

Committee of Counsel.—At a meeting of Counsel, held at Melbourne on the 13th February, 1903, the following Report was read and adopted:—

ANNUAL STATEMENT FOR 1902-1903.

At the annual election, held in February, 1902, the following Counsel were elected as members of the Committee of Counsel for 1902-3, namely:—Mr. J. B. Box, Mr. H. B. Higgins, Mr. S. St. John Topp, Mr. E. F. Mitchell, Mr. H. W. Bryant, Mr. R. E. Hayes, Mr. L. F. Cussen. On April 18th, 1902, Mr. E. F. Mitchell resigned, and Mr. J. L. Purves, K.C., was appointed in his place. In August, Mr. S. St. John Topp died, and Mr. E. F. Mitchell was appointed in his place. During the year, the following gentlemen signed the Roll of Counsel:—Mr. L. R. O. Bevan, Mr. L. F. Miller, Mr. L. E. Gaunt, Mr. J. A. Arthur, Mr. H. C. Winneke, Mr. S. T. Brentnall, Mr. F. W. Mann. The number of Counsel on the Roll is now 78.

Re Consolidated Acts Amending Constitution Act.—In February, a letter was received by the Committee of Counsel from Mr. T. C. H. Ogiers, barrister-at-law, drawing the attention of the Committee to alleged defects in the consolidation of Acts amending the "Constitution Act." The Committee, after consideration, referred the matter to a special Committee, consisting of Mr. A. J. Agg, Mr. D. McKinnon, Mr. W. A. Sanderson, Mr. J. T. Collins, and Mr. L. F. Miller, for investigation. In August, the special Committee brought in two reports—the one signed by the majority, and the other by the minority of its members. Copies of these reports were forwarded to the Attorney-General for his perusal.

Re New Rules for Retainer of Counsel.—During the year, the Committee framed new rules for regulating the practice as to Retainers of Counsel. These rules, which were based on the existing English rules, came into force on the 1st July, 1902. The Committee subsequently resolved that Rules 22 and 24 should be enforced by the following rule:—"When a brief is offered or delivered to any Counsel, and he finds that another Counsel has become entitled to a brief, within the meaning of Rules 22 or 24, and has not been briefed, such first-named Counsel ought, where practicable, to ascertain from the solicitor offering or delivering such brief whether there is any sufficient explanation why a brief has not been offered or delivered to such other Counsel, and unless a satisfactory explanation is given, ought to refuse or return the brief." Copies of these Rules of Retainer were sent to the President of the Law Institute, and to the solicitors of the State of Victoria.

Re Proposed New Scale of Costs in County Courts.—In April, the Registrar of County Courts, Melbourne, forwarded to the Committee of Counsel, by direction of their Honours the County Court Judges, copies of a proposed new scale of costs recommended by the Law Institute of Victoria. A special Committee, consisting of Mr. A. Skinner, Mr. H. Barrett, Mr. S. McArthur, Mr. W. A. Kilpatrick, Mr. L. F. Cussen, and Mr. J. G.

Eagleson, was appointed to consider the proposed new scale. A copy of the report of the special Committee was forwarded to their Honours the County Court Judges, who subsequently acknowledged the valuable assistance rendered in the matter by the Committee of Counsel.

Re Fixing Costs on Application by Summons.—During the year, the Committee of Counsel communicated with His Honour the Chief Justice, drawing attention to the injustice of the present system of fixing the costs at £3 3s. in applications by summons. His Honour the Chief Justice intimated, in reply, that the communication of the Committee would receive consideration by their Honours the Judges in Council.

LEGISLATION.

During the year, the Committee of Counsel, feeling that valuable assistance might be rendered to the State Legislature and the public if bills introduced into Parliament dealing with procedure, jurisdiction of Courts and other matters of kindred nature were perused and considered by Counsel specially skilled in such subjects, forwarded a request to the Attorney-General that all such bills introduced into either House might be supplied to the Committee. Later on, the Secretary of the Law Department wrote informing the Committee that the Attorney-General of the State had given instructions that its request be complied with, and forwarding draft bills for perusal.

Legal Practitioners Reciprocity Bill.—This bill, which had for its aim the establishment of inter-state reciprocity in the matter of admissions, was carefully considered by the Committee of Counsel. The views of the Committee thereon were first set out in a letter to the Solicitor-General, and subsequently embodied in a report, printed copies of which were sent to the Attorney-General and to every member of the Legislative Council. A letter was subsequently received from Mr. Theodore Fink, M.L.A., to whom a copy of the report had also been sent, and (who with Mr. Robinson introduced the bill in the Lower House) announcing his intention of re-drawing the bill, and his willingness to confer with the Committee when the new draft bill had been prepared.

Transfer of Land Act Amendment Bill.—A special Committee was appointed by the Committee of Counsel to consider this bill, consisting of Mr. T. A'Beckett Weigall, Mr. R. E. Hayes, Mr. W. Campbell Guest, Mr. L. F. S. Robinson, and Mr. J. Macfarlan. Copies of its report thereon were sent to the Solicitor-General and to the Commissioner of Titles, and the suggestions of the Committee were subsequently adopted by the framers of the bill, and embodied therein.

Insolvency Bill 1902.—A special Committee to report on this bill was appointed in November, consisting of Mr. C. J. Z. Woinarski, Mr. W. Campbell Guest, Mr. W. Paul, and Mr. H. E. Starke, but owing to the intervention of the long vacation, the Committee has not yet been able to submit its report.

GENERAL.

Royal Commission on the University of Melbourne.—During the year, a communication was received from the President of the Commission asking the Committee of Counsel to consider the question of legal education with a view to appointing representatives to give evidence before such Commission. The Secretary was subsequently instructed by the Committee to frame certain resolutions on the subject of legal education which might form a basis for future discussion and consideration by the Committee.

General Council of the Bar of England.—During the year, the Committee of Counsel has had occasion to communicate with the General Council of the Bar of England, and forwarded to its secretary a copy of the new Retainer Rules. The General Council has at various times assisted the Committee in points of difficulty which have been referred to it.

Professional Etiquette.—The Committee of Counsel had occasion to investigate only one alleged breach of professional etiquette during the year. In the opinion of the Committee, the facts which were disclosed formed no warrant for its intervention in the matter.

The Committee of Counsel earnestly desires that Counsel on the Roll will continue to bring before the Committee all matters which may arise relating to professional conduct or practice, or which may come to their knowledge touching the well-being of the profession.

“Administration and Probate Act 1890” (No. 1060)—*Executors passing Accounts before Chief Clerk—Right of parties interested to be present on terms.*—On February 25, *In the Will of G. H. Risbey, deceased*, a motion was made on behalf of the executors for leave to pass their accounts and for commission.—LEWERS, who appeared in support, stated that the residuary legatees under the will had asked that in the order leave should be reserved to them to appear upon the passing of the accounts before the Chief Clerk, if they should so desire, upon payment of half the costs. Counsel said the executors offered no objection to this course if the Court had jurisdiction, and saw fit to make the order. He referred the Court to *In the Will of Wright*, 5 V.L.R. (I P. & M.) 61.—HOON, J., made the order for passing accounts, and for allowance of commission, without prejudice to the rights of all parties except the residuary legatees availing themselves of the liberty therein granted, and reserved liberty to them to be represented at the passing of the accounts, in which event they should be bound thereby, and pay half the costs.—Solicitors: For the executors, Rogers and Rogers; for the residuary legatees, W. H. Croker.

Practice—Appeal Book—*Appeal from Chambers*—*Submitting note to Judge*—*New Rules—Order LVIII., r. 7*—“*Appellant from any judgment.*”—On March 2, 1903, a motion was made *Ex parte* to the Full Court (Madden, C.J., A'Beckett and Hood, JJ.), in an action, *Row v. The Trustees, Executors, &c., Co.*, for leave to appeal from an order of Williams, J., made in Chambers,

refusing consolidation of that action with another.—HIGGINS, for the defendant, in support, referred to *Perry v. Smith*, 7 A.L.R. 171, 27 V.L.R. 66.—MADDEN, C.J.: We think notice of the application should be given to the other side, although it is not the rule but the exception to require such notice to be given. As to the necessity for an Appeal Book, in cases where it was necessary before, it is necessary still, but in the case of an appeal from Chambers, it is not necessary for the Judge to settle the Appeal Book.—Solicitor: W. J. Robb.

Insolvency, Act of—Assignment for Benefit of Creditors Generally—Petitioning creditor instigating assignment—When estopped—“Insolvency Act 1890” (No. 1102), sec 37 (1).—*In Re Nathan*, on March 5, Holroyd, J., heard a motion to make absolute an order for the sequestration of an estate on the ground that the debtor had made a conveyance or assignment of her property to a trustee for the benefit of her creditors generally. Notice of intention to oppose had been given by the debtor in the following terms:—“That I was induced to assign my estate by the request of the representative of the petitioning creditor, and that his representative, at a meeting of my creditors, seconded a motion that I assign my estate to one Danby for the benefit of my creditors.” The case put for the debtor was that the petitioning creditor had, by his agent, requested her to assign her estate, informing her that, in the event of her not doing so, he would make her insolvent; that subsequently she called a meeting of her creditors, at which the petitioning creditor, by his agent, seconded a resolution that she should assign her estate to one Danby for the benefit of her creditors; and that, in consequence of the foregoing, she assigned her estate in trust for her creditors. The assignment, however, was not made to Danby, but to one Mitchell.—WOLFF supported the motion.—DETHRIDGE, who opposed, relied upon *Re Vail*, 1 V.L.R. (I.), 5, and *Re Stray*, L.R. 2 Ch. App. 374, and argued that, as the petitioning creditor had taken part in bringing about the essential part—the act of insolvency alleged—that is to say, the assignment, he was estopped within the principle of those cases, and the mere fact that the assignment was made to a different trustee than the one mentioned in the resolution, was immaterial.—HOLROYD, J., held that this fact was material, and prevented the cases mentioned from applying. The order was made absolute.—Solicitors: Braham and Pirani; Gaunson and Lonie.

Privy Council—Appealable Amount—Civil right—Nullity suit—Right of petitioner to appeal.—*In Chard v. Harrison* (falsely called Chard), before the Full Court of New South Wales, on February 17, Mr. RALSTON appeared for the petitioner in the suit, and moved for leave to appeal to the Privy Council against the decision of the Court. Mr. L. ARMSTRONG appeared for respondent to oppose the application.—Mr. RALSTON said that the petition of William Henry Chard, dated December