘here

and now' that might reasonably be expected from a Bar of 1,500 members. Suncorp would have required former barristers to make an annual application for cover and, if accepted, pay a premium.

- f) All practising Victorian barristers are required by legislation to maintain professional indemnity insurance but that requirement ceases when they stop practising. Because insurance of this kind is provided on a 'claims made' basis and claims can arise after the barrister has ceased practice, it is desirable that the insurance continue to be in place after the barrister has ceased practice. In the past, the continuance of a former barrister's insurance cover, at least after the expiry of the then current annual policy, has been more the exception than the rule.
- g) Under the new arrangements, all Victorian legal practitioners who have ceased private practice for whatever reason will now be automatically covered for run off liabilities in connection with their former practice. These arrangements are strongly in the public interest and bring Victorian barristers into line with Victorian solicitors in private practice. They offer all clients of former Victorian barristers the protection of insurance after the barrister has ceased practice and can only increase the confidence of the public in the Bar and the work of its members.
- h) The development also fosters the independence of the judiciary. Former barristers who have become judges, particularly its most recent appointees can undertake their judicial duties free of any concern about the availability or cost of the minimum level of insurance against any run off claims that may be made against them.
- i) No premium is charged to former barristers. As mentioned, the cost of this insurance cover is borne by the premiums paid by the practising barristers at the Victorian Bar.

Claims data

- j) Great Lakes through Affinity Risk Partners has assured the Victorian Bar of ownership of claims and insurance data by providing at no cost information on a confidential basis to designated officers of the Bar for the purposes of them:
 - (i) providing barristers with such assistance in connection with the claim or notification as may be appropriate;
 - (ii) maintaining a comprehensive and up to date claims history data base;
 - (iii) developing risk management strategies; and
 - (iv) obtaining and maintaining professional indemnity insurance for Victorian barristers;Privacy requirements will be complied with and the information will be known only to the Executive Director of the Bar and the Chairman of the Bar's Professional Indemnity Insurance Committee or any of their staff who are specifically authorised. This information is of critical importance to the Bar as it is essential in any dealings with professional indemnity insurers and to develop risk management strategies.
- Suncorp gave no response on this matter. They provided claims information for the year 2001/2 but declined to do so for 2002/3.

Discounts

- k) Great Lakes provided a discount to those barristers who derive 90% or more of their fee income from criminal law or intervention or protection orders. A discount is also provided for barristers who are in their first year of practice on 1 July 2003.

Claims experience discount

- l) Great Lakes also offered a discount for the claims experience of the scheme. This kind of discount is not uncommon; it serves as an incentive to barristers to keep their claims down, to the Bar Council to promote risk management and renew the insurance in the following year. The discount is the amount by which as at 30 June 2008 actual claim costs for 2003/4 plus appropriate reserves for costs yet to be incurred are less than a stated value. Great Lakes will pay the discount within 90 days after 30 June 2008 either:
 - (i) to current barristers as at 1 July 2003 pro rata according to the premium paid by them for the period of indemnity; or
 - (ii) to Victorian Bar Inc for such barristers' professional indemnity insurance purposes as the Bar Council with the approval of the Legal Practice Board or its successor may determine; or
 - (iii) both the above purposes in such proportions as the Bar Council may determine.

The master policy approach

The master policy approach is a significant change to arrangements that have applied in past years. It means all barristers must obtain the primary layer of cover from the one insurer. The benefits of the master policy approach are seen to be as follows:

- a) The master policy approach takes best advantage of the collective strength of our numbers at the Bar and promotes the greatest competition among insurers. As at 1 July 2003, the Bar will comprise around 1,500 members. Past experience suggests that any fragmentation of that pool seriously undermines any available leverage to the Bar in securing the best possible terms. The individual policy approach may seek to promote a range of choice for barristers but depends on insurers being interested in competing for *a share* of the existing relatively small pool of 1,500 barristers. In June 2002, there was only one insurer – Suncorp Metway – interested in competing on that basis. This year, with a master policy approach, we had had Great Lakes competing with Suncorp Metway to insure Victorian barristers. We also anticipated the participation of other insurers as top up insurers. The tender process has also revealed the American International Group and the Markel Syndicate as potential bidders in future years.
- b) The master policy approach involves cover for all practising barristers and in addition, as noted above, a scheme for automatic cover of the run off liabilities of former barristers.
- c) The Bar Council obtained written advice from Alan Archibald QC and Michael O'Bryan of Counsel which found no legal impediment to the master policy approach, either in competition law or otherwise. Counsel were specifically briefed with the written comments from various members of counsel last year raising legal issues.
- d) Finally, the master policy approach more readily permits the collection and maintenance of information for the claims history of the entire Bar – information which is crucial to any insurer considering offering cover to barristers and crucial to the Bar in undertaking any serious risk management program for members. The approach also makes for a uniform approach to the management of claims.

The Bar Council acknowledged that the master policy approach denies individual barristers the freedom to choose their own insurer. The Council gave careful consideration to this aspect. In the Council's view, the benefits that can be won from the master policy approach outweigh the loss of that freedom. The capacity of the commercial market to offer professional indemnity insurance is so limited and the requirement for barristers to have insurance to practise so absolute that the balance fell clearly in favour of the master policy approach over an individual approach.

Panel solicitors

Affinity Risk Partners and Great Lakes have advised that it will appoint a panel of at least three Victorian law firms to advise its claims handling company on claims. The claims handling company will assist the Bar by maintaining the Bar's database of professional indemnity insurance claims at no cost to the Bar.

Financial Standing of Great Lakes

The insurer under the Master Policy for the primary layer of \$1.5 million, Great Lakes is a core wholly owned subsidiary of Munich Re, the world's largest reinsurance company. It has a Standard and Poor's rating of AA-.

In Australia, Great Lakes offers insurance cover as an 'unauthorised foreign insurer' as it is not authorised by the Australian Prudential Regulation Authority. Unauthorised foreign insurers are not subject to the *Insurance Act 1973* which establishes a system of financial supervision of general insurers in Australia. It must declare this fact in any proposal form that it issues.

Great Lakes is authorised by the UK Financial Services Authority as an insurer in England and Wales. It is supervised by that Authority and regulated under UK legislation, in particular the *Financial Services and Markets Act 2000*. We are informed that the UK Authority is proactive in regulation and supervision of insurance companies including but not limited to:

- Regular site visits to the participants / companies as part of the risk assessment framework.
- A significant industry rulebook.
- Approved persons regime.
- Capital solvency based on uniform European Union accredited standards. Great Lakes UK ensures that it maintains a solvency standard double the minimum standard.
- Annual audit of return by qualified auditor. In the case of the Great Lakes UK this is KPMG.
- Annual returns involving 140 pages of documentation and statistics.

The insurance by Great Lakes is arranged through its Australian agent, Munich-American RiskPartners Australia Pty Ltd (ABN 47 102 787 351) which is regulated by the Australian Securities and Investments Commission. The *Financial Services Reform Act 2001* (Cth) allows insurance brokers and registered foreign insurance agents to distribute insurance products underwritten by foreign insurers not authorised in Australia, on the basis that consumers are informed that they are dealing with an unauthorised foreign insurer.

The key enquiry is whether a locally unauthorised foreign insurer is licensed and regulated in its home country, and has the financial capacity to pay claims into the future, particularly in the case of long tail public liability and professional indemnity products. As noted above, Great Lakes is regulated by the UK Financial Services Authority. Its profit and loss account for the year ended 31 December 2002 disclosed gross written premiums of £692 million; its balance sheet disclosed total assets of £1.062 billion. The financial reports of the company are available for inspection at the Bar Council office.

Great Lakes is also the underwriter for 2003/4 of the LawCover scheme covering all New South Wales solicitors in private practice and approved as such by the New South Wales Attorney-General. Great Lakes is also a co-insurer in a top up facility for solicitors in New South Wales, Victoria and Queensland.

As mentioned above, it has also secured the approval of the Victorian Legal Practice Board as the provider of insurance to all Victorian barristers.

Top up insurance

Affinity Risk Partners arranged top up insurance for various layers of insurance above \$1.5 million for which the insurers at different layers are Great Lakes Reinsurance (UK) PLC, Ace Insurance Limited, QBE Insurance (Australia) Pty Ltd and Royal & SunAlliance as follows:

Excess of \$3.5m over \$1.5m	QBE and Ace, each 50%
Excess over \$5m	Great Lakes and Royal & SunAlliance, each 50%

Suncorp Metway also offered top up insurance – at competitive premium rates. The Bar Council was not advised of the proposed wording for the Suncorp Metway ‘top up’ insurance. It is understood that its ‘top up’ insurance wording for 2003/4 followed the form of its standard 2003/4 primary layer policy wording.

Top up insurance is optional and members could choose their desired insurer based on their own assessment of the competing products.

Members were invited to peruse the wording of the Affinity ‘top up’ insurance policy and Suncorp Metway’s policy.

The Bar Council informed members that it remained the responsibility of each individual barrister to satisfy himself or herself as to the content of the top up insurance policies on offer, the terms and conditions, and the premium applicable to them. The particular features of the top up insurance arranged by Affinity Risk Partners were as follows:

- (a) Claims made through Affinity Risk Partners will stand as notification to both the insurer for the primary layer as well as the insurers for any top up layers. Those claims will be managed by the Victorian office of that firm and where appropriate by the retainer of Victorian firms of solicitors; to date claims lodged with Suncorp Metway have been managed from Brisbane with no assurance to the Bar Council that Victorian firms will be the same.
- (b) The Affinity top up policy wording offers “follow form” wording with substantially the same, though not identical terms and conditions as the policy for the compulsory primary layer. The Suncorp Metway top up insurance policy, if it follows the same wording as its proposed standard 2003/4 primary layer policy, will not ‘follow form’ and members could not be assured that if Great Lakes grants indemnity for the primary layer, that it will necessarily follow that Suncorp Metway would grant indemnity for the top up layers.
- (c) The wording proposed by Affinity Risk Partners appeared overall superior in quality to that offered by Suncorp Metway. One significant point of difference between the policies proposed by QBE and its associated insurers and Suncorp Metway lies in the rights reserved to Suncorp Metway to avoid or cancel the policy or reduce its liability pursuant to its rights under the *Insurance Contracts Act* 1984, in particular s28 and 60. QBE has agreed to limit those rights substantially, and Ace, Royal SunAlliance and Great Lakes followed suit.
- (d) Great Lakes, QBE, Ace and Royal & SunAlliance have all agreed to furnish claims information to Victorian Bar Inc on a confidential basis to give the Bar ownership of its own claims information. The Bar Council regards the maintenance by the Bar of its own claims history as crucial to the interests of barristers in obtaining and maintaining professional indemnity insurance in the future. Suncorp Metway would not agree to provide that information.

Finally, may I acknowledge with gratitude the valuable and energetic contribution of the Executive Director, Mr David Bremner and thank the members of the Committee for their enthusiastic assistance during the past year.

Michael W Shand
Chairman

AFFINITY RISK PARTNERS

Victorian Bar - Premium Rates 2003/04

Pricing below applies to the respective Limit of Indemnity

Pricing includes 10% GST and assumes 10% Victorian Stamp Duty. Stamp Duty may vary depending on where Gross Practice Receipts are actually earned

Gross Fee Income Range	Limit of Indemnity: \$1.5 million				Limit of Indemnity: \$3 million				Limit of Indemnity: \$5 million				Limit of Indemnity: \$10 million				Limit of Indemnity: \$15 million				Limit of Indemnity: \$20 million			
	1st Year Juniors		All Others		1st Year Juniors		All Others		1st Year Juniors		All Others		1st Year Juniors		All Others		1st Year Juniors		All Others		1st Year Juniors		All Others	
	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL
\$0 to \$75,000	908	908	908	908	2,118	2,118	2,450	2,118	Refer	Refer	3,993	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$75,001 to \$100,000	908	908	1,815	908	2,118	2,118	3,358	2,118	Refer	Refer	4,901	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$100,001 to \$125,000	908	908	1,966	908	2,118	2,118	3,509	2,118	Refer	Refer	5,052	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$125,001 to \$150,000	908	908	2,118	908	2,118	2,118	3,660	2,118	Refer	Refer	5,203	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$150,001 to \$175,000	1,049	908	2,269	1,210	2,259	2,118	3,812	2,420	3,363	3,222	5,354	3,524	3,817	3,675	5,959	4,901	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$175,001 to \$200,000	1,211	908	2,420	1,210	2,421	2,118	3,963	2,420	3,525	3,222	5,506	3,524	3,978	3,675	6,111	4,901	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$200,001 to \$225,000	1,372	908	2,639	1,210	2,582	2,118	4,182	2,420	3,686	3,222	5,725	3,524	4,594	4,129	6,935	5,506	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$225,001 to \$250,000	1,533	908	2,859	1,210	2,743	2,118	4,401	2,420	3,848	3,222	5,944	3,524	4,755	4,129	7,154	5,506	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$250,001 to \$275,000	Refer	Refer	3,078	1,210	Refer	Refer	4,621	2,420	Refer	Refer	6,163	3,524	Refer	Refer	7,373	5,506	Refer	Refer	9,793	Refer	Refer	Refer	12,213	Refer
\$275,001 to \$300,000	Refer	Refer	3,297	1,210	Refer	Refer	4,840	2,420	Refer	Refer	6,383	3,524	Refer	Refer	7,593	5,506	Refer	Refer	10,013	Refer	Refer	Refer	12,433	Refer
\$300,001 to \$350,000	Refer	Refer	3,736	1,210	Refer	Refer	5,279	2,420	Refer	Refer	6,821	3,524	Refer	Refer	8,296	5,770	Refer	Refer	10,716	Refer	Refer	Refer	13,136	Refer
\$350,001 to \$400,000	Refer	Refer	4,087	1,210	Refer	Refer	5,630	2,420	Refer	Refer	7,172	3,524	Refer	Refer	8,888	6,011	Refer	Refer	11,308	Refer	Refer	Refer	13,728	Refer
\$400,001 to \$450,000	Refer	Refer	4,438	1,210	Refer	Refer	5,980	2,420	Refer	Refer	7,585	3,570	Refer	Refer	9,458	6,230	Refer	Refer	12,483	Refer	Refer	Refer	15,508	Refer
\$450,001 to \$500,000	Refer	Refer	4,789	1,210	Refer	Refer	6,332	2,420	Refer	Refer	8,112	3,702	Refer	Refer	9,961	6,562	Refer	Refer	12,966	Refer	Refer	Refer	16,011	Refer
\$500,001 to \$600,000	Refer	Refer	5,280	1,815	Refer	Refer	6,979	3,090	Refer	Refer	9,056	4,647	Refer	Refer	11,307	7,842	Refer	Refer	14,332	Refer	Refer	Refer	17,357	Refer
\$600,001 to \$700,000	Refer	Refer	5,771	1,815	Refer	Refer	7,644	3,219	Refer	Refer	9,932	4,936	Refer	Refer	12,403	8,447	Refer	Refer	15,428	Refer	Refer	Refer	18,453	Refer
\$700,001 to \$800,000	Refer	Refer	5,982	Refer	Refer	Refer	7,986	Refer	Refer	Refer	10,458	Refer	Refer	Refer	13,118	Refer	Refer	Refer	16,143	Refer	Refer	Refer	19,168	Refer
\$800,001 to \$900,000	Refer	Refer	6,192	Refer	Refer	Refer	8,317	Refer	Refer	Refer	10,913	Refer	Refer	Refer	13,572	Refer	Refer	Refer	16,597	Refer	Refer	Refer	19,622	Refer
\$900,001 to \$1,000,000	Refer	Refer	6,315	Refer	Refer	Refer	8,518	Refer	Refer	Refer	11,211	Refer	Refer	Refer	13,925	Refer	Refer	Refer	16,950	Refer	Refer	Refer	19,975	Refer
\$1,000,001 to \$1,500,000	Refer	Refer	6,929	Refer	Refer	Refer	9,761	Refer	Refer	Refer	13,223	Refer	Refer	Refer	16,213	Refer	Refer	Refer	19,238	Refer	Refer	Refer	22,263	Refer
\$1,500,001 to \$2,000,000	Refer	Refer	7,596	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$2,000,001 to \$2,500,000	Refer	Refer	7,596	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$2,500,001 to \$3,000,000	Refer	Refer	8,034	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
> \$3,000,001	Refer	Refer	8,034	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer

Note: "CL" refers to barristers who generate 90% or more of their Gross Practice Receipts from the practice of criminal law (including intervention orders)

ANNUAL REPORT OF THE VICTORIAN BAR DISPUTE RESOLUTION COMMITTEE

The Committee membership is set out elsewhere in the Bar's Annual Report. The Committee has been involved in accrediting mediators upon application, and it has been noted that these numbers have been reduced from previous years. In line with previous years the Committee has not conducted any mediation training courses itself referring the few inquiries to Bond University, LEADR or the other well-regarded providers; rather the Committee has concentrated on continuing improvements to skills to those currently accredited members of our Bar.

This year has seen the commencement of what has become known as the "Mediation Phase 2" assessing the first 10 years of ADR in order to see where the Bar's strengths lie, what we have learnt and what improvements can be made. In this regard certain Committee members have engaged with the heads of the courts and tribunals in ongoing reviews with them and arranged continuing education seminars. So far seminars have been held involving the Federal Court, the Federal Magistrates Court (excluding family law) and the County Court, with the Supreme Court to be scheduled in August. Seminars for the other courts and tribunals are programmed throughout the remainder of the year. The Chairman wishes to acknowledge and thank Registrars Wood and Connard of the Federal Court and also Her Honour Judge Harbison and Messrs Paul Mulvany, Tony Doyle of Taclaw and Greg Gibson of VWA for their time and effort.

Mediation in the Committee's view has been underutilized in the Federal Magistrates' Court, although the Melbourne registry performs infinitely better than others. To overcome the difficulty the Committee has also been in lengthy and ongoing dialogue with the Federal Magistrates Court, with a view to implementing a new pilot scheme for mediation in that Court. Mediators would be referred to participating Victorian Bar accredited mediators to assist litigants of the court in a speedier and effective mediation program and to fulfil the statutory charter of the Court to mediation. At the time of writing the Court is still considering all the precise details involved in such a scheme.

The Committee has also been invited by the Australian Institute of Judicial Administration to participate in the steering committee for a joint research project being conducted by the Institute and the Commonwealth Attorney-General's National Alternative Dispute Resolution Committee; our Committee is represented by Ross Maxted, who has been involved in the several meetings and attended a number of NADRAC forums throughout the year.

Gerald Lewis S.C. and the Chairman, have concluded a review and update of a standard mediation agreement, recommended for use by accredited mediators.

With the very generous assistance of Mr Ross Nankivell, the committee has also made extensive submissions to the Victorian Government Department of Justice, on the introduction and continuing development of "on-line" ADR. The Committee awaits the outcome of the Departments report. David Levin QC has also in conjunction with the Victorian Society for Computers and the Law organized a panel of speakers to address the bar on the development of ADR on-line processes in August 2003.

The Mediation Centre located at 180 William Street is part of the responsibilities of the Committee. The Centre has been operating above acceptable occupancy rates and has continued to play a significant part in the effective delivery of mediation services to litigants, solicitors and barristers. The Centre has recently acquired a dedicated video and television viewing equipment and a full mediation resource package particularly for use by non legally assisted clients. Some consideration is being given to extend the function of the centre to the second floor of 180 William Street, subject to successful negotiation with BCL and the bar administration. The Committee has also this year introduced recording of general statistics which enable it to better

understand the client base of the centre, including the method of referral to it and by whom.

The Centre is efficiently managed by David Bremner and reliably staffed by Helen Henry, Pauline Hannan, Kay Kelly and newcomer Pat Lurye and Tania Giannakenas as the full time booking officer. The committee extend their special thanks to them all for their commitment to the patient and kind manner in which they perform their roles. The Chairman is particularly grateful for the assistance provided to him by those individual members of the Committee who have given of their time so willingly and enthusiastically throughout the year.

Bill Martin

Chairman

ANNUAL REPORT OF THE VICTORIAN BAR NEWS

This year has seen a significant change in the structure and operation of Bar News. The spring issue for 2002 saw three editorial faces replace the existing two. The appointment of Judy Benson as a third editor of Bar News has introduced a fresh perspective. It has also enabled a work distribution which has, so the editors believe, increased the professionalism of the production.

The tradition that each editor takes it in turn to write the Editors' Backsheet has continued. But, the editors still defy the reader to determine which of the three editors has written which backsheet.

The addition of Jack Rush to the editorial board has strengthened the link between Bar News and the Bar Council.

The Editorial Committee has been expanded. That Committee now consists of John Kaufman QC, Olyvia Nikou S.C., William F. Gillies, Carolyn Sparke, Georgina Schoff, Paul Duggan, Peter A. Clarke, Nicola Gobbo, Victoria Lambropoulos, Richard Brear (Editorial Assistant) and Peter Lithgow (Book Reviews). This expanded Committee has also taken up a more positive role in obtaining and vetting material and in providing guidance to the editors as to content and format of Bar News.

The revamped structure is working well and the editors believe that the triumvirate, guided by the new Committee, will continue to produce a first class magazine. However, the editors stress that Bar News is the Bar's journal and that the content, to a large extent, depends upon positive participation by all members of the Bar.

The Editors

ANNUAL REPORT OF THE ESSOIGN

Following the commencement of refurbishment works at Owen Dixon Chambers East, the Essoign Club struggled through most of last financial year. There was a fall off in patronage particularly noticeable in early 2003. The disruption caused by building works generally and the closure of lifts certainly didn't help.

Originally it had been intended that the Club would close at Christmas and re-open in February in its new premises. Various delays to the building project meant that we didn't obtain occupancy until the last week of May 2003.

In financial terms the year has been very difficult. Apart from the downturn in trading there were also considerable expenses associated with the transition to the new premises and meeting various employee entitlements.

Finally, after 14 months of planning, the new Essoign opened on Monday, 26 May 2003. We had a most successful opening launch and a very popular function for about 100 women barristers and judges was held on 12 June.

The design and fitout have met universal acclamation. This is reflected in the fact that we have. So far, had over 200 new applications to join, or rejoin, the Essoign.

At the time of writing we have had two months experience in the new premises and the teething problems associated with new staff operating in a new environment have largely been overcome. For a month or so we endured a semi-arctic environment but the air conditioning problems have now been resolved. Your welcome to the Essoign will now be, on all accounts, a warm one.

With its new operating hours, the Essoign is open daily from 7.00 am for breakfast which is proving increasingly popular. Both the dining room and the café/lounge are busy for lunch, offering, as they do, a wide range of dining options. A selection of “fast track” meals in the dining room is available and highlighted on the menu for members in need of a quick lunch. Those who want an even speedier meal or to take away can use the café which offers a wide selection of pre-prepared meals, coffee and cake. The café is open all day until 5.00 pm and for those who are still hungry there are tasty morsels in the form of tapas with a drink after 5.00 pm.

The Committee is very pleased with the steadily increasing patronage of both the dining room and the café area. We are particularly glad that our regular clientele from the 13th floor have been so supportive of the new venue and mode of operation. At the same time we have been delighted to find an increasing number of members using the small tables. The Essoign has become a venue to which our members can look forward to inviting guests.

As noted in the last annual report, the first floor was designed with a view to “synergy”, amongst other things, ensuring proximity of the Readers’ Course facilities and library as well as the Bar Council Chamber and Chairman’s Room. The Essoign is now in a position to provide service to each of these areas much more easily than before. We can offer a range of options for private catering on the premises from an intimate dinner for 30 or so in the Richard Griffith Library to a formal dinner for up to 200.

We look forward to welcoming the September 2003 Readers. More importantly having the Readers’ Course on the same floor should go a long way towards cementing the already noticeable trend for younger members to use the café and dining room facilities.

After nine years of devoted service as head chef and manager, on 24 June Jayne Menesdorffer retired from the Essoign to run the Phillip Island food store. Jayne helped enormously with the design of the new facilities and in particular the superb kitchen. Her enthusiasm for the project was infectious and we were grateful that she stayed to ensure that the operations commenced smoothly. We all wish her well in her new business and look forward to her return from time to time as guest chef.

Our new head chef is Rufus Daniell who has been cooking with great distinction for over 25 years. Rufus is classically trained; he has extensive experience in a la carte modern eclectic dining and he is eager to develop the continuing success of the new Essoign. Rufus has already injected his own brand of excellence into the operation of the kitchen, producing an exciting, delicious and innovative (but affordable) menu, in keeping with the expectations of the Essoign’s members.

In November, 2002, Nicholas Kalogeropoulos was employed as the Essoign’s full-time manager. Up until accepting the position as manager of the Essoign, Nick had been managing Dracula’s Cabaret Restaurant, which catered for up to 340 people a night. At Dracula’s, Nick

describes himself as having been “a nocturnal being”, leading “a team of 30 vampires”. Prior to that, Nick had owned and operated Alley Blue, a restaurant situated in Little Bourke Street, with which many members of the Bar will have been familiar.

Nick’s tireless efforts and boundless enthusiasm for the new Essoign have ensured a spectacular start to trading in the new venue. Nick describes his task as manager in the following way:

“The running of a venue for me is not only to meet budgets and make it a financially viable venture for all concerned but to be a part of helping members and guests experience hospitality in all its forms; food, beverage, ambience and above all service, and to know that when they depart happy and content, that you (the team) had a part in that experience.”

There is no doubt that to date, Nick has lived up to his own extremely high standards.

There are great plans afoot for the new Essoign as the social and professional hub of the Bar, including various dinners, special events and wine and food tastings. We hope to see many new patrons there especially the younger and female members of the Bar. We are determined, and confident, that the new Essoign will provide a welcoming and relaxed environment for all our members.

Michael J Colbran

Chairman

SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC

**Statement of Financial Performance
for the Year Ended
30 June 2003**

	<i>2003</i> \$	<i>2002</i> \$
Revenue		
Revenue from Ordinary Activities	3,146,572	2,562,083
Other Revenue		
Indigenous Lawyers Project	27,338	30,532
Interest	<u>129,183</u>	<u>96,632</u>
Total Revenue	<u>3,303,093</u>	<u>2,689,247</u>
Expenditure		
Administration Expenses	1,340,093	1,243,301
Employee Benefits Expense	869,628	757,832
Depreciation	183,560	119,144
Other	<u>110,453</u>	<u>69,132</u>
Total Expenditure	<u>2,503,734</u>	<u>2,189,409</u>
Profit from Ordinary Activities	<u>799,359</u>	<u>499,838</u>
TOTAL CHANGE IN ACCUMULATED FUNDS	<u>799,359</u>	<u>499,838</u>

The accompanying notes form part of these financial statements.

SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC

Statement of Financial Position as at 30 June 2003

	<i>Notes</i>	<i>2003</i> \$	<i>2002</i> \$
Current Assets			
Cash Assets		575,224	445,384
Other Financial Assets	2	1,678,957	2,052,831
Receivables	3	<u>233,140</u>	<u>176,770</u>
Total Current Assets		<u>2,487,321</u>	<u>2,674,985</u>
Non-current Assets			
Other Financial Assets	4	3,016,300	2,516,300
Property, Plant & Equipment	5	263,178	443,257
Loan to Essoign Club		<u>127,351</u>	<u>42,351</u>
Total Non-current Assets		<u>3,406,829</u>	<u>3,001,908</u>
Total Assets		<u>5,894,150</u>	<u>5,676,893</u>
Current Liabilities			
Provisions	6	173,142	143,552
Payables		313,808	446,062
Subscriptions in Advance		<u>416,615</u>	<u>898,537</u>
Total Current Liabilities		<u>903,565</u>	<u>1,488,151</u>
Non-current Liabilities			
Provisions	7	<u>8,918</u>	<u>6,434</u>
Total Non-current Liabilities		<u>8,918</u>	<u>6,434</u>
Total Liabilities		<u>912,483</u>	<u>1,494,585</u>
Net Assets and Accumulated Funds	8	<u>4,981,667</u>	<u>4,182,308</u>

The accompanying notes form part of these financial statements.

SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC

Statement of Cash Flows For the Year Ended 30 June 2003

	2003 \$	2002 \$
Cash Flows From Operating Activities		
Receipts from Subscriptions	1,576,874	1,957,700
RPA Reimbursement Received	575,401	359,791
Interest Received	129,183	96,632
Other Receipts	535,110	298,823
Payments to Suppliers and Employees	<u>(2,472,122)</u>	<u>(1,749,610)</u>
Net Cash Provided by Operating Activities	<u>344,446</u>	<u>963,336</u>
Cash Flows From Investing Activities		
Payments for Plant and Equipment	(3,480)	(54,433)
Purchase of Shares	(500,000)	(500,000)
Loans Advanced	<u>(85,000)</u>	<u>-</u>
Net Cash Provided by/(Used in) Investing Activities	<u>(588,480)</u>	<u>(554,433)</u>
Net Increase/(Decrease) in Cash Held	(244,034)	408,903
Cash at the Beginning of Financial Year	<u>2,498,215</u>	<u>2,089,312</u>
Cash at the End of Financial Year	<u>2,254,181</u>	<u>2,498,215</u>

The accompanying notes form part of these financial statements.

SPECIAL PURPOSE FINANCIAL REPORT
THE VICTORIAN BAR INC

**Notes to and Forming Part of the
Financial Statements for the Year
Ended 30 June 2003**

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 financial report has been prepared on the basis of historical cost and except where stated, does not take into account changing money values or current valuations of non-current assets. Cost is based on the fair values of the consideration given in exchange for the assets. The financial report has been prepared in accordance with the requirements of Australian Accounting Standards. AASB 1005 Segment Reporting, AASB 1017 Related Party Disclosures, AASB 1024 Consolidated Accounts, AASB 1028 Employee Benefits and AASB 1033 Presentation and Disclosure of Financial Instruments have not been adopted.

Accounting policies which have been significant in the preparation and presentation of the financial report:

(a) Acquisition of Assets

Assets acquired are recorded at the cost of acquisition, being the purchase consideration determined as at the date of acquisition plus costs incidental to the acquisition. In the event that settlement of all or part of the cash consideration given in the acquisition of an asset is deferred, the fair value of the purchase consideration would be determined by discounting the amounts payable in the future to their present value as at the date of acquisition.

(b) Depreciation

Depreciation is provided on property, plant and equipment. Depreciation is calculated on a straight line basis so as to write off the net cost of each asset over its expected useful life. The following estimated useful lives are used in the calculation of depreciation:

Leasehold Improvements	10 years
Plant and Equipment	3-10 years

(c) Recoverable Amount of Non-current Assets

Non-current assets are written down to the recoverable amounts where the carrying value of any non-current asset exceeds recoverable amount. In determining the recoverable amount of non-current assets, the expected cash flows have not been discounted to their present value.

- (d) *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.
- (e) *Investments*
Investments are recorded at cost.
- (f) *Accounts Payable*
Trade payables and other accounts payable are recognised when the Victorian Bar Inc. becomes obliged to make future payments resulting from the purchase of goods and services.
- (g) *Receivables*
Trade receivables and other receivables are recorded at amounts due less any allowance for doubtful debts.
- (h) *Employee Entitlements*
Annual leave liability is provided for all employees, and long service leave liability is provided only for those employees who have longer than five years' continuous service with The Victorian Bar Inc. This policy is believed to provide an estimate of the long service leave liability which is not materially different from the estimate provided by using the present value basis of measurement.
- (i) *Goods and Services Tax*
Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except:
 (i) where the amount of GST incurred is not recoverable from the taxation authority, it is recognised as part of the cost of acquisition of an asset or part of an item of expense; or
 (ii) for receivables and payables which are recognised inclusive of GST.
 The net amount of GST recoverable from, or payable to, the taxation authority is included as part of receivables or payables.
- (j) *Comparative Figures*
Comparative figures are, where appropriate, reclassified so as to be comparable with the figures presented for the current financial year.
- (k) *Income Tax*
Annual subscriptions paid by members of the Victorian Bar to The Victorian Bar Inc are non-taxable through the mutuality principle. Other receipts are regarded as assessable for purposes of taxation.

	2003 \$	2002 \$
2. Other Financial Assets – Current		
Commonwealth Bank of Australia —		
Bank Bills	<u>1,678,957</u>	<u>2,052,831</u>
3. Receivables		

	Prepayments	-	59
	Sundry Debtors	<u>233,140</u>	<u>176,711</u>
	Total Receivables	<u>233,140</u>	<u>176,770</u>
4.	Other Financial Assets – Non-current		
	Shares in Barristers’ Chambers Limited at Cost	<u>3,016,300</u>	<u>2,516,300</u>
	The Victorian Bar Inc has an agreement with Barristers’ Chambers Limited (BCL) that it will subscribe and pay for shares in BCL to the value of \$500,000 in June each year until 30 June 2009. The agreement will terminate if BCL becomes insolvent, has an administrator appointed, has an application made for its winding up or does not proceed with the refurbishment of Owen Dixon Chambers East.		
5.	Property, Plant and Equipment		
	Equipment	238,121	273,611
	Provision for Depreciation	<u>(215,901)</u>	<u>(211,736)</u>
	Total Equipment	<u>22,220</u>	<u>61,875</u>
	Office Furniture	40,107	64,278
	Provision for Depreciation	<u>(24,567)</u>	<u>(33,106)</u>
	Total Office Furniture	<u>15,540</u>	<u>31,172</u>
	Art Works	41,389	37,909
	Provision for Depreciation	<u>(23,345)</u>	<u>(19,442)</u>
	Total Art Works	<u>18,044</u>	<u>18,467</u>
	Library	237,732	339,683
	Provision for Depreciation	<u>(156,436)</u>	<u>(173,083)</u>
	Total Library	<u>81,296</u>	<u>166,600</u>
	Refurbishment – Douglas Menzies Chambers	390,658	390,658
	Provision for Depreciation	<u>(264,580)</u>	<u>(225,515)</u>
	Total Refurbishment	<u>126,078</u>	<u>165,143</u>
	Total Property, Plant and Equipment	<u>263,178</u>	<u>443,257</u>
6.	Current Provisions		
	Employee Entitlements	<u>173,142</u>	<u>143,552</u>
7.	Non-current Provisions		
	Employee Entitlements	<u>8,918</u>	<u>6,434</u>
8.	Accumulated Funds		
	Balance at Beginning of Financial Year	4,182,308	3,682,470
	Net Profit	<u>799,359</u>	<u>499,838</u>
	Balance at End of Financial Year	<u>4,981,667</u>	<u>4,182,308</u>

SPECIAL PURPOSE FINANCIAL REPORT THE VICTORIAN BAR INC

OFFICERS' DECLARATION

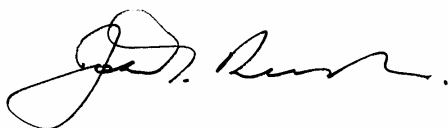
As detailed in Note 1 to the financial report, The Victorian Bar Inc is not a reporting entity because in the opinion of the Officers there are unlikely to exist users of the financial report who are unable to command the preparation of reports tailored so as to specifically satisfy all of their information needs. Accordingly, this "Special Purpose Financial Report" has been prepared to satisfy the Officers' reporting requirements under the Victorian Bar's Constitution.

The Officers declare that:

- (a) the attached financial statements and notes thereto comply with accounting standards as outlined in Note 1;
- (b) the attached financial statements and notes thereto give a true and fair view of the financial position and performance of The Victorian Bar Inc;
- (c) in the Officers' opinion, the attached financial statements and notes thereto are in accordance with the Victorian Bar's Constitution; and
- (d) in the Officers' opinion, there are reasonable grounds to believe The Victorian Bar Inc will be able to pay its debts as and when they become due and payable.

On behalf of the Officers

Chairman:



Honorary Treasurer:



Dated:

24 July 2003

THE VICTORIAN BAR INC

Detailed Statement of Financial Performance for the Year Ended 30 June 2003

	<i>Notes</i>	<i>2003</i> \$	<i>2002</i> \$
Income			
Subscriptions		2,058,796	1,822,062
Sale of Publications		601	314
Other Income		1,205	396
RPA Reimbursement	1	609,404	401,412
Interest		129,183	96,632
Indigenous Lawyers Project		<u>27,338</u>	<u>30,532</u>
Total Income		<u>2,826,527</u>	<u>2,351,348</u>
Expenses			
General Administration			
Archival Costs		7,053	3,917
Audit, Accounting and Computer Software		40,474	138,177
Australian Securities & Investment Commission		356	281
Bank Charges		2,863	2,186
Conference Expenses		10,248	29,377
Bar Dinner and Other Functions		141,695	56,077
Bar Dinner Receipts		(58,349)	(30,003)
<i>Bar News</i> Advertising Income		(36,789)	(41,257)
<i>Bar News</i> Expenses		105,426	118,858
Depreciation		43,222	39,803
Donations		955	2,500
Floral Tributes		4,134	3,666
Indigenous Lawyers Project		31,851	34,768
Insurance		2,775	-
Legal Assistance Scheme Costs		78,602	34,364
Library (including Depreciation)		167,686	113,977
Miscellaneous		38,552	2,985
Postage		11,614	9,474
Printing and Stationery		98,621	104,254
Publications		6,988	7,145
Rent to Barristers' Chambers Limited	2	109,130	93,277
Essoign Rent and Fit Out	2	48,019	-
Research Studies and Projects		64,487	73,725
Salaries, Employee Entitlements, Superannuation and WorkCover Costs		554,737	495,364
Telephone		3,168	3,400

Travel Expenses	421	4,167
Australian Bar Association	73,900	72,800
International Bar Association	482	485
Law Council of Australia	130,147	123,204
Lawasia	909	909
PILCH	4,725	3,150
Ethics Administration		
Salaries and Expenses	196,866	154,123
Readers' Course and Continuing Legal Education		
Receipts	(220,791)	(115,826)
Salaries, Expenses and Depreciation	388,487	338,330
Mediation Centre		
Receipts	(159,950)	(149,366)
Salaries, Expenses and Depreciation	134,454	123,219
Total Expenses	<u>2,027,168</u>	<u>1,851,510</u>
Operating Profit	799,359	499,838
Accumulated Funds at Beginning of Financial Year	4,182,308	3,682,470
Accumulated Funds at End of Financial Year	<u>4,981,667</u>	<u>4,182,308</u>

NOTES TO THE DETAILED STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2003

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 at the Bar. The Board's financial support for the Bar's legal education and access to justice programs is appreciated.

Regulation	208,719	163,988
Registration	104,227	64,012
<i>Victorian Bar News</i>	26,500	22,893
Readers' Course and Legal Education	84,500	66,988
Library	39,000	38,018
Professional Indemnity Insurance Database	80,591	-
Legal Assistance Scheme	65,867	45,513
	<u>609,404</u>	<u>401,412</u>

2 Rent and Refurbishment Costs

In July 2002, an agreement was entered into with Barristers' Chambers Limited (BCL) under which the Victorian Bar Inc agreed to rent certain space from BCL and to pay for the fit out of that refurbished space over a ten year term. Part of the rent and fitout cost relates to the space occupied by the Essoign Club Limited in Owen Dixon Chambers East.

THE VICTORIAN BAR INC

Victorian Bar Expenditure for the Year Ended 30 June 2003

Travel, Conference Costs and Donations

At the Annual General Meeting of the Victorian Bar Inc held on 3 September 2001, it was resolved that in future the Annual Report of the Victorian Bar should include an itemised list of the value of all gifts and donations paid or made out of Bar funds during the last financial year and the names of each donee, and the total spent in the financial year on travelling expenses for Bar staff and members of the Bar Council.

Conferences and Travel	\$	Attended By
ABA Quarterly Meeting	3,549	Chairman and Executive Director
LCA Quarterly Conferences	3,668	LCA Representative and Executive Director
ABA Biennial Conference	395	Executive Officer
LCA Equalising Opportunities Committee	104	Kim M Pettigrew
Sir Zelman Cowen Centre Seminar	32	Executive Director
NSW Bar – Equal Opportunity Committee	331	Frances Millane
Australian Professional Indemnity Group Seminar	140	Michael W Shand QC and Executive Director
LIV Young Lawyers Annual Assembly	382	Kate J D Anderson
National Pro Bono Workshop	393	Anthony J Howard QC
International Bar Association 2 nd World Women Lawyers' Conference	812	Frances Millane
American Bar Association Seminar	250	Michael W Shand QC
ACT Bar Dinner	678	Peter J Riordan
NSW Bar Dinner	850	Jack T Rush QC
Staff Travel	790	
Total	12,374	
 Donations and Sponsorships		
Vienna VIS Moot Competition	955	
Rostrum Voice of Youth	750	
Total	1,705	