

JUSTICE AND THE ADMINISTRATION OF LAW

INTRODUCTION

This chapter describes the operation of law in Victoria. The workings of the legal system are far-reaching and the relationships sometimes complex. In order to clarify the exposition of the main aspects of law in Victoria, the chapter is divided into three sections:

- (1) The main features of the judicial system, listing the members of the Victorian Judiciary, and outlining the workings of the courts and the legal profession;
- (2) the administration and enforcement of law in Victoria, showing the responsibilities of the main departments and agencies concerned, including the Victoria Police; and
- (3) a special article outlining a specific area of law in Victoria (legal education in this edition of the *Victorian Year Book*).

JUDICIAL SYSTEM

Victorian Judiciary

VICTORIA—SUPREME COURT AT 31 JULY 1979

Chief Justice

The Hon. Sir John McIntosh Young, K.C.M.G.

Puisne Judges

The Hon. Sir John Erskine Starke
 The Hon. Sir Murray Vincent McInerney
 The Hon. Sir George Hermann Lush
 The Hon. Mr Justice Clifford Inch Menhennitt
 The Hon. Mr Justice Kevin Victor Anderson
 The Hon. Mr Justice William Charles Crockett
 The Hon. Mr Justice William Kaye
 The Hon. Mr Justice Peter Murphy
 The Hon. Mr Justice Basil Lathrop Murray, C.B.E.
 The Hon. Mr Justice Richard Kelsham Fullagar
 The Hon. Mr Justice Kenneth Joseph Jenkinson
 The Hon. Mr Justice Richard Elgin McGarvie
 The Hon. Mr Justice Norman Michael O'Bryan
 The Hon. Mr Justice Robert Brooking
 The Hon. Mr Justice Kenneth Henry Marks
 The Hon. Mr Justice Ian Gray
 The Hon. Mr Justice Alfred Capel King
 The Hon. Mr Justice Barry Watson Beach
 The Hon. Mr Justice James Augustine Gobbo
 The Hon. Mr Justice Alec James Southwell

 VICTORIA—JUDGES OF THE COUNTY COURT AT 31 JULY 1979

Chief Judge

Desmond Patrick Whelan, C.B.E.

Judges

Norman Alfred Vickery, M.B.E., M.C., E.D.	Nubert Solomon Stabey
Dermot William Corson	Bruce Finlay McNab
James Herbert Forrest	Gordon Henry Spence
Clive William Harris	John William Mornane
Eric Edgar Hewitt	Stanley George Hogg
Gordon Just	Martin Charles Ravech
Roland John Leckie	John Frederick Bernard Howse
Ivan Frederick Charles Franich	Leo Sydney Lazarus
Thomas Bernard Shillito	Victor Herbert Belson
John Philip Somerville	John Leonard Read
William Joseph Martin	Peter Uno Rendit
Joseph Raymond O'Shea	Eugene John Cullity
James Galvin Gorman	John Ewen Raymond Bland
Robert John Davern Wright	Francis Gilbert Dyett
Geoffrey Michael Byrne	Paul Richard Mullaly
Harold George Ogden	

Courts*High Court of Australia*

The High Court of Australia was created by the Commonwealth of Australia Constitution which provided for the vesting of the judicial power of the Commonwealth "in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction". The Constitution also provided that the High Court should consist of a Chief Justice and so many other Justices not less than two, as the Commonwealth Parliament prescribes.

In 1903, the High Court was first constituted by the appointment of Sir Samuel Griffith (Chief Justice) and Justices Barton and O'Connor who held the first sittings of the High Court in Melbourne in October 1903 and sat shortly afterwards in Sydney in the same year.

The number of Justices was increased from three to five in 1906 and was again increased in 1912 to seven. In 1933, the number was reduced to six and in 1946, the number of Justices was restored to seven. The Justices are all appointed for life* as required by the Constitution as it has been interpreted by the High Court.

The Constitution provided for the High Court to have jurisdiction to hear and determine appeals from all judgments, decrees, orders, and sentences of Justices of the High Court exercising original jurisdiction of that Court, or of any other federal court. It also provided that the High Court has the like jurisdiction to hear appeals from the Supreme Court of a State. The High Court thus became part of the hierarchy in the judicial system of each State. The Constitution provided also for the High Court to exercise original jurisdiction in matters arising under any treaty; affecting consuls or other representatives of other countries; in which the Commonwealth or a person being sued on behalf of the Commonwealth is a party; and between residents of different States or between a State and a resident of another State, or in which a writ of mandamus† or prohibition or injunction is sought against an officer of the Commonwealth.

The jurisdiction of the High Court has been exercised over the years to a considerable degree, in particular by the use of prerogative writs of prohibition and mandamus in relation to Commonwealth officers, and to control the jurisdiction of tribunals constituted

* A referendum was approved in May 1977 allowing legislation for a retirement age for Justices. This legislation means that future Justices appointed will retire at 72 years of age.

† A form of writ to compel a person or body to carry out the duty which they are required to perform by law.

under Commonwealth legislation, e.g., Commonwealth Court of Conciliation and Arbitration (before 1956), Commonwealth Conciliation and Arbitration Commission, and other bodies.

In addition, the Constitution provided that the Commonwealth Parliament may make laws conferring jurisdiction on the High Court in any matter arising under the Constitution or involving its interpretation, arising under any laws made by the Commonwealth Parliament, and in admiralty or in maritime matters. Pursuant to the last-named provision the Commonwealth Parliament has in section 38 of the *Judiciary Act* 1903 conferred exclusive jurisdiction upon the High Court in:

- “(a) Matters arising directly under any treaty;
- (b) Suits between States, or between persons suing or being sued on behalf of different States, or between a State and a person suing or being sued on behalf of another State;
- (c) Suits by the Commonwealth, or any person suing on behalf of the Commonwealth, against a State, or any person being sued on behalf of a State;
- (d) Suits by a State, or any person suing on behalf of a State, against the Commonwealth, or any person being sued on behalf of the Commonwealth;
- (e) Matters in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth or a federal court.”

As yet it has not conferred jurisdiction on the High Court in matters arising under any laws made by the Commonwealth Parliament but has done so in relation to a number of particular statutes such as the Patents Act, the Trade Marks Act, and the Life Insurance Act. However, this process is being reversed and jurisdiction in these areas transferred from the High Court to other Federal Courts and Tribunals and to State Courts exercising Federal jurisdiction. In addition, jurisdiction has been conferred on the High Court under the Commonwealth Electoral Act whereby a Justice of the High Court sits as a Court of Disputed Returns.

However, although original jurisdiction has been exercised to a considerable extent over the years, the primary functions of the High Court have been, first, interpreting the Commonwealth of Australia Constitution, and second, hearing and deciding appeals from judgments of the Courts of the States and the Courts of Territories.

The Constitution provided also that no appeals should be taken to the Privy Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth or those of any State or States or as to the limits *inter se* of the constitutional powers of any two or more States, unless the High Court decides that this question is one that should be determined by Her Majesty in Council. Under this particular section, over the years, a number of applications have been made to the High Court for such a certificate but in only one instance has a certificate subsequently been granted.

In 1968, the *Privy Council (Limitation of Appeals) Act* 1968 enacted that special leave to appeal to Her Majesty in Council from a decision of the High Court may be asked only in a matter where the decision of the High Court was given on appeal from the Supreme Court of a State otherwise than in the exercise of federal jurisdiction and did not involve the application or interpretation of the Constitution, or of a law made by the Commonwealth Parliament, or of an instrument made under a law made by the Commonwealth Parliament. The provisions of this Act do not apply in respect of a decision given in a proceeding commenced before the commencement of the Act, namely, 1 September 1968. Matters commenced after that date which involve federal jurisdiction may not be taken on appeal to the Privy Council.

The right of appeal has now been removed in these matters by the *Privy Council (Limitations of Appeals) Act* 1968 and the *Privy Council (Appeals from the High Court) Act* 1975 unless the proceedings were commenced before 8 July 1975.

Section 10 of the *Judiciary Act* 1903 provided that the principal seat of the High Court should be at the seat of government and that until such time as the seat of government was established the principal seat of the High Court should be at such place as the Governor-General from time to time appointed.

By minute dated 2 October 1903, the Governor-General ordered and declared that until the seat of government should be established or until otherwise ordered, the principal seat

of the High Court should be at Melbourne. In 1926, section 10 of the Judiciary Act was amended to provide that on and after a date to be fixed by proclamation the principal seat of the High Court should be at the seat of government and that until the date so fixed the principal seat of the High Court should be at such place as the Governor-General from time to time appointed. Since 13 August 1973, the principal seat of the High Court has been located at Sydney. As from mid-1980, the principal seat of the High Court was due to be located at Canberra.

Supreme Court

The Supreme Court, as its name implies, is the supreme court of the State, having jurisdiction over all matters, civil and criminal, which have not been excluded by statute. It is established by the Constitution Act. It is the counterpart of the English Supreme Court of Judicature which embodies the Court of Appeal and the High Court. The latter is divided into three divisions—Queen's Bench, Chancery, and Family. The Constitution Act provides for the Supreme Court to consist of not more than twenty-one judges of whom one is the Chief Justice. All judges are appointed from the ranks of practising barristers of not less than eight years standing, and retire at the age of 72 years. The Supreme Court consisted of a Chief Justice and 20 puisne judges at 1 July 1979. (Judges of the Supreme Court other than the Chief Justice are called puisne judges.)

The Full Court (usually three, and sometimes five, judges) hears and determines appeals from single judges of the Supreme Court and from the County Court, and criminal appeals from the Supreme Court and from the County Court. There is no general right of appeal in civil matters, *on the facts*, from a decision of a Magistrates' Court. Nevertheless, a dissatisfied party may apply to a Supreme Court judge to review the case, *on the law*.

The main activities of the Supreme Court are centred at Melbourne, but judges go "on circuit" to Ballarat, Bendigo, Geelong, Hamilton, Horsham, Mildura, Sale, Shepparton, Wangaratta, and Warrnambool. Some of these circuit towns are visited three times a year, and every one of them is visited more than once a year.

The officers of the Supreme Court are the Masters (four in 1979), the Listing Master, the Taxing Master, the Prothonotary, the Sheriff, and the Registrar of Probates. The Masters deal with various matters entrusted to them by Rules of Court made by the judges, and are responsible for the investment of money ordered to be paid into court. The Listing Master arranges the lists of cases for hearing. The Taxing Master fixes and settles bills of costs. The Masters, the Listing Master, and the Taxing Master must be barristers and solicitors of five years standing, or, in the case of the Taxing Master, of equivalent experience. The Prothonotary is virtually the secretary of the Supreme Court. Writs are issued from his office, and he has the custody of documents filed therein. The Sheriff who, like the Prothonotary is a public servant (the Masters, the Listing Master, and the Taxing Master are not under the Public Service Act), is responsible for the execution of writs, the summoning of juries, and the enforcement of judgments. There is a Deputy Prothonotary and a Deputy Sheriff at all Supreme Court circuit towns. The Clerk of Courts acts as such in each instance. The Registrar of Probates and the Assistant Registrar of Probates deal with grants of probate and administration of the estates of deceased persons in accordance with section 12 of the *Administration and Probate Act 1958*.

Civil proceedings in the Supreme Court are commenced by the plaintiff issuing, through the Prothonotary's office, a writ (properly called a writ of summons) against the defendant from whom he claims damages or other relief. The writ is a formal document by which the Queen commands the defendant, if he wishes to dispute the plaintiff's claim, to "enter an appearance" within a specified time; otherwise judgment may be given in his absence. A defendant who desires to defend an action files a "memorandum of appearance" in the Prothonotary's office.

When the matter comes before the Supreme Court, it is desirable that the controversial questions between the two parties should be clearly defined. This clarification is obtained by each side in turn delivering documents, stating its own case, and answering that of its opponent. Such statements and answers are called "pleadings", and this method of clarifying the issues has been practised in England from the earliest times, and is as ancient as any part of English procedural law.

Ultimately the action comes to trial before a judge alone, or a judge and jury. When a judge sits alone he decides questions of both law and fact. If there is a jury, the judge directs them on the law; the jury decides the facts. The judgment of the Supreme Court usually provides for payment by the loser of the opponent's legal costs. Normally these are assessed by the Taxing Master. The unsuccessful party in the action has the right of appeal to the Full Court. If a successful plaintiff fails to obtain from the defendant money which the latter has been ordered to pay, he may issue a writ of *fiery facias*, addressed to the Sheriff and directing him to sell sufficient of the defendant's real and personal property to satisfy the judgment.

Criminal proceedings are commenced in the Supreme Court by the filing of a "presentment" in the name of the Attorney-General and signed by him or by the Solicitor-General or by one of the Crown Prosecutors.

In many cases an appeal lies as of right to the High Court of Australia from decisions of the Supreme Court, but in others it can only be taken with the leave or special leave of the High Court. In some cases an appeal may be taken to the Privy Council from a decision of the Supreme Court but the leave of the Court must first be obtained. (With respect to appeals to the Privy Council from the High Court, see page 678.)

County Court

The County Court has an extensive jurisdiction in civil and criminal matters and appeals from Magistrates' Courts and adoptions. The County Court has civil jurisdiction in personal injury actions where the amount claimed does not exceed \$12,000, and in all other personal actions where the amount claimed does not exceed \$6,000.

The County Court has criminal jurisdiction to hear all indictable offences (i.e., those in which the accused will generally be tried by a jury) apart from treason, murder, attempted murder, and certain other statutory exceptions.

In July 1979, the County Court comprised a Chief Judge (a position created in March 1975 in recognition of the increasing importance of the Court) and 31 judges. An appointee to the County Court bench must have practised as a barrister or solicitor for seven years before appointment and retires at the age of 72 years.

The County Court sits continuously at Melbourne and visits seven circuit towns as well as the ten towns also visited by the Supreme Court. County Court judges also preside over a number of tribunals, e.g., the five divisions of the Workers Compensation Board, the Industrial Appeals Court, and the Police Service Board.

An indication of the distribution of the work performed by County Court judges in a typical month is as follows: criminal cases, 10 judges; civil juries, 2 judges; civil causes, 4 judges; appeals, 2 judges; chambers and adoptions, 1 judge; circuit, 6 judges; Workers Compensation Board, 5 judges; and other tribunals, 2 judges.

The principal officer of the County Court is the Registrar of the County Court at Melbourne, who occupies a position parallel to that of the Prothonotary of the Supreme Court. He is a public servant appointed from among senior Clerks of Courts. The Clerk of Courts at each circuit town is also Registrar of the County Court.

Supreme and County Court statistics

The following tables show particulars of Supreme Court and County Court business. In any comparison of the figures with those relating to earlier Victorian figures, other States, or other countries, consideration should be given to the factors described in the following paragraph.

Law in the places compared should be substantially the same, and it should be administered with equal strictness. Proper allowances should also be made for changes in the law, for differences in the age and sex composition of the population, and for changes which may occur over time in the population structure. Changes in the civil jurisdiction of the courts and in the number of cases settled out of court also result in fluctuations in court business.

VICTORIA—SUPREME COURT: CIVIL BUSINESS

Particulars	1974	1975	1976	1977	1978
Causes entered—					
For assessment of damages	22	25	22	36	58
For trial	1,596	1,575	1,243	1,299	1,423
Number of cases listed for trial—					
By juries of six	1,280	937	802	1,150	1,001
By a Judge	1,066	575	644	682	681
Verdicts returned for—					
Plaintiff	163	111	180	148	180
Defendant	21	19	15	18	17
Amount awarded (\$'000)	1,630	1,683	2,488	1,815	2,144
Writs of summons issued	5,214	6,407	6,264	7,327	9,087
Other original proceedings	152	190	175	137	137
Appellate proceedings (other than criminal appeals) heard and determined—					
By Full Court	47	73	82	76	63
By a Judge	99	140	155	120	135

VICTORIA—SUPREME COURT: WRITS RECEIVED BY THE SHERIFF

Year	Possession	<i>Fieri Facias</i>	<i>Venditioni Exponas</i>	Attachment	Order to arrest, including ships	Other	Total (a)
1975	560	830	—	13	3	17	1,423
1976	462	997	8	1	1	20	1,489
1977	662	1,178	4	4	4	25	1,877
1978	751	1,426	6	1	5	17	2,206
1979	1,120	1,611	15	3	7	21	2,777

(a) Country writs represent approximately 14 per cent of total figures.

VICTORIA—COUNTY COURT: MELBOURNE BUSINESS

Particulars	1974	1975	1976	1977	1978
Summonses issued	30,517	31,180	32,669	39,611	46,270
Warrants of execution issued	8,771	10,289	10,261	14,559	17,426
Appeals from Magistrates' Courts lodged	3,498	3,653	3,768	4,003	4,738
Adoption applications filed	1,045	837	810	817	706
Civil trials heard	2,608	2,646	3,003	3,143	2,893
Criminal trials heard	1,674	1,792	(a) 460	1,352	1,118

(a) The number of trials heard in 1976 declined because of an unusual number of lengthy hearings.

VICTORIA—SUPREME AND COUNTY COURTS: NUMBER OF PERSONS CONVICTED: NATURE OF PENALTY

Result of hearing	1974			1975			1976		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
Fined	256	10	266	261	11	272	188	8	196
Imprisoned—									
Under 3 months	49	1	50	62	2	64	60	1	61
3 months and under 6 months	69	1	70	30	1	31	30	—	30
6 months and under 12 months	134	3	137	91	—	91	77	1	78
12 months	86	2	88	102	2	104	58	3	61
Over 12 months and under 2 years	67	—	67	36	—	36	40	1	41
2 years and over	213	1	214	216	3	219	221	12	233
Death sentence (a)	—	—	—	—	—	—	—	—	—
Placed on probation	212	25	237	204	26	230	207	31	238
Released on recognisance or bond	363	61	424	300	26	326	232	16	248
Other	97	1	98	61	—	61	69	4	73
Total	1,546	105	1,651	1,363	71	1,434	1,182	77	1,259

(a) The death sentence, which has not been carried out in Victoria since 1967, was repealed in April 1975.

VICTORIA—SUPREME AND COUNTY COURTS:
AGES OF PERSONS CONVICTED

Age group (years)	1974			1975			1976		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
Under 20	296	13	309	237	16	253	206	13	219
20-24	551	32	583	464	20	484	388	24	412
25-29	272	26	298	240	10	250	231	17	248
30-34	139	12	151	145	10	155	131	7	138
35-39	110	7	117	83	5	88	74	5	79
40-44	65	6	71	73	2	75	64	5	69
45-49	57	4	61	55	4	59	35	3	38
50-54	26	2	28	34	2	36	26	1	27
55-59	20	2	22	19	1	20	13	2	15
60 and over	10	1	11	13	1	14	14	—	14
Total	1,546	105	1,651	1,363	71	1,434	1,182	77	1,259

VICTORIA—SUPREME AND COUNTY COURTS: NUMBER OF PERSONS
CONVICTED OF SPECIFIC OFFENCES

Offence (a)	1974			1975			1976		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
Against the person—									
Murder	8	1	9	14	—	14	9	2	11
Attempted murder	3	—	3	3	—	3	4	1	5
Manslaughter	14	2	16	6	—	6	14	1	15
Manslaughter with motor vehicle	—	—	—	2	—	2	—	—	—
Culpable driving causing death	18	—	18	13	—	13	9	—	9
Assault with grievous bodily harm	63	5	68	70	3	73	70	4	74
Assault	21	1	22	30	—	30	25	7	32
Carnal knowledge (under 16 years)	154	—	154	141	—	141	159	—	159
Carnal knowledge (16 and under 18 years)	3	—	3	—	—	—	—	—	—
Incest	11	1	12	10	—	10	10	1	11
Rape	60	—	60	23	—	23	37	—	37
Indecent assault on female	r42	r1	r43	r47	—	r47	61	—	61
Indecent assault on male	r65	r1	r66	r43	—	r43	42	—	42
Unnatural offences	20	—	20	18	—	18	25	—	25
Bigamy	9	3	12	6	—	6	—	—	—
Other offences against the person	r13	—	r13	r16	—	r16	22	2	24
Total	r504	15	r519	r442	3	r445	487	18	505
Against property—									
Robbery	120	2	122	126	8	134	116	6	122
Breaking and entering—									
Houses	191	16	207	107	9	116	88	3	91
Shops	r57	—	r57	40	—	40	23	—	23
Other	r54	2	r56	36	—	36	29	1	30
Larceny (excluding motor vehicles and cattle and sheep)	114	20	134	80	14	94	63	15	78
Illegal use and larceny of motor vehicles	64	1	65	64	—	64	47	1	48
Cattle and sheep stealing	5	—	5	2	—	2	1	1	2
Other offences against property	90	8	98	99	9	108	97	6	103
Total	695	49	744	554	40	594	464	33	497
Fraud, forgery, and false pretences	118	27	145	118	18	136	83	11	94
Miscellaneous offences (b)	r229	14	r243	r249	10	r259	148	15	163
Grand total	1,546	105	1,651	1,363	71	1,434	1,182	77	1,259

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) Includes breach of bond, probation, etc.

VICTORIA—SUPREME AND COUNTY COURTS: PERSONS CONVICTED OF SPECIFIC OFFENCES: NATURE OF PENALTY, 1976

Offence (a)	Fined	Im- prison- ed twelve months and under	Im- prison- ed over twelve months	Sen- tence sus- pended on enter- ing a bond	Placed on pro- bation	Other	Total
Against the person—							
Murder	—	—	8	1	—	2	11
Attempted murder	—	—	2	—	1	2	5
Manslaughter	1	—	14	—	—	—	15
Manslaughter with motor vehicle	—	—	—	—	—	—	—
Culpable driving causing death	1	—	7	—	—	1	9
Assault with grievous bodily harm	7	16	17	14	12	8	74
Assault	2	7	10	5	7	1	32
Carnal knowledge (under 16 years)	53	16	8	50	31	1	159
Carnal knowledge (16 and under 18 years)	—	—	—	—	—	—	—
Incest	2	1	3	—	4	1	11
Rape	2	—	23	—	2	10	37
Indecent assault on female	7	16	7	21	9	1	61
Indecent assault on male	9	1	5	13	14	—	42
Unnatural offences	1	3	9	4	6	2	25
Bigamy	—	—	—	—	—	—	—
Other offences against the person	2	1	4	4	12	1	24
Total	87	61	117	112	98	30	505
Against property—							
Robbery	9	16	57	9	17	14	122
Breaking and entering—							
Houses	13	23	22	8	18	7	91
Shops	2	6	7	4	2	2	23
Other	3	2	8	6	9	2	30
Larceny (excluding motor vehicles and cattle and sheep)	17	18	8	17	17	1	78
Illegal use and larceny of motor vehicles	2	15	13	9	5	4	48
Cattle and sheep stealing	—	—	—	1	1	—	2
Other offences against property	21	13	11	24	28	6	103
Total	67	93	126	78	97	36	497
Fraud, forgery, and false pretences	15	20	5	35	19	—	94
Miscellaneous offences (b)	27	56	26	23	24	7	163
Grand total	196	230	274	248	238	73	1,259

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.
 (b) Includes breach of bond, probation, etc.

VICTORIA—SUPREME AND COUNTY COURTS: AGES OF PERSONS CONVICTED OF SPECIFIC OFFENCES, 1976

Offence (a)	Persons convicted—age group (years)							Total
	17 and under	18—19	20—24	25—29	30—34	35—39	40 and over	
Against the person—								
Murder	—	1	3	3	1	1	2	11
Attempted murder	—	—	1	1	—	3	—	5
Manslaughter	—	1	2	5	—	2	5	15
Manslaughter with motor vehicle	—	—	—	—	—	—	—	—
Culpable driving causing death	—	—	3	1	2	1	2	9
Assault with grievous bodily harm	2	9	19	15	10	7	12	74
Assault	—	6	15	1	3	2	5	32
Carnal knowledge (under 16 years)	4	43	82	20	7	2	1	159
Carnal knowledge (16 and under 18 years)	—	—	—	—	—	—	—	—
Incest	—	1	4	1	—	1	4	11
Rape	3	12	11	5	6	—	—	37
Indecent assault on female	—	9	10	13	6	5	18	61
Indecent assault on male	—	2	14	7	6	6	7	42
Unnatural offences	—	3	4	6	3	1	8	25
Bigamy	—	—	—	—	—	—	—	—
Other offences against the person	—	3	8	4	3	2	4	24
Total	9	90	176	82	47	33	68	505

VICTORIA—SUPREME AND COUNTY COURTS: AGES OF PERSONS
 CONVICTED OF SPECIFIC OFFENCES, 1976—*continued*

Offence (a)	Persons convicted—age group (years)							Total
	17 and under	18—19	20—24	25—29	30—34	35—39	40 and over	
Against property—								
Robbery	1	33	41	23	13	4	7	122
Breaking and entering—								
Houses	1	21	32	16	10	3	8	91
Shops	1	5	5	3	2	6	1	23
Other	2	1	11	5	4	2	5	30
Larceny (excluding motor vehicles and cattle and sheep)	—	9	14	26	10	3	16	78
Illegal use and larceny of motor vehicles	—	9	25	10	3	1	—	48
Cattle and sheep stealing	—	—	—	1	—	—	1	2
Other offences against property	4	13	33	20	14	5	14	103
Total	9	91	161	104	56	24	52	497
Fraud, forgery, and false pretences	—	7	13	22	21	8	23	94
Miscellaneous offences (b)	1	12	62	40	14	14	20	163
Grand total	19	200	412	248	138	79	163	1,259

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) Includes breach of bond, probation, etc.

Magistrates' Courts

Magistrates' Courts are held at Melbourne, in most suburbs, and at most country centres throughout Victoria. They are presided over by stipendiary magistrates sitting without justices, or by two or more justices of the peace, but not exceeding five. Two or more divisions of the Court may sit simultaneously. Stipendiary magistrates are appointed from the ranks of Clerks of Courts. They must have passed qualifying examinations and have had practical experience as such clerks for ten years. In certain circumstances, barristers or solicitors may also be appointed. They are members of the Victorian Public Service and as such retire on or before the age of 65 years but are completely independent of the Executive, as are other members of the judiciary.

Clerks of Courts are officers of the Court who are appointed under the Public Service Act. They perform administrative duties on behalf of the Court and government departments. Justices of the peace act in an honorary capacity and are appointed from members of the community, are either male or female, and may exercise judicial functions up to the age of 72 years.

There are more than 60 stipendiary magistrates throughout Victoria, but a much larger number of justices, and some 49 circuits over which stipendiary magistrates officiate, comprising over 200 courts which they visit periodically. A number of stipendiary magistrates are stationed in Melbourne at the Magistrates' Court. All stipendiary magistrates are appointed coroners and in districts outside the area of the City Coroner they exercise the functions of coroners and hold inquests.

In addition, three Traffic Courts operate in the Melbourne metropolitan area to hear traffic charges laid by members of the Mobile Traffic Branch, and Magistrates' Courts are set aside for that purpose. A Metropolitan Industrial Court constituted by specially appointed stipendiary magistrates hears charges laid under the Victorian Labour and Industry Act and committed in the Melbourne metropolitan area. Outside that area these charges are dealt with by stipendiary magistrates in Magistrates' Courts.

Magistrates' Courts which are Courts of Record and are open courts have civil as well as criminal jurisdictions.

The civil jurisdiction comprises the ordinary jurisdiction, i.e., generally complaints for causes of action based on simple contracts up to \$1,000, which may be heard by courts consisting of justices as well as stipendiary magistrates. The special jurisdiction exercised by stipendiary magistrates is much wider, comprising causes of action in both contract and tort up to \$3,000 (with a few exceptions). The procedure is somewhat similar to that of the County Court.

In both jurisdictions proceedings may be instituted by ordinary complaint or by way of default summons (except that in special jurisdictions this is limited to a liquidated

amount). Default summonses provide a simpler, more convenient, and readier procedure in that orders may be made without the appearance of the complainant or the hearing of any evidence unless the defendant gives a notice of defence.

There are many other matters of a civil nature vested in Magistrates' Courts by both Commonwealth Acts (e.g., the Income Tax Act) and by Victorian Acts. The Maintenance Act empowers a stipendiary magistrate sitting as a Magistrates' Court to hear and determine complaints for maintenance of children of *de facto* relationships. Under the Family Law Act a stipendiary magistrate is able to hear and determine applications other than applications for "principal relief" (i.e., dissolution, or nullity, or declarations as to the validity of marriages).

The criminal jurisdiction includes the hearing of summary offences and indictable offences triable summarily, as well as the conducting of preliminary examinations in regard to indictable offences.

Summary offences, the largest part of the criminal jurisdiction, comprise all offences under any Act, or breaches of any Act, which in the statute are stated to be prosecuted summarily or before justices, etc., or where no means of enforcement is provided in any Act. This excludes offences declared to be felonies, misdemeanours, or indictable offences. Some of these may only be heard by stipendiary magistrates. In addition, Commonwealth laws have vested Federal jurisdiction in Magistrates' Courts constituted by stipendiary magistrates and those courts so vested hear offences against Commonwealth Acts and also conduct preliminary examinations for indictable offences against Commonwealth laws. Some summary offences, such as parking and some traffic offences, may be dealt with by what is called "alternative procedure" which empowers a stipendiary magistrate in certain circumstances to deal with them in chambers on an affidavit of evidence without the appearance of the informant if the defendant does not elect to appear.

With regard to indictable offences triable summarily, Magistrates' Courts have been given power to deal summarily with a number of the less serious indictable offences including theft and kindred offences up to a value of \$2,000 and some charges of wounding and assault. The procedure laid down ensures that the defendant shall not be deprived of the right to trial by jury if he so desires, as the Court cannot deal with them summarily unless he consents. The preliminary examination of an indictable offence may be held either in the Magistrates' Court or by one or more justices out of court. It is not deemed to be an open court, and publication of the proceedings may be prohibited if it is considered that publication would prejudice the trial. All the evidence is put into writing or recorded and if the court or a justice is satisfied there is sufficient evidence to warrant the defendant being tried or raises a strong or probable presumption of guilt it shall direct him to be tried in either the Supreme Court or the County Court, and may commit him to gaol or release him on bail, or if not so satisfied, shall discharge him. Children's Courts (see pages 687-9) hear all offences by juveniles under the age of 17 years.

Numerous statutes vest other powers in Magistrates' Courts or stipendiary magistrates, among them being the power to make ejection orders and the granting of licences.

The following tables show particulars of Magistrates' Courts business. In any comparison of the figures with those relating to earlier Victorian figures, other States, or other countries, consideration should be given to the factors described in the following paragraph.

Law in the places compared should be substantially the same, and it should be administered with equal strictness. Proper allowances should also be made for changes in the law, for differences in the age and sex composition of the population, and for changes which may occur over time in the population structure. Changes in the civil jurisdiction of the courts and in the number of cases settled out of court also result in fluctuations in court business.

VICTORIA—MAGISTRATES' COURTS: CASES OF A CIVIL NATURE

Type of case	1972	1973	1974	1975	1976
Civil cases—					
Number heard	213,167	184,761	174,329	174,903	146,850
Other cases—					
Garnishee	11,785	10,102	5,284	4,418	2,367

VICTORIA—MAGISTRATES' COURTS: CASES OF A CIVIL NATURE—*continued*

Type of case	1972	1973	1974	1975	1976
Fraud orders	10,479	10,195	7,392	6,572	5,105
Maintenance orders	10,141	11,390	12,454	12,703	5,374
Licences and certificates	28,557	28,773	27,052	26,990	28,770
Show cause summonses	34,123	26,549	24,623	23,110	15,070
Landlord and tenant	4,671	4,295	3,351	2,674	2,372
Miscellaneous	46,564	37,725	31,384	28,477	22,545

VICTORIA—MAGISTRATES' COURTS: ARREST CASES SUMMARILY
DISPOSED OF: NUMBER OF CHARGES AND NATURE OF OFFENCE

Nature of offence	1975				1976			
	Convicted		Dismissed, withdrawn, or struck out		Convicted		Dismissed, withdrawn, or struck out	
	Males	Females	Males	Females	Males	Females	Males	Females
Against the person	3,280	124	2,068	86	3,533	217	2,141	115
Against property	11,276	2,821	1,475	276	11,619	3,122	1,495	225
Fraud, forgery, and false pretences	2,213	560	161	49	2,407	733	229	54
Against good order (a)	7,036	717	1,636	111	7,063	833	1,491	93
Driving offences	19,562	330	2,965	64	21,922	460	2,965	84
Miscellaneous (b)	3,499	400	619	82	4,023	516	652	97
Total	46,866	4,952	8,924	668	50,567	5,881	8,973	668

(a) This table excludes arrests for drunkenness. In 1976, 25,319 persons were charged with drunkenness; the corresponding figure for 1975 was 30,662. In most cases the result of the hearing was a fine, with the alternative of imprisonment for default.

(b) Includes escaping from legal custody, offences concerning drugs, bribery, conspiracy, breach of bond, probation, etc.

NOTE. Statistics in this table have been compiled from records of the Victoria Police. (See footnote to Summons Cases table below.)

VICTORIA—MAGISTRATES' COURTS: ARREST CASES SUMMARILY
CONVICTED: NUMBER OF CHARGES AND NATURE OF PENALTY

Nature of penalty	1974		1975		1976	
	Males	Females	Males	Females	Males	Females
Fined	20,784	2,211	30,404	2,707	33,376	3,261
Imprisoned for—						
Under 1 month	1,899	129	1,945	65	2,042	220
1 month and under 6 months	3,711	98	3,665	127	3,801	132
6 months and under 12 months	885	35	615	7	885	12
1 year and over	196	5	304	4	272	12
Released on probation	2,236	292	2,467	333	2,669	540
Adjourned for a period without probation	916	164	1,083	193	1,212	194
Released on recognisance or bond	4,520	1,260	5,264	1,477	5,058	1,476
Other	1,095	41	1,119	39	1,252	33
Total	36,242	4,235	46,866	4,952	50,567	5,881

See footnotes to preceding table.

VICTORIA—MAGISTRATES' COURTS: SUMMONS CASES SUMMARILY
DISPOSED OF: NUMBER OF CHARGES AND NATURE OF OFFENCE

Nature of offence	1975		1976	
	Convicted	Dismissed, withdrawn, struck out	Convicted	Dismissed, withdrawn, struck out
Against the person	1,591	1,818	1,798	1,809
Against property	5,029	2,086	5,490	2,653
Against good order	1,935	715	2,988	758
Driving offences	198,633	16,204	209,349	17,585
Miscellaneous (a)	49,826	10,359	40,057	8,503
Total	257,014	31,182	259,682	31,308

(a) Miscellaneous offences are generally breaches of Commonwealth and Victorian Acts of Parliament.

NOTE. Details of the sex of offenders are not available for Magistrates' Courts summons cases.

Statistics in this table have been compiled from records of the Victorian Law Department. (See footnote to preceding Arrest Cases tables.)

Children's Court

The Children's Court, which began in Victoria in 1906, is held in the Melbourne metropolitan area and in various country towns and cities. Beyond the Melbourne metropolitan area, the Children's Court is usually held on the same day as the Magistrates' Court and presided over by the same stipendiary magistrate, but honorary Children's Court magistrates are appointed for some Children's Courts.

In the Melbourne metropolitan area, three stipendiary Children's Court magistrates are appointed and they visit ten Children's Courts at regular intervals; all metropolitan Children's Courts are administered from the Melbourne Children's Court.

The Children's Court's jurisdiction is normally restricted to children under the age of 17 years. A child may be brought before the Court for an offence committed before his seventeenth birthday provided the appearance takes place before his eighteenth birthday. Two types of cases come before the Court, namely, offences and applications under the Community Welfare Services Act. The Court has no jurisdiction in civil matters, adoption, maintenance, or custody.

The Children's Court follows the practice and procedure of Magistrates' Courts, with two main exceptions. The first of these exceptions is that the Court is not bound to observe legal formalities and ceremonies. The second is that the Court is always closed to the public and the media is forbidden from reporting any proceedings. The Court has considerably wider powers than Magistrates' Courts and may deal with any offence except homicide. The child (or the parent if the child is under the age of 15 years) must always consent to the Court dealing with an indictable offence in a summary manner, otherwise the matter would be tried by a jury in a higher court. Consent is given in almost all cases.

The police and certain others may apply to the Children's Court for an order declaring a child "in need of care and protection". The Community Welfare Services Act lists the categories which make such an application possible.

The *Children's Court Act 1973* states that the Court shall first have regard to the welfare of the child. The Court attempts to reform and rehabilitate offenders. A common method of dealing with a child is by releasing him on probation for a period not exceeding three years. Most terms of probation are for twelve months. A probation officer is expected to assist and guide the child during that period. If probation is not considered necessary a case may be adjourned without supervision for a specified period not exceeding two years.

Instead of releasing a child on probation, a Court may impose a supervision order. This is similar to a probation order with the important distinction that the supervising probation officer is able to impose reasonable conditions and directions on the parents or guardians, as well as on the child.

Probation officers also assist the Court by furnishing reports on children's backgrounds. Stipendiary probation officers are employed by the Community Welfare Services Department and usually handle those cases requiring special expertise. Their ranks are augmented by a large number of honorary probation officers throughout Victoria. Some honorary probation officers are employed by the churches.

An important provision provided for in the *Children's Court Act 1973* empowers a Court to release a child on a good behaviour bond or to impose a monetary penalty up to a maximum of \$100 without necessarily recording a conviction against the child.

As a last resort, children under the age of 15 years may be admitted to the care of the Community Welfare Services Department and those aged 15 years or over may be detained in a youth training centre for a specified period not exceeding two years or, if more than one charge is proved, not more than three years in all. The *Children's Court Act 1973* empowers a Court to fix an aggregate period of detention rather than a specific sentence on each separate charge.

The *Community Welfare Services Act 1970* has vested in the Youth Parole Board the authority to parole children who are serving periods of detention.

Allied to the Children's Court is the Children's Court Clinic which is staffed by a team of psychiatrists, psychologists, and social workers. The Clinic undertakes detailed investigations of problem cases referred to it by the Court and makes recommendations on its findings. In some cases the Clinic will offer counsel to parents and children after a court appearance.

**VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES AND NATURE OF OFFENCE**

Nature of offence	1975			1976		
	Males	Females	Persons	Males	Females	Persons
Against the person	1,124	56	1,180	743	70	813
Against property	11,137	774	11,911	8,894	686	9,580
Fraud, forgery, and false pretences	256	60	316	112	47	159
Against good order	1,159	69	1,228	983	94	1,077
Driving offences	1,110	11	1,121	1,018	6	1,024
Miscellaneous offences (a)	382	53	435	279	49	328
Total	15,168	1,023	16,191	12,029	952	12,981

(a) Breaches of Acts of Parliament and by-laws of statutory bodies, escaping from legal custody, breach of bond, probation, etc.

**VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES AND NATURE OF PENALTY**

Nature of penalty	1975			1976		
	Males	Females	Persons	Males	Females	Persons
Fined	1,234	54	1,288	1,188	92	1,280
Placed on probation	4,736	281	5,017	3,474	313	3,787
Community Welfare						
Services Department (a)	3,358	145	3,503	3,426	177	3,603
Adjourned without probation	3,865	371	4,236	2,255	245	2,500
Other	804	91	895	913	73	986
Total convictions	13,997	942	14,939	11,256	900	12,156
Dismissed, withdrawn, or struck out	1,171	81	1,252	773	52	825
Total	15,168	1,023	16,191	12,029	952	12,981

(a) Includes "admitted to care" and "placed in custody" of the Community Welfare Services Department.

**VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES: NATURE OF OFFENCE AND
NATURE OF PENALTY, 1976**

Nature of offence	Nature of penalty					
	Dis- missed, with- drawn, etc.	Otherwise dealt with				Other
		Fined	Placed on probation	Community Welfare Services Depart- ment (a)	Ad- jour- ned without probation	
Against the person—						
Assault and grievous bodily harm	209	100	102	108	70	28
Sex offences	24	5	52	39	30	33
Other	1	1	3	3	5	—
Total	234	106	157	150	105	61
Against property—						
Robbery	9	1	11	21	10	6
Breaking and entering	52	80	1,206	1,274	584	232
Larceny (excluding motor vehicles)	96	195	1,086	730	792	295
Motor vehicles (larceny and illegal use)	97	114	577	690	302	137
Wilful damage	62	96	113	75	73	30
Other offences against property	60	25	171	120	111	47
Total	376	511	3,164	2,910	1,872	747
Fraud, forgery, and false pretences	7	9	41	50	39	13
Against good order—						
Indecent behaviour, etc.	17	6	11	14	33	6
Other offensive behaviour	15	34	10	5	14	12
Obscene and insulting language	11	55	21	23	12	5
Firearms	12	61	25	26	76	11
Other offences against good order	65	90	137	88	126	56
Total	120	246	204	156	261	90

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES: NATURE OF OFFENCE AND
NATURE OF PENALTY, 1976—*continued*

Nature of offence	Nature of penalty					
	Dis- missed, with- drawn, etc.	Otherwise dealt with				
		Fined	Placed on probation	Community Welfare Services Department (a)	Ad- jour- ned without probation	Other
Driving offences	64	346	191	199	169	55
Miscellaneous offences (b)	24	62	30	138	54	20
Grand total	825	1,280	3,787	3,603	2,500	986

(a) Includes "admitted to care" and "placed in custody" of the Community Welfare Services Department.

(b) Breaches of Acts of Parliament and by-laws of statutory bodies, escaping from legal custody, breach of bond, probation, etc.

Police warnings for juvenile first offenders

A system for warning juvenile first offenders operates in Victoria to prevent many children from having to make an appearance in a Children's Court. Police are instructed not to proceed against children who have committed minor offences, if an alternative course of action is available. Warnings are given in the presence of parents or guardians who are told of the probable underlying reason for the offence, and both the offender and his parents or guardian are expected to ensure the avoidance of a repetition of the offence.

Offenders are not normally given a second chance and divisional officers believe that only a very small proportion of those warned offend again. The reporting member may continue to take an interest in the child, and in most cases co-operation is received from both the offender and his parents or guardians.

VICTORIA—POLICE WARNINGS

Offence group (a)	1972		1973		1974		1975		1976	
	Males	Females	Males	Females	Males	Females	Males	Females	Males	Females
Assault (b)	35	5	26	8	44	7	51	8	62	6
Robbery with violence	—	—	—	—	—	—	1	—	3	—
Sex	32	2	34	—	66	1	71	3	76	3
Breaking and larceny (c)	1,416	771	1,708	655	2,067	884	2,373	1,249	2,477	1,140
Other offences	481	27	494	48	612	73	789	86	903	96
Total	1,964	805	2,262	711	2,789	965	3,285	1,346	3,521	1,245

(a) Based on Major Crime Index prepared by the Victoria Police.

(b) Includes grievous bodily harm.

(c) Includes larceny and/or illegal use of a motor vehicle.

VICTORIA—POLICE WARNINGS: AGE OF OFFENDER, 1976

Offence group (a) and sex	Age last birthday (years)					Total	
	10 and under	11, 12	13, 14	15, 16	17 and over		
Assault (b)	Males	1	7	16	28	10	62
	Females	—	—	1	4	1	6
Robbery with violence	Males	—	—	2	1	—	3
	Females	—	—	—	—	—	—
Sex	Males	—	4	21	41	10	76
	Females	—	2	1	—	—	3
Breaking and larceny (c)	Males	219	486	855	779	138	2,477
	Females	37	176	460	380	87	1,140
Other offences	Males	79	136	228	355	105	903
	Females	4	13	29	38	12	96
Total		340	824	1,613	1,626	363	4,766

(a) Based on Major Crime Index prepared by the Victoria Police.

(b) Includes grievous bodily harm.

(c) Includes larceny and/or illegal use of a motor vehicle.

Inquests

A coroner has jurisdiction to hold an inquest concerning the manner of death of any person who is slain or drowned or who dies suddenly or in prison or while detained in any mental hospital and whose body is lying dead within the district in which such coroner has jurisdiction, and subject to certain conditions, to hold an inquest into the cause and origin of any fire whereby property has been destroyed or damaged.

A 1970 amendment to the *Coroners Act* 1958 made provision for the holding of an inquest where a coroner believes that a death has occurred in or near the area of his jurisdiction and that the body cannot be recovered or has been destroyed. The coroner must first report the facts to the Attorney-General who may direct the inquest to be held.

A coroner's duties in relation to this are regulated by the Coroners' Acts and there are special provisions relating to inquests in other Acts, such as the Community Welfare Services Act and the Registration of Births, Deaths, and Marriages Act. Coroners and deputy coroners are appointed by the Governor in Council, every stipendiary magistrate being appointed a coroner for the State of Victoria. Deputy coroners have jurisdiction in the districts for which they have been appointed. In addition, a justice of the peace has jurisdiction to hold an inquest, but only if requested to do so by a police officer in charge of a station, or by a coroner.

In the majority of cases a coroner acts alone in holding an inquest, but in certain cases a jury is empanelled. This is done when:

- (1) The coroner considers it desirable;
- (2) in any specified case a law officer so directs;
- (3) it is expressly provided in any Act that an inquest shall be taken with jurors;
- (4) a relative of the deceased person so requests;
- (5) any person knowing the circumstances leading up to the death of the deceased person so requests; or
- (6) any member of the Victoria Police so requests.

Amending legislation in 1953 provided that the viewing of the body is not essential and is necessary only when the coroner or jury deem it advisable.

**VICTORIA—MELBOURNE CORONER'S
COURT: INQUESTS HELD**

Year	Number of inquests held
1974	1,305
1975	1,574
1976	1,457
1977	1,497
1978	1,361

Committals by Coroners

When a person is arrested and charged before a justice or court with murder, manslaughter, arson, infanticide, or culpable driving, those proceedings are adjourned from time to time pending the holding of the inquest. If the inquest results in a finding against that person of murder, manslaughter, arson, infanticide, or culpable driving, the coroner issues a warrant committing him for trial, the other proceedings being then withdrawn.

VICTORIA—COMMITTALS BY CORONERS

Year	Murder			Manslaughter			Culpable driving		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
1974	49	2	51	11	3	14	16	—	16
1975	30	1	31	3	1	4	30	—	30
1976	22	3	25	8	1	9	27	—	27
1977	21	6	27	9	4	13	36	—	36
1978	32	3	35	5	3	8	33	1	34

Legal profession

Introduction

Until 1891, the legal profession in Victoria was divided into two separate branches—barristers and solicitors—as it still is in England and New South Wales. Solicitors prepared wills, contracts, mortgages, and transfers of land, and generally instituted legal proceedings. Barristers appeared for litigants and accused persons in court and wrote opinions on legal questions in chambers. A litigant or accused person could not approach a barrister directly, but only through a solicitor who instructed the barrister for him.

In 1891, the Victorian Parliament amalgamated the two branches, and since then every Victorian lawyer has been admitted to practice as a barrister *and* solicitor, and is entitled to do the work of both. Despite this compulsory legal fusion most lawyers voluntarily continued the segregation of the profession into two separate branches as before, although a few practitioners took advantage of their legal rights. These latter practitioners have their successors today, although most Victorian lawyers, on admission to practice, still choose to make their career in one or other of the two branches—not in both.

Victorian Bar

The basic traditions of the Victorian Bar came from England, although the early influence of prominent Irish barristers remains strong. Since 1891, Victorian legislation has provided that every admitted practitioner may practise as a barrister and solicitor. Admission to practice requires a law school qualification and either service under articles or completion of the Leo Cussen Institute for Continuing Legal Education's professional practice course.

Most Victorian practitioners choose to specialise either as barristers or as solicitors. The Victorian Bar, an unincorporated association formed in 1900, consists of those who sign the Victorian Bar roll after undertaking to practise exclusively as barristers. In August 1979, there were 651 members of the Bar, including 28 women, in full-time active practice. Six had chambers in Ballarat, Bendigo, or Geelong. Barristers appointed to the Bench remain members of the Bar.

Barristers spend the first nine months reading as a pupil in the chambers of an experienced barrister of at least ten years standing, receiving practical instruction and guidance in the work and ethics of a barrister. After three months of reading, the pupil may take work of his or her own. During the first three months of reading, the pupil must attend a two month course of training in legal theory and skills of particular application to the profession of advocacy and attend lectures by senior barristers on ethics and workmanship. After reading, the barrister takes a tenancy of chambers provided by the Bar-owned company in premises close to the main courts. New barristers usually pay lower rents than more senior barristers.

Solicitors' clients are members of the public. Barristers are engaged by solicitors on behalf of the solicitors' clients. Barristers specialise in conducting and appearing in civil litigation and criminal trials, in giving opinions on legal questions, and in preparing documents involving difficulties of law.

Barristers wear wigs and gowns in the higher courts. Besides appearing in courts, barristers frequently appear before specialised tribunals dealing with issues of economics and public interest such as trade practices, prices justification, industrial arbitration, the environment, and town planning.

Senior barristers may be appointed Queen's Counsel, who specialise in cases requiring more than one counsel and appear with a junior. There were 55 Queen's Counsel practising at the Victorian Bar in August 1979.

In August 1979, eight barristers' clerks acted for varying numbers of practising barristers, ranging from about 60 to about 115 in number. Clerks and their staff inform solicitors of the availability of barristers, negotiate fees, render accounts, and provide telephone and delivery services for the barristers for whom they act. Barristers pay their clerks a percentage of fees received.

The Victorian Bar Council represents the Bar and administers its affairs. Its rulings on ethics and professional conduct bind all members. Its eighteen members are elected each

October. Three members are of less than six years standing as barristers and another four of less than fifteen years standing. The Bar Council elects its chairman and other officers, and its affairs are administered by a full-time executive officer. Under the Bar Council, three administrative committees of members of the Bar Council are empowered to make recommendations to the Bar Council or to make decisions on its behalf—the Executive, Ethics, and Law Reform Committees.

A Young Barristers' Committee, elected by barristers of less than six years standing, investigates and makes recommendations to the Bar Council on questions concerning young barristers and in particular those involving practice in Magistrates' Courts.

The Victorian Bar, often acting jointly with the Law Institute of Victoria, helps to provide legal aid, to supervise legal education and training, to contribute to the reform of the law, and the practices and procedures of courts and tribunals. It has, or has representatives on, about sixty committees doing such work. The Victorian Bar is a member of the Law Council of Australia, which represents the whole Australian legal profession, and of the Australian Bar Association which represents barristers.

Law Institute of Victoria

The Law Institute of Victoria is the professional body of those members of the legal profession who practise as solicitors in Victoria. It was established in 1859 and incorporated by an Act of the Victorian Parliament in 1917. The relevant statutory provisions are now included as Part III of the *Legal Profession Practice Act 1958*. All persons admitted to practise as a barrister and solicitor of the Supreme Court of Victoria are eligible for membership of the Law Institute of Victoria, whether they are practising as solicitors or not.

The Institute is governed by a Council consisting of the Attorney-General, the president of each of the nine Country Law Associations, one member appointed by each of the five suburban law associations, and eighteen members elected either as suburban council members or general council members. The Council operates through standing committees and committees appointed to deal with specific matters which after detailed consideration submit recommendations to the Council. The Institute is also represented on a number of outside bodies associated with the law.

Apart from the services which the Institute provides for its members, it also performs important public duties. It has a statutory obligation to control solicitors' trust accounts, to issue annual practising certificates, to administer the Solicitors' Guarantee Fund, and to consider claims for compensation out of the Fund by persons who allege they have suffered pecuniary loss as a result of a defalcation committed by a solicitor. The Institute also prescribes standards of professional conduct and insists on all solicitors maintaining a high ethical standard, investigating all complaints concerning the conduct of a solicitor, and in appropriate cases instituting disciplinary action. The Institute endeavours to maintain and improve the public image of the legal profession and to educate the public about the services which a solicitor can provide and the occasions on which it is desirable to consult a solicitor. It is active in law reform. Committees meet regularly to consider anomalies of omissions in the law or practice and the Council makes representations to the Attorney-General or other appropriate authority for the amendment of the law.

Disciplinary procedures for members of the legal profession

Since January 1979, the discipline of the legal profession has been overseen by two tribunals, which for the first time include non-lawyers. The tribunals were established by the *Legal Profession Practice (Solicitor's Disciplinary Tribunal) Act 1978* and the *Legal Profession Practice (Discipline) Act 1970*.

The Solicitor's Disciplinary Tribunal is appointed from a panel consisting of current members of the Council of the Law Institute; solicitors appointed by the Council; and three persons, who are not legal practitioners, appointed in the public interest by the Attorney-General. The function of the Tribunal is to consider complaints of misconduct against solicitors. "Misconduct" includes various acts or omissions by a solicitor such as charging grossly excessive costs; making untrue statements; failure in performing any work in connection with a solicitor's practice which constitutes a gross breach of duty to a client or the court; failure to lodge a report of the annual audit of trust accounts not later than

3 months after the statutory time; and wilful or reckless non-compliance with the rules and regulations governing the compulsory indemnity insurance scheme for solicitors.

Investigations of alleged misconduct can be initiated by the Secretary of the Institute or by any person writing to the Secretary of the Law Institute. After an initial investigation and consideration of any explanation made by a solicitor, the Secretary may refer the matter to the Tribunal. Provision is made for three forms of hearings: for a preliminary hearing, the President of the Institute assigns one person; for a summary hearing, three persons; and for a full hearing, five persons one of whom is a lay member, are assigned. The Tribunal may impose penalties such as fines of up to \$5,000 or the cancellation, suspension, or limiting of practising certificates.

The discipline of barristers is the responsibility of the Barrister's Disciplinary Tribunal or Bar Tribunal. The Tribunal, appointed by the Chief Justice, comprises a judge, or former judge of the Supreme Court as chairman; three barristers — two being Queen's Counsel and one being junior Counsel; and a person, who is not a legal practitioner, nominated by the Attorney-General. Complaints against barristers are referred initially by the chairman of the Victorian Bar Council to the Council's Bar Ethics Committee. After preliminary investigation of a complaint, the Ethics Committee may decide to take no further action; deal with the matter summarily; or lay a charge against the barrister before the Barrister's Disciplinary Tribunal.

Summary hearings by the Ethics Committee are designed to deal with misconduct for which a fine not exceeding \$1,000, or suspension for up to 3 months, would be appropriate. However, the Committee may decide to lay a charge before the Tribunal, rather than deal with the matter summarily. A barrister is entitled to have a matter dealt with by the Tribunal if he objects to a summary hearing by the Committee.

Hearings by the Tribunal deal with the most serious cases of misconduct. The Tribunal has the power to impose a fine not exceeding \$5,000; to suspend the barrister (without limit as to time); to direct that the barrister's name be struck off the Bar Roll, or the roll of practitioners kept by the Supreme Court; and to order that the expenses incurred by the Tribunal be paid. A party aggrieved by an order of the Tribunal may appeal against the order to the Full Court of the Supreme Court. Hearings by the Tribunal will be held in public unless the Tribunal considers it is in the interests of justice that the hearing or part of it should be held in private.

A lay observer has been appointed to examine and report on the manner in which the two tribunals handle complaints. Annual reports are made to the Law Institute of Victoria or the Victorian Bar Council and to the Attorney-General who presents the reports to Parliament. The lay observer, who is appointed for three years, has the power to require the various disciplinary bodies to provide him with information and to make reports or recommendations.

Professional committees and agencies

Chief Justice's Law Reform Committee

This Committee was founded in 1944 by the then Chief Justice to consider making recommendations to the Victorian Parliament for the reform of the law on matters of a non-contentious nature, including the abolition of obsolete and useless rules. Since then, it has made some one hundred such recommendations, many of which have been given effect to in legislation.

The Committee consists of members of the judiciary, from both the Supreme and County Courts, the Bar, solicitors, and the law faculties of the University of Melbourne and Monash University. The usual number of members is about twenty, who meet in full committee two or three times each year. Much of the work of the Committee is done by the sub-committees comprising members of each branch of the legal profession, who are not necessarily members of the full committee, but who have some expertise in the area under investigation. The reports of the sub-committees are then considered by the full committee; if the Committee considers that a change in the law is desirable, a recommendation is forwarded to the appropriate Victorian Government department.

Suggestions of matters to be considered by the Committee often emanate from the Attorney-General, but the Committee does consider matters suggested by other sources,

provided any reforms proposed are likely to be politically non-contentious and the Committee has the resources to undertake the particular inquiry. All the work done by members of the Committee is voluntary.

An example of legislation resulting from a recommendation of the Committee is the *Crimes (Theft) Act 1973*, which replaced many outdated and technical rules of the law of larceny with a modern law of theft. Other legislation has occurred in areas such as evidence, torts, and wills.

Council of Law Reporting in Victoria

The Council of Law Reporting in Victoria is a body corporate established by the *Council of Law Reporting in Victoria Act 1967*. It consists of a judge of the Supreme Court appointed by the Chief Justice as chairman, the Attorney-General, the Solicitor-General, the librarian of the Supreme Court, two members appointed by the Victorian Bar Council, and two members appointed by the Law Institute of Victoria. The Council has a registrar and an honorary secretary.

The Council has arranged for the publication by a publishing company of the Victorian reports which contain decisions of the Supreme Court of Victoria.

Under the Act, it is not lawful to publish a new series of reports of judicial decisions of any court in Victoria except with the consent of the Council. The Council has given limited consents for the publication of restricted categories of decisions in certain specialised reports with an Australia-wide circulation.

Council of Legal Education

The Council of Legal Education was established by an Act of the Victorian Parliament in 1903 and is presently governed by the provisions of the *Legal Profession Practice Act 1958* as amended. The Council consists of the judges of the Supreme Court, the Attorney-General, the Solicitor-General, and representatives of the law faculties of the University of Melbourne and Monash University, the Law Institute of Victoria, and the Victorian Bar Council. The Chief Justice of Victoria is the president of the Council.

The functions of the Council are to make and alter rules:

- (1) Relating to the courses of study and examination and service of articles and other qualifications of candidates to practise as barristers and solicitors and for the admission of such candidates to practise; and
- (2) for the admission to practise in Victoria of persons admitted to practise in any State or Territory of the Commonwealth of Australia or in England, Scotland, Northern Ireland, the Republic of Ireland, or any part of Her Majesty's Dominions or the British Commonwealth of Nations.

The rules of the Council are included in the statutory rules published by the Victorian Government Printer.

Law Reform Commissioner

The office of Law Reform Commissioner was established by an Act of the Victorian Parliament in 1973. Mr T. W. Smith, Q.C., served as Commissioner from 1 January 1974 to 31 December 1976. Sir John Minogue, Q.C., was appointed Commissioner on 28 June 1977. The functions of the Commissioner are to advise the Attorney-General on the reform of the law in Victoria, including in particular: (1) The simplification and modernisation of the law, having regard to the needs of the community; (2) making the administration of justice generally more economical and efficient; (3) the elimination of anomalies, defects, and anachronisms; (4) the repeal of obsolete or unnecessary enactments; (5) the consolidation, codification, and revision of the law; and (6) the investigation and reporting to the Attorney-General on any matter relating to law reform referred to him by the Attorney-General.

Under the Act, provision is made for the appointment of a Law Reform Advisory Council of five members. The Council consists of representatives of the Law Institute of Victoria, the Victorian Bar Council, academic lawyers, and the public.

The following table shows details of the reports issued by the Law Reform Commissioner during the period from August 1974 to June 1979:

VICTORIA—LAW REFORM COMMISSIONER: REPORTS ISSUED,
AUGUST 1974 TO JUNE 1979

Date of report	Title of report	Matters on which legislation was recommended
August 1974	Report No. 1—Aspects of the Law of Murder	Abolition of the doctrines of constructive murder; consequential increase in penalty for manslaughter; and amendment of section 40 of the <i>Crimes Act 1958</i>
October 1974	Report No. 2—Criminal Procedure—Miscellaneous Reforms	Creation of a right of appeal from insanity verdicts; legal aid for bail applications; notice of alibi defences; order of addresses in criminal trials; and taking other admitted offences into consideration on sentencing
January 1975	Report No. 3—Criminal Liability of Married Persons—Special Rules	Coercion; accessories after the fact; misprision of felony; receiving stolen goods; and conspiracy
January 1976	Report No. 4—Delays in Supreme Court Actions	Changes in the Supreme Court Act and Rules directed to promoting earlier settlements of actions, and the reduction of delays in procedures for bringing actions to trial
June 1976	Report No. 5—Rape Prosecutions (Court Procedures and Evidence)	Reforms in court procedures and rules of evidence affecting rape trials
December 1976	Report No. 6—Spouse Witnesses (Competence and Compellability)	Compellability of spouse witnesses to give evidence
June 1978	Report No. 7—Innocent Misrepresentation	Classification of the remedies available where a contract is induced by innocent or negligent misrepresentation.
June 1979	Report No. 8—Pre-Incorporation Contracts	Ratification of extracts made by a company prior to incorporation

Australian Institute of Criminology

The Australian Institute of Criminology is a statutory authority. This form of organisation allows it to act as a national focus for criminological research, for training courses in the criminal justice system, and to provide technical assistance to the various governments of Australia in connection with their work for the prevention of crime.

The Criminology Research Council is a separate body, serviced by the Australian Institute of Criminology, and all applications to the Council are processed by the Institute. Both the Institute and the Council are constituted under the Commonwealth *Criminology Research Act 1971*. This legislation was enacted by the Commonwealth Government in 1973 and implemented during 1974–75.

Commonwealth Legal Aid Commission

The Commonwealth Legal Aid Commission was established under the Commonwealth *Legal Aid Commission Act 1977*. The work of the Commission includes examination of the need for legal assistance in Australia and advice upon the most effective means of satisfying that need. The Commission is required to make recommendations concerning legal assistance in Commonwealth matters and Commonwealth financial assistance to State and Territorial legal aid commissions. It also reports upon the functioning of those commissions including their accessibility, effectiveness, and economy. The Commission is required to collect and publish statistics of legal aid schemes in Australia and to research

all aspects of legal assistance, including new methods of financing and providing legal assistance. It also advises upon educational programmes to promote an understanding by the public of their rights, powers, privileges, and duties.

Australian Legal Aid Office

The Australian Legal Aid Office was established by the Commonwealth Government in July 1973. It provides a general problem-solving service of legal advice for persons with an element of need. Each person seeking help from the Office is seen by a lawyer, the problem identified, and advice given. Further assistance, including assistance in litigation, is available to all persons in matters arising under Commonwealth law, including family law, and in matters arising under State law to persons for whom the Commonwealth Government has a special responsibility, such as those in receipt of social security, Aborigines, ex-servicemen, students, and newcomers to Australia. The assistance is provided by lawyers of the Australian Legal Aid Office or by referral to private legal practitioners.

The criteria for the provision of further assistance are, first, the merit of the applicant's case and, second, the financial position of the applicant—whether he satisfies the means and needs test of the Office. In considering the merits, regard is had to all the circumstances, particularly to any advantage the applicant might gain from the provision of assistance and any disadvantage he might suffer if assistance was refused, and the likelihood that the proceedings will be terminated by a decision, settlement, or otherwise so as to result in a proper and just advantage to the applicant. The means and needs test is the inability of the applicant to afford the cost of representation in the particular case. An applicant who can afford to contribute towards the cost of his case is asked to do so.

The policy of the Commonwealth Government is to rationalise legal aid throughout Australia by the establishment, under State or Territorial legislation, of independent statutory legal aid commissions in each State and Territory that will absorb the functions of the Australian Legal Aid Office and the legal aid schemes operated by State Governments and by law societies. Western Australia, South Australia, Queensland, Victoria, and the Australian Capital Territory have passed legislation to establish commissions. On 31 December 1979, legal aid commissions were in operation in Western Australia, South Australia, the Australian Capital Territory, and Queensland.

The Australian Legal Aid Office continues to operate in Victoria, New South Wales, Tasmania, and the Northern Territory, and there is a branch office in each of the relevant capital cities with regional offices located in metropolitan and country centres. In Victoria, offices are situated in Melbourne, Brunswick, Geelong, Glenroy, and Sunshine. On 30 June 1979, the Australian Legal Aid Office employed 21 lawyers and 36 supporting administrative staff in Victoria. The lawyers provide advice at interview to approximately 1,300 persons each month; further assistance is provided by the lawyers, or by referral to private legal practitioners, to an average of 1,100 persons each month.

Further reference: *Victorian Year Book 1976*, pp. 768-71

Legal Aid Committee

The Legal Aid Committee was established pursuant to the *Legal Aid Act 1961*, as amended by the *Legal Aid Act 1969*. The Committee comprises four representatives from each of the Law Institute of Victoria and the Victorian Bar Council, who usually serve for a period of one year on an honorary basis.

Legal assistance to persons who are unable to pay ordinary legal costs is given in all criminal and civil matters involving State laws, other than those criminal matters referred to in Part I of the *Legal Aid Act 1969*. There is no fixed means test, each application being treated on its merits. Assistance may be granted either without charge or on condition that a periodical contribution is made towards the costs incurred by the Committee on behalf of the assisted person. When assistance has been approved, a solicitor in private practice is assigned to act for the applicant, and is authorised to brief a barrister when necessary. Out of pocket expenses incurred by the appointed solicitor are reimbursed in full, and accounts from solicitors and barristers are paid at the rate of 80 per cent of the normal fee, in accordance with the Act.

VICTORIA—LEGAL AID COMMITTEE: BUSINESS

Type of case	Number of applications					Number actually assisted				
	1974	1975	1976	1977	1978	1974	1975	1976	1977	1978
Divorce	4,363	1,265	384	226	196	2,716	75	2	—	1
Maintenance	4,565	4,115	1,306	1,351	1,580	2,921	2,506	770	838	1,202
Custody	421	597	233	374	298	274	225	67	97	139
Affiliation	422	286	216	226	170	264	181	120	151	150
Motor accident damages claims	1,072	766	513	418	745	542	329	299	304	469
Criminal (Magistrates' Courts and County Court appeals)	2,922	4,803	5,913	6,131	9,472	1,984	2,703	2,815	3,166	5,769
Civil causes	2,666	2,754	2,620	2,913	2,952	978	761	631	923	1,052
Workers compensation	331	317	265	303	303	209	147	127	162	172
Probate and testators family maintenance	286	122	72	56	78	75	23	15	12	33
Others	1,410	1,749	1,418	1,419	1,453	465	358	228	288	313
Total	18,458	16,774	12,940	13,417	17,247	10,428	7,308	5,074	5,941	9,300

Further reference: Voluntary legal aid, *Victorian Year Book* 1975, pp. 850-1

Leo Cussen Institute for Continuing Legal Education

Details of the Institute may be found on pages 707-8 of this chapter.

Victoria Law Foundation

The Victoria Law Foundation was established by the *Legal Profession Practice (Victoria Law Foundation) Act* 1967 and commenced operations in 1969. Its constitution is now to be found in the *Victoria Law Foundation Act* 1978. The members of the Foundation are: the Chief Justice (President), the Attorney-General of Victoria, the Law Reform Commissioner, the President of the Law Institute of Victoria, the Chairman of the Victoria Bar Council, nine other persons appointed by the Governor in Council — three on the nomination of the Attorney-General, three on the nomination of the Law Institute of Victoria, and up to three further persons appointed by co-option by the Foundation. (Of the nine to twelve appointed members, at least six must be lawyers; the remainder may be laymen.)

The activities of the Foundation encompass:

- (1) Promotion of legal research relating to law reform in Victoria;
- (2) promotion of legal education in Victoria;
- (3) to establish, maintain, or improve law libraries in Victoria;
- (4) improvement of the administration of the law in Victoria;
- (5) to promote or undertake within Victoria community education in law and the legal system, including programmes in schools;
- (6) to communicate to legal practitioners and other persons information on the law and matters related to the law; and
- (7) to publish or subsidise the publications of material connected with carrying out the objects of the Foundation.

Further reference: *Victorian Year Book* 1975, pp. 860-1

ADMINISTRATION OF LAW

Law in Victoria

Introduction

Law is the body of rules, whether proceeding from formal enactment or from custom, which a particular state or community recognises as binding on its members or subjects, and enforceable by judicial means. It has been said that "substantially speaking, the modern world acknowledges only two great original systems of law, the Roman and the English".

English law came to Australia with Governor Phillip in 1788, although for many years in a severely attenuated and autocratic form. Immediately before Federation, the law operative in Victoria consisted of the laws enacted by its legislature up to that time; the law of England applicable to the Colony up to 1828; the laws of New South Wales up to 1851; and certain Imperial statutes since 1828 applicable as of paramount force, or adopted by the local legislature since. In addition, the common law applied.

In 1901, the Commonwealth of Australia was established by an Imperial Act under which certain powers were conferred upon the newly created Commonwealth Parliament, and the remaining powers were left to the Parliaments of the six States. Subject to that proviso, State law in Victoria continues as it did before Federation, and Victoria, like the other States, retains some sovereign powers.

Law Department

Administration

At the time of preparation of this chapter the Law Department's central administration was being re-organised. Consequently, information on branches and offices of the Department which were established prior to July 1979 and appeared in earlier *Year Books*, has not been repeated. It is intended to provide more up-to-date material on these matters in the 1981 edition of the *Victorian Year Book*.

On 1 July 1979, the Law Department assumed responsibility for the following agencies previously administered by the Chief Secretary's Office:

Crimes Compensation Tribunal

The *Criminal Injuries Compensation Act 1972* established the Crimes Compensation Tribunal consisting of a person of not less than seven years standing as a barrister and solicitor. The Tribunal administers a scheme designed to compensate persons who have suffered physical injury or nervous shock as a result of a criminal act. Dependents of a person who has died as a result of a criminal act may also be entitled to compensation. A limit of \$5,000 in respect of any award became effective on 1 December 1976.

VICTORIA—CRIMES COMPENSATION TRIBUNAL: SUMMARY OF PROCEEDINGS AT 30 JUNE

Item	1977	1978	1979
Applications—			
Pending at 1 July of previous year	233	218	321
Further applications received to 30 June	865	1,117	1,495
Determinations—			
Final awards made	854	987	1,377
Applications refused	16	22	25
Applications withdrawn	—	5	14
Applications pending at 30 June	218	321	400
Orders made for advance payments of compensation	25	—	—
Appeals from refusal of applications	1	—	—
Analysis of final awards—			
Total compensation awarded	\$754,918	\$1,049,014	\$1,346,052
Average award of compensation	\$884	\$1,053	\$978

Government Shorthand Writer's Office

The Government Shorthand Writer's Office was established in October 1854. It provides verbatim transcripts of proceedings before Royal Commissions and Boards of Inquiry, the State Industrial Appeals Court, the Public Works and State Development Parliamentary Committees, and various tribunals, conferences, and seminars.

Motor Accidents Tribunal

Established by the *Motor Accidents Act 1973*, the Tribunal hears appeals against decisions of the Motor Accidents Board in relation to the no-fault scheme of compensation for victims of road accidents.

Raffle and Bingo Permits Board

Since the Raffle and Bingo Permits Board was established in August 1977, more than 2,000 different organisations have conducted bingo sessions in Victoria. More than 800 bingo sessions and 200 raffles are approved each week. In its first year of operation, over \$537,000 was transferred to the Hospitals and Charities Commission from the Bingo Fund into which are paid permit fees and surcharge payments from bingo games.

Registry of Friendly Societies, Benefit Associations, and Industrial and Provident Societies

The Registry is responsible for the registration of Friendly Societies and their Rules, general supervision of hospital, medical, and funeral associations, and the registration of Industrial and Provident Societies. Financial supervision, including certifying the adequacy of contribution rates, is performed by the Government Statist.

Public Solicitor

The office of the Public Solicitor is controlled by the Attorney-General as head of the Law Department through the Public Solicitor who is a barrister and solicitor of the Supreme Court of Victoria.

Legal assistance is provided by the State of Victoria through the Public Solicitor only in the following criminal matters:

- (1) Where any person has been committed for trial or has received notice of trial for an indictable offence against the laws of Victoria;
- (2) where any person has been charged with treason, murder, or manslaughter; and
- (3) to an appellant to the Full Court of the Supreme Court upon any appeal with respect to an indictable offence.

The Attorney-General may grant an application for legal assistance if he is of the opinion that it is desirable in the interests of justice that an applicant should have legal representation on any such proceedings and that the applicant is without adequate means to provide legal assistance for himself.

**VICTORIA—PUBLIC SOLICITOR'S OFFICE:
CRIMINAL CASES DEALT WITH**

Year	Applications—				
	Number	Investigated and reports submitted	Not finalised	Approved	Not approved
1974	1,271	1,131	140	909	222
1975	1,385	1,215	170	1,085	130
1976	1,318	1,249	69	1,096	153
1977	1,191	1,107	84	1,013	94
1978	1,236	1,171	65	1,073	98

Further reference: *Victorian Year Book 1979*, pp. 682-5

Small Claims Tribunals

Small Claims Tribunals, established under the *Small Claims Tribunal Act 1973*, provide a simple and inexpensive procedure for consumers to have their disputes settled outside the ordinary courts. They are administered by the registrar under the direction of the Minister for Consumer Affairs. These tribunals are constituted by referees, who are appointed from persons qualified as stipendiary magistrates or barristers and solicitors, and were established to hear applications by consumers in respect of claims for payment of amounts under \$1,000.

Consumers are defined as persons, other than corporations, who buy or hire goods not for resale or for whom services are supplied. They may apply, on payment of a \$4.00 fee, to the registrar in the Melbourne metropolitan area, or to the clerk of a Magistrates' Court outside that area. The registrar, who provides administrative services to the tribunals, gives notice of the application to the respondent, the trader concerned, and fixes a date for the hearing of the claim. Lodgement of the application with any money claimed to be owed to the trader by the consumer precludes the issue in dispute being heard in any court unless proceedings have already been commenced.

The primary function of the referee is to effect a settlement acceptable to all parties, but if this is impossible, he shall either make an order or dismiss the claim; his order shall be final and without appeal. No costs are allowable and each party conducts its own case without the services of an agent except in the case of corporations or because of necessity. No practising barrister or solicitor is generally allowed to appear. Hearings are in private and sworn evidence, either verbal or in writing, is given, but tribunals are not bound by the rules of evidence and may inform themselves in any way they think fit. At 22 November 1979, there were four part-time and two full-time referees.

Since the tribunals came into operation on 4 February 1974, a total of 12,500 claims have been lodged for determination by the tribunals. Approximately 30 per cent of claims lodged involve the purchase and servicing of motor vehicles and approximately 25 per cent of claims lodged involve disputes against the building industry.

Market Court

The Market Court is a new concept in consumer affairs in Australia. The *Market Court Act 1978* was passed by the Victorian Parliament in December 1978 and introduced on 1 June 1979 as an additional means of preventing unfair trade practices in the market-place. The Court comprises a president, who is a judge of the County Court, and two advisory members: one representing the interests of traders and the other representing the interests of consumers.

Only the Director of Consumer Affairs is able to apply to the Court for an order against a trader who, in the course of his business, repeatedly engages in conduct that is unfair to consumers. The Court is able to make an order against a trader concerned in the application, either totally prohibiting him from engaging in unfair conduct, or prohibiting him from entering into contracts with consumers unless the contracts complied with the terms and conditions specified by the Court. Penalties of up to \$5,000 are provided for against persons who fail to comply with an order. Provision is also made for the Director to enter into Deeds of Assurance with traders to ensure that they will refrain from engaging in conduct that is unfair to consumers.

Licensing legislation

After nearly one hundred years operation of the system of Licensing Magistrates or of the Licensing Court, the Licensing Act was repealed and the Licensing Court abolished by the *Liquor Control Act 1968*, which came into effect on 1 July 1968. This Act incorporated a number of recommendations of the Royal Commission of Inquiry on Liquor in Victoria.

The Licensing Court of three members was replaced by the Liquor Control Commission of four members, the chairman being a judge of the Liquor Control Commission. Numerous alterations were made in the licensing law and practice of the State, the new Act completely re-writing the law. All fees taken under the new Act and all fines, penalties, forfeitures, and money incurred or accruing under it are paid into the Licensing Fund into which was also paid the amount standing to the credit of the Licensing Fund established under the *Licensing Act 1958*. A complete new code of compensation payable to owners and occupiers of licensed premises deprived of licences is set out in the Act, and provision is made for all payment of compensation out of the Licensing Fund, as well as all costs incurred in connection with the administration of the Act. Where the money remaining in the Licensing Fund on 30 June in any financial year is greater than the money therein on 1 July in that financial year, the surplus is to be transferred into the Consolidated Fund.

VICTORIA—NUMBER OF LIQUOR LICENCES AT 30 JUNE

Type of licence	1974	1975	1976	1977	1978
Hotel keeper	1,444	1,441	1,442	1,441	1,435
Club	409	423	437	452	459
Retail bottled liquor	692	714	727	728	731
Wholesale liquor merchant	101	100	101	102	102
Australian wine	14	14	14	13	13
Vignerons	28	39	41	51	65
Brewer	7	7	7	7	7
Restaurant	229	253	266	269	287
Cabaret	17	22	24	26	29
Ship	1	—	—	—	—
Theatre	3	5	5	5	5
Cider tavern	1	1	1	1	1
Residential	—	1	2	3	3
Tourist facility	—	—	1	6	12
Total	2,946	3,020	3,068	3,104	3,149

NOTE. The above table details licences on hand at 30 June each year under the *Liquor Control Act 1968*, according to the annual report of the Liquor Control Commission.

Racing legislation

The *Racing Act 1958* regulates horse and pony racing and trotting, and dog racing. Under the Act the control of trotting and dog racing is vested in the Trotting Control Board and the Dog Racing Control Board, respectively.

Additional legislation, relating to totalizators and the Totalizator Agency Board, is contained in the *Racing (Totalizators Extension) Act 1960*. Also, the *Stamps Act 1958* has provisions relating to the registration fees of bookmakers and bookmakers' clerks, and to the duty payable on betting tickets.

VICTORIA—RACING AND TROTTING MEETINGS

Particulars	Year ended 31 July—				
	1975	1976	1977	1978	1979
RACING					
Number of meetings—					
Metropolitan courses	76	76	82	84	84
Other courses	379	390	393	389	398
Number of events—					
Metropolitan courses	654	626	655	698	702
Other courses	2,775	2,987	2,986	3,003	3,138
Amount of stakes—					
Metropolitan courses	(\$'000) 4,343	5,303	5,662	6,118	7,763
Other courses	(\$'000) 2,615	3,227	3,457	3,526	3,758
TROTTING					
Number of meetings—					
Metropolitan courses	43	44	53	55	55
Other courses	230	240	261	267	268
Number of events—					
Metropolitan courses	343	352	415	430	426
Other courses	2,010	2,140	2,281	2,335	2,360
Amount of stakes—					
Metropolitan courses	(\$'000) 1,150	1,450	1,801	1,981	1,934
Other courses	(\$'000) 1,828	1,915	2,341	2,406	2,398

Further reference, *Victorian Year Book 1966*, pp. 319-20

Bankruptcies

A Bankruptcy Act passed by the Commonwealth Parliament in October 1924, and amended in 1927, was brought into operation on 1 August 1928. It superseded the Bankruptcy and Insolvency Acts of the States, with the exception of any provisions relating to matters not dealt with in the Commonwealth Act. On 4 March 1968, the *Bankruptcy Act 1924-1965* was repealed and the *Bankruptcy Act 1966* came into operation.

Detailed statistics concerning bankruptcies are published in the annual report by the Commonwealth Minister for Business and Consumer Affairs on the operation of the *Bankruptcy Act 1966*. The twelfth edition of this report was released in the latter part of 1979.

VICTORIA—BANKRUPTCIES

Year	Bankruptcies	Orders for administration of deceased debtors' estates	Arrangements with creditors without sequestrations	Total
NUMBER				
1974-75	407	1	93	501
1975-76	344	2	84	430
1976-77	393	—	82	475
1977-78	583	2	122	707
1978-79	763	2	208	973
LIABILITIES (\$'000)				
1974-75	4,862	82	5,218	10,162
1975-76	19,943	42	3,586	23,571
1976-77	7,555	—	10,479	18,034
1977-78	14,890	43	5,466	20,399
1978-79	17,272	68	8,525	25,865

VICTORIA—BANKRUPTCIES—*continued*

Year	Bankruptcies	Orders for administration of deceased debtors' estates	Arrangements with creditors without sequestrations	Total
ASSETS (\$'000)				
1974-75	1,430	14	2,681	4,125
1975-76	1,408	5	3,533	4,946
1976-77	2,354	—	9,120	11,474
1977-78	4,750	14	2,794	7,558
1978-79	3,456	29	4,784	8,269

Victoria Police*Introduction*

The Victoria Police Force is charged with the responsibility of maintaining the peace, protecting the lives and property of all citizens, and generally enforcing the laws of the State. The main functions of the Victoria Police may be summarised as:

- (1) Maintaining law and order;
- (2) protecting the community and its property;
- (3) prevention of crime;
- (4) detection of offenders;
- (5) controlling road traffic, including the alleviation of traffic congestion, prevention of road accidents and, where necessary, the investigation of accidents; and
- (6) assisting anyone in need, particularly in times of emergency.

The collective requirements of policing extend from many mundane matters to problems of serious gravity, such as the organising of, and participating in, search and rescue operations during times of flood, fire, and other major disasters.

The Chief Commissioner, who controls the operations of the Force, is responsible to the Minister for Police and Emergency Services. He is assisted operationally and administratively by two Deputy Commissioners, five Assistant Commissioners, and the Director of Administration. The Assistant Commissioners and the Director are each responsible for a department of the Force, namely, crime, operations, personnel, traffic, services, and administration.

The conduct of members and the internal affairs of the Force are controlled by the Police Regulation Act and its Regulations, and Police Standing Orders. Two statutory bodies, the Police Service Board and the Police Discipline Board, have jurisdiction in aspects of police control.

Victoria is divided into police districts and divisions which facilitate the administration and the provision of services. Modern policing ensures that resources are utilised to their fullest capacity. In an emergency, operational units can operate across district and divisional boundaries and be deployed by the police communication system, ensuring that all available mobile units can be directed to areas of need.

Each metropolitan police district has its own crime car squad of twenty-six members providing an effective anti-crime patrol capability. These members also contribute to the visible police presence as they perform duty in uniform and in marked police vehicles.

At Force level, the Independent Patrol Group has been developed to lend effective support to all branches and departments.

Prahran — Integrated Community Policing

Integrated Community Policing is a policing system designed to increase the effectiveness and efficiency of uniform police. The programme involves an appraisal of fundamental police techniques and is based on the philosophy that increased police visibility will lead to decreased criminal activity and an enhanced feeling of security among citizens.

The new policing style was subjected to a twelve month evaluation period in the Melbourne suburb of Prahran between 1978 and 1979. The scheme involved a small increase in police strength and marked vehicles and the equipping of patrol car crews with a portable radio, achieving an "integration" of foot and mobile patrols. Small non-24

hour stations were phased out and more efficient use was made of overall manpower resources.

Evaluation of the scheme indicated that it achieved a marked increase in the level of police activity in Prahran. This increase was associated with decreases in most types of offences reported, some quite contrary to State trends for the equivalent period. The Prahran evaluation has provided detailed operational information which will assist future administration of the Force and has indicated the significant benefits which can be achieved by equipping patrol car crews with portable radios.

Specialised squads

Within the general framework of police activities there are specific areas which, because of the extent and nature of the work involved, require special squads. These deal with homicide, company fraud, licensing, gaming, vice, arson, drugs, and armed robbery. Special squads have also been formed to utilise dogs, horses, boats, and aircraft in operational areas of police activities.

The Search and Rescue Squad provides assistance in emergency-type situations and the Accident Investigation Squad investigates and analyses serious motor vehicle accidents.

Recruitment and training

The authorised strength of the Force at 30 June 1979 was 7,500. Increases in authorised strength are effected by increasing the number of squads in training.

The Victoria Police Force is constantly seeking additional recruits. To assist in attracting recruits, a junior police corps now known as police cadets was formed in 1955. Cadets are accepted at 16 years of age and undergo a period of training at the Cadet Academy in Spencer Street, Melbourne, until they are eligible to undertake recruit training. Persons between 18½ years and 35 years of age who are accepted as recruits undergo a five months course of training at the Police Training Academy, Glen Waverley.

The Academy is progressively being developed to provide additional educational, training, and accommodation facilities. As well as providing for additional recruits, the Academy's development is being planned to include all facilities for cadet, sub-officer, and detective training.

Police in-service training and promotional examinations are conducted by the Police Department for members wishing to advance in their career. Ex-members of the Force between 31 years and 65 years of age may be recruited as reservists for the performance of limited police duties.

Crime prevention and detection techniques

Several noteworthy features of police work have been developed in recent years. An on-line computer system code named PATROL provides information on stolen and wanted motor vehicles. The computer forms an integral part of a system which will eventually encompass all police records of criminal histories, stolen property, fingerprints, and the *modus operandi* of criminals.

The use of aircraft by the Police Air Wing provides valuable assistance in traffic control, the combating of serious crime such as armed robbery, and the transportation of police personnel and prisoners. A twin-engined Aerospatiale Helicopter has been purchased to provide increased flexibility to the services provided by the Police Air Wing, including Aerial Support To Routine Operations (ASTRO) and assisting in search and rescue missions.

The Victoria Police policy of putting the uniformed policeman back on to the streets began in 1973 when regular foot patrols were instituted in the principal shopping areas of each suburb. This project was implemented to show a visible police presence and to establish personal communications with local residents and business persons of the area.

A number of important innovations made recently include the Crime Collator System, which is proving to be an effective law enforcement aid, and the Road Traffic Co-ordinator, who provides information on road hazards and traffic accidents.

Communications are constantly being improved. The Communications Centre in Russell Street, Melbourne, has grown from a small 2kW transmitter to the present D24 complex connecting all parts of Victoria. The increasing use of personal radio communication by

the policeman on the beat has also improved efficiency. In addition to radio communications, telex machines are located at selected stations throughout the State, as well as radio monitors in all metropolitan stations with a 24 hour patrol capacity.

Women police perform special duties and assist male police as required in the performance of normal police duties.

The major problem facing the Victoria Police is the road toll, a task which absorbs more manpower and time than any other function of the Force.

Forensic science now plays a significant role in the detection of criminal offenders. The Police Forensic Science Laboratory is equipped to provide information on drugs, poisons, flammable liquids, paints, fabrics, soils, and many other substances which by analysis may give some clue to assist in solving a crime. Blood samples taken from motor vehicle accident victims admitted to hospital are analysed at the Laboratory for alcoholic content. The findings may result in prosecutions. A Document Examination Section is equipped to examine handwriting and documents suspected of being forged, and there is a Ballistics Section which provides information on firearms. The Laboratory also has a mobile workshop used in on-site investigations.

The Mounted Branch provides assistance in patrol work and crowd control at sporting venues, public gatherings, and demonstrations.

Co-ordination is the main concept of police operations. As a result of recent changes the improved organisational structure will enable more effective co-ordination of administrative and operational activities. All departments are now working to provide a co-ordinated blueprint for these activities and the Force's requirements during the next five to ten years. The attainment of planned objectives will be determined, to a great extent, by the success of the Personnel and Services Departments in providing the trained manpower and equipment necessary for the various tasks.

Expenditure

The provision of a police force involves heavy expenditure. The operational expenses of the Victoria Police Force during 1978-79 were \$154.5m and the expenditure on capital and maintenance works was \$8.92m. The Police Training Academy at Glen Waverley, when completed, will have cost the Victorian Government about \$30m. Victorian Government expenditure on the operations of the Victoria Police Force represents a significant element of the annual Victorian Budget allocations to government departments.

VICTORIA—POLICE FORCE AT 30 JUNE

Particulars	1974	1975	1976	1977	1978
Authorised strength	6,000	6,250	6,500	6,750	7,500
Actual strength (a)	5,743	6,018	6,320	6,663	7,001
C.I.B., etc. (b)	846	846	865	898	961
Police-women	202	248	300	332	365
Cadets	244	252	284	265	318
Reservists	53	57	105	133	135

(a) Includes police-women but excludes cadets and reservists.

(b) Criminal Investigation Bureau, plainclothes police, and scientific section.

Further reference: *History of the Victoria Police, Victorian Year Book 1961, pp. 318-21*

LEGAL EDUCATION IN VICTORIA*

Introduction

This article describes the education in law of persons who wish to become qualified for admission by the Supreme Court to the practice of the law.

The system of legal education outlined in this article is not static: it is continually under review, both in its broad outlines and in matters of detail. The following are the critical points in a developing situation.

* This article is the latest in a series of special articles outlining specific areas of law in Victoria. Previous articles in this series, and the *Victorian Year Book* in which they appeared, are listed at the end of the article.

Practising lawyers and legal educators alike are particularly concerned at present with issues of competence. The concern is partly about competence for its own sake (the tradition of the "learned profession"), partly about the pressure upon professional expertise imposed by the demands of a complex, highly regulated, and increasingly computerised society, with its infra-structure of competing specialists, and partly due to a growing awareness of, and sensitivity towards, the profession's public accountability.

The question of competence at the point of entry to the profession is forcing a re-examination of both the academic and practical components of the qualifications for admission. While the pattern of the Bachelor of Laws degree is now probably fairly stable — a core of compulsory subjects and a range of optional subjects — there is still room for argument as to (for example) what should constitute the core, how the range of options should be determined, what restrictions (if any) should be placed upon the choice of options, what non-law subjects should be included, what should be the content of particular subjects, how they should be taught, and by whom. The concern for all-round competence is leading law schools to experiment as well with ways of giving undergraduates some first hand experience of the practical aspects of the law, for example, by associating students with local legal aid services. There is interest in the American concept of "clinical legal education".

The traditionally practical component of legal education, the articles system, is also attracting attention. Quite apart from the problems of supply and demand, there is a widespread feeling that it is an inadequate method of practical training and alarmingly uneven in quality. While the Board of Examiners appears to be given sufficient formal power to supervise articles, it lacks the resources to do so, and it is doubtful, in any case, whether a satisfactory system of supervision could be devised. Dissatisfaction with the articles system clearly played some part in the decision to establish the Leo Cussen Institute course (see page 707), as it did, too, in the decision to phase out the article clerks' course at the Royal Melbourne Institute of Technology (see page 706). In April 1979, the Council of the Law Institute expressed the view that *all* law graduates should complete the Leo Cussen Institute course; if such a change were to be implemented, one-year articles would disappear.

Those law graduates admitted to practice at the completion of the Leo Cussen Institute course are presently restricted to an employee-solicitor's practising certificate for the first six months following their admission. Because of the current concern with competence, many question whether that period of restriction is long enough, and suggest further that some such restriction should be placed upon *all* newly admitted practitioners, including those who have completed articles. If adopted, this latter proposal would lead to a lengthening of the period of initial practical instruction under supervision. The Law Institute Council resolved to this effect in April 1979, proposing a twelve month restriction upon all graduate admittees.

But competence at the point of admission is not seen to be sufficient, and increasing emphasis is placed upon the need for competence throughout the lawyer's career. Hence the attention being given to programmes of continuing legal education, offered not only by the Leo Cussen Institute but also by the professional bodies, the law schools, and private entrepreneurs. There is interest in the concept of "recurrent education", which envisages a systematic alternation of study and practice throughout a person's career, and in the concept of "mandatory continuing legal education", which would require a lawyer to undertake a certain amount of continuing legal education as a condition of retaining the right to practise.

The rapid development of the relatively new area of continuing legal education could well have repercussions for the structure and content of basic training in the law. If it were accepted that certain areas of knowledge and certain skills were best studied or acquired in the years of practice following admission, and if a pattern of recurrent education became the norm, buttressed perhaps, by some element of compulsion, then the place of the initial LL.B. degree in the overall system would certainly be changed and might well be diminished, and the degree itself would be likely to undergo considerable modification. The same would be true of the articles system, were it to survive at all.

Structure

Legal education in Victoria is ultimately controlled by the Council of Legal Education, a statutory body established in 1903. The Council consists of the Judges of the Supreme Court (of whom, by convention, six only serve each year as active members), the Attorney-General, the Solicitor-General, the Deans of Melbourne and Monash Law Schools, and one nominee each of the Councils of those Universities, three nominees of the Council of the Law Institute of Victoria (the solicitors' professional organisation), and three nominees of the Bar Council (the barristers' professional organisation). The Chief Justice is president.

The Council has general authority to regulate legal education and admission to practice. It was an innovative step in 1903 to confer such power on a body with the mixed membership described (judicial, professional, and academic), and in this respect the Council may still be unique in the common law world.

The Council recognises three modes of legal education within Victoria:

- (1) The obtaining of the degree of Bachelor of Laws from either the University of Melbourne or Monash University, followed by service as an articled clerk for at least one year ("articles"), or the satisfactory completion of a six months course of practical training at the Leo Cussen Institute;
- (2) the successful completion of the course for articled clerks, the details of which are set out in the Council's Rules; and
- (3) if certified by the Council of the Law Institute to be a "managing clerk", the successful completion of the course for managing clerks, the details of which are set out in the Rules.

The majority of those pursuing legal education in Victoria are doing so under the first mode. Only a small number qualify by way of the managing clerks' course.

Law schools

- (1) The teaching of law at the University of Melbourne began in 1857, the Bachelor of Laws degree was instituted in 1860, and the Faculty established in 1873.

The course for the degree of Bachelor of Laws requires four years of study (if undertaken full-time). Entry to the first year of the course was restricted to 235 students in 1979, selected, broadly speaking, on the basis of academic merit. The course comprises a "core" of compulsory subjects, to which the student adds some 11 or 12 additional subjects chosen from a long list of "options". At the end of 1978, 196 students completed the degree.

- (2) Monash University opened in 1961 and the Faculty of Law was established in 1964. Two undergraduate degree courses are offered: the Bachelor of Jurisprudence and the Bachelor of Laws.

Apart from combined course candidates (for example, for the two degrees of Bachelor of Arts and Bachelor of Laws), most students who wish to complete the Bachelor of Laws must first complete the Bachelor of Jurisprudence. This degree, which for the full-time student requires three years of study, includes a core of basic legal studies. But it is not, in itself, a sufficient academic qualification for admission. In order to so qualify, the student must follow the Bachelor of Jurisprudence with a two year course for the degree of Bachelor of Laws.

At the end of his five years of study (if full-time), the student will have completed a core of eight compulsory subjects and a number of optional subjects, much as at the University of Melbourne.

The first year entry in 1979 was limited to 370 students, selected much as at the University of Melbourne. At the end of 1978, 224 students completed the LL.B. degree.

- (3) Neither La Trobe University nor Deakin University has so far established a Faculty of Law. La Trobe University has a Department of Legal Studies within the School of Social Sciences, but a Bachelor of Arts degree with a "major" in Legal Studies is not regarded by the Council of Legal Education as the equivalent of a Bachelor of Laws degree, either in whole or in part.

Articled clerks' course

It has long been possible to qualify for admission to practice by successfully completing the course for articled clerks as prescribed in the Rules of the Council of Legal Education.

Indeed, this mode of admission can be traced back to the first arrangements for "local" qualifications made by Rules of Court in 1854. The course is under the control of the Council and does not result in the award of any degree or diploma.

The ordinary qualification for admission is that the applicant is qualified to be admitted to a Victorian university. The course is ordinarily of five years duration, the first year being full-time and the remaining years being undertaken on a part-time basis as a clerk in articles. The course comprises some seventeen prescribed subjects.

Until 1962, students in the course studied the subjects at the University of Melbourne. In that year, however, as a response to the introduction of quotas at the Melbourne Law School, the Council of Legal Education introduced a scheme under which the subjects were taught on its behalf at the Royal Melbourne Institute of Technology (R.M.I.T.). From 1962, then, the majority of articulated clerks' course students pursued their course at the R.M.I.T.

In 1978, the Council of Legal Education resolved that the teaching and examining arrangements at the R.M.I.T. should be phased out, beginning in 1979. The principal reason for this decision was that funding could not be assured at a sufficient level to enable adequate academic standards to be maintained. The course itself, however, remains, and may still be pursued (subject to entry requirements) at either Melbourne or Monash Law Schools.

At the peak of its operations, over 300 students were enrolled each year in the R.M.I.T. course, about 40 each year signed four-year articles, and about 40 each year were admitted to practice following the successful completion of the course.

Articles system

All would-be practitioners, whether as solicitors or barristers, have been required to serve a practical apprenticeship as a clerk "articled" to a qualified practitioner since the formal amalgamation of the profession in Victoria in 1891. The provisions governing articles are to be found in the Rules of the Council of Legal Education.

In the usual case, the candidate for admission who has gained an LL.B. serves articles for one year, while the candidate for admission by way of the articulated clerks' course serves articles for four years. Ordinarily, articles must be served in Victoria with a solicitor holding a practising certificate of at least five years standing, of which at least two years must have been as a principal. All articles must be approved by the Council's Board of Examiners.

In 1975, a major modification was made to the traditional system. By amendment to the Rules, it became possible for a candidate with an LL.B. to substitute for one-year articles the successful completion of a course of practical training at the Leo Cussen Institute. The principal reason for introducing this alternative to one-year articles was the belief that the supply of available articles was insufficient to meet the demand, but the change also reflected a growing unease about the articles system generally.

The table on page 708 shows the distribution of law graduates between the two kinds of practical training (articles and the Leo Cussen Institute course) in the years 1972 to 1978.

Leo Cussen Institute for Continuing Legal Education

The Leo Cussen Institute was established by statute in 1972, as a result of the desire of the University of Melbourne, Monash University, the Victorian Bar Council, and the Law Institute of Victoria to set up "an organization to provide continuing education for legal practitioners in Victoria and to perform certain functions in connection with legal education" (preamble to the Act). The Institute comprises eight members, two appointed by each of the four founding bodies.

The initial emphasis of the Institute was upon "continuing education for legal practitioners", and this remains one of its major functions. A wide range of courses, seminars, and lectures is now offered, both in Melbourne and the country, and occasionally in co-operation with other bodies (such as the Law Institute, the Law Council of Australia, and the University Law Schools).

The Institute's statute, however, always envisaged a wider role for it, including the conduct of "courses of training in the law". It seemed appropriate, therefore, that the Institute should be requested to establish the new course of practical training in lieu of

one-year articles. A pilot scheme was run in 1974, and the first full year was 1975. Enrolment figures for 1975 to 1978 appear in the table below.

The Commonwealth Government makes a grant in place of fees and students in the course are eligible for living allowances. In 1978, the Institute became formally associated with the University of Melbourne and Monash University and thereby gained access to additional Commonwealth financial assistance from 1979. Previously, the course had been largely funded by the Victoria Law Foundation.

The course of practical training is a full-time course extending over a period of six months and covering 17 topics. Although the setting is institutional, every effort is made to match the conditions of actual practice. There is some direct teaching, but for much of the time students work in small groups or on their own in "offices", carrying out exercises corresponding to what might reasonably be expected of them in practice. Instructors are all drawn from the practising profession. Files of "current matters" are kept, and visits made to government and semi-government offices, courts, registries, and the like.

While courses such as this are comparative newcomers in the field of legal education, they are now conducted in all Australian States and in the Australian Capital Territory. Australia is recognised internationally as the pioneer of legal practice courses.

VICTORIA—PLACES FOR LAW GRADUATES SEEKING PROFESSIONAL QUALIFICATION

Year	Type of practical training		Total
	Articles	Leo Cussen Institute	
1972	269	—	269
1973	271	—	271
1974	298	—	298
1975	219	65	284
1976	260	57	317
1977	285	56	341
1978	303	96	399

Sources: The Board of Examiners (Council of Legal Education) and the Leo Cussen Institute.

NOTES. (1) The minimum wage award for articulated clerks was introduced in May 1974. The first full "intake" of graduate articulated clerks subsequent to the award was that of 1975.

(2) In each year represented in the table, well over 100 places with principals were held by *four-year* articulated clerks at different stages of their courses. The numbers of *new* four-year articles approved in those years were, respectively:

1972 — 38; 1973 — 47; 1974 — 42; 1975 — 33; 1976 — 46; 1977 — 40; 1978 — 34.

Further references: Functions of law in a community, *Victorian Year Book* 1961, pp. 289-91; Legal system in Victoria, 1961, pp. 291-2; Criminal law and its administration in Victoria, 1963, pp. 322-30; Law of torts in Victoria, 1964, pp. 339-41; Law of contract in Victoria, 1965, pp. 318-21; Law of retail sales and hire purchase in Victoria, 1966, pp. 298-301; Law relating to export trade 1968, pp. 572-5; Commonwealth and State taxation law, 1969, pp. 590-4, and 1970, pp. 588-91; Industrial law in Victoria, 1971, pp. 568-71; Legal education, 1971, pp. 571-3; Administrative law in Victoria, 1972, pp. 561-5; Family law in Victoria, 1975, pp. 853-9; Law relating to trade practices and consumer legislation, 1976, pp. 765-7; Company law in Victoria, 1977, pp. 891-5; Victorian Constitution, 1978, pp. 759-61; Workers Compensation Legislation, 1979, pp. 691-3

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