2003 Assessment Report

VICTORIAN CURRICULUM AND ASSESSMENT AUTHORITY

2003 Legal Studies GA 3: Written examination

GENERAL COMMENTS

Preparation for the examination

Students who had studied all areas of the course were able to provide relevant and accurate answers. It was evident that many students had consulted previous examination reports and used the advice provided to prepare for the examination. The best responses used accurate detail to answer the questions asked, rather than providing prepared answers to questions asked in the past, or questions that the student wished had been asked. It is good examination preparation to practise past examination questions; however, students must be able to adapt their knowledge to questions that ask for information in a different way, or with a different emphasis. In order to do this, students could write their own questions making sure that they use the wording of the study design.

Use of the study design

The Legal Studies Study Design and other relevant documents are available on the VCAA website <www.vcaa.vic.edu.au> and it is imperative that students are familiar with the requirements. Students need to be familiar with the vocabulary of the study design, as well as the areas of study. Students could use the study design as a guide for the organisation of notes during the year and to keep track of the material they are studying in class. A clear understanding of the demands of the course and good organisational strategies should provide a good basis for thorough examination preparation.

Following instructions

Most students comply with the instructions on the examination and answer all questions in Section A and one question each from Sections B and C. Schools are provided with an example of the front page of the examination (that provides students with instructions for completing the examination) prior to November and it is important that students see this. When choosing questions in Sections B and C students should make sure that they are able to answer all parts of the question thoroughly. At times it seems that students choose questions where they can provide a detailed answer to the first part of the question; however, they are unable to maintain the same level of detail in later parts. If a student does attempt both questions in Section B and/or C, both questions will be marked and the better mark will be awarded. In the past however, those students who have answered both questions have not had sufficient time to provide good answers so it is very important that all examination instructions are followed correctly.

Presentation of answers

Some students continue to write their answers in pencil which is not as easy for assessors to read as those written in a dark blue or black pen. Students should consider leaving a few lines between answers and between sections and label clearly their answers with the appropriate question number, especially where a question has a number of parts. Paragraphs help to present material in a logical and coherent way and students should spend some time thinking about the organisation of longer answers.

Responding to ‘task’ words

Examination questions generally have two components, that is, they ask for particular information **and** they require that information be presented in a particular way – the ‘task’ word. For example, Question 8b asked students to ‘comment’ on a given statement and to ‘critically evaluate the law-making processes of both Parliament and the courts’. To ‘comment’ about something means to give an opinion or view whereas ‘critically evaluate’ means to look at both the advantages and disadvantages of something and to discuss these in terms of the question. For Question 8b, it would have been appropriate to give an opinion about the quote and to support that opinion with a discussion of the advantages and disadvantages of the processes used by the courts and Parliament in law-making. Generally, ‘critical evaluation’ will earn more marks than questions that require students to ‘describe’ or ‘outline’. It is very important that students understand the demands of the questions asked, as it is impossible to earn full marks for any answer, even when the material presented is correct, if the material is not used in the way required by the question.

SPECIFIC INFORMATION

Section A

Question 1

Marks	0	1	2	Average
%	40	17	43	**1.02**

The principles of the Australian parliamentary system include the idea of the 'separation of powers'; however, many students still confuse the 'separation of powers' with the constitutional 'division of powers'. The principles listed in the Study Design are: responsible government and representative government, separation of powers, structure of the state and Commonwealth parliaments, roles played by the Crown and the Houses of Parliament. Students should have a thorough understanding of these principles.

The 'separation of powers' is a theory designed to ensure that there is no abuse of power by any of those involved in the three functions performed in our legal system. The legislative function (power to make law – exercised through parliament), the administrative or executive function (power to administer laws – in practice exercised by the government) and the judicial function (power to apply laws when disputes arise – exercised by the courts and dispute settling bodies) are all kept 'separate' from each other, and there should be no interference among the three 'branches' associated with the governing of the society.

Question 2

Marks	**0**	**1**	**2**	**3**	**4**	**Average**
%	16	6	10	25	43	**2.72**

Generally students have a good understanding of the constitutional division of powers; however, there is some confusion about 'specific powers'. Many students mentioned Commonwealth or state 'governments' rather than 'parliaments' as having these powers.
Specific powers – law-making powers of the Commonwealth Parliament that are specified or enumerated in the Constitution; they are mentioned separately or named one by one.
Exclusive powers – law-making powers that are not shared with the states, exclusive to the Commonwealth.
Concurrent powers – law-making powers that both the Commonwealth and state parliaments have authority or jurisdiction over. Where there is an inconsistency, the Commonwealth law shall prevail to the extent of the inconsistency.
Residual powers – the state parliaments retain the power to make law in a number of areas not mentioned in the Constitution.

Question 3

Marks	**0**	**1**	**2**	**Average**
%	13	14	73	**1.60**

Students answered this question well. A response that earned full marks said:

> High Court interpretation of the Constitution cannot change the actual words, only a referendum can do this. The High Court can, however, interpret the meaning of the words in the Constitution, and by doing so expand or narrow the scope of the wording used.

Question 4

Marks	**0**	**1**	**2**	**Average**
%	13	23	64	**1.50**

This question clearly addresses the part of the course that considered the characteristics of an effective law. These characteristics are:

- details of this law may not be known to members of society
- law may not be clear nor understood
- law may not be acceptable to the majority of members of society
- law has no room for flexibility
- law is not consistent and does not treat all fairly
- law may not be enforceable.

Most students explained that the law would be unenforceable because of the large number of Australians under 15.

Question 5

Marks	**0**	**1**	**2**	**Average**
%	17	22	61	**1.43**

Students answered this question well; however, many described one method of resolution and then another. A better answer said:

> Conciliation and arbitration are both alternative methods of dispute resolution. Conciliation and arbitration both involve a third party assisting parties in resolving the dispute. However, in conciliation the third party only makes suggestions to resolve the dispute and the decision is not legally binding. On the other hand, in arbitration the third party makes a decision on behalf of the parties that is legally binding.

This answer clearly distinguishes between the role of the third party and the binding nature of the outcome.

Question 6

Marks	**0**	**1**	**2**	**3**	**4**	**Average**

%	10	12	35	19	24	**2.35**

The first part of this question was done very well; however, it was clear that many students had not learnt the jurisdictions of the required lists of VCAT, the jurisdictions that are examinable are clearly listed in the Study Design. Material that could be used to answer the first part of the question included:

- using tribunals is usually cheaper or less costly than going to court
- tribunals are generally seen as less threatening and more accessible than courts/use of ADR processes make tribunals less formal
- the extent of the jurisdiction of tribunals is generally more specialised than courts
- decisions usually made more speedily using tribunals than going to court.

The jurisdiction of VCAT – Civil Claims List

- set up to resolve disputes/fair trading disputes between 'consumers/customers and traders', and 'traders and traders' relating to the provision of goods and services
- can hear complaints of up to $10 000.

Question 7

Marks	**0**	**1**	**2**	**3**	**4**	**Average**
%	20	21	25	18	16	**1.89**

This question referred to material from Unit 4 that requires a study of the elements of an effective legal system and the ways in which certain social, cultural or economic difference can prevent these elements from being achieved. Many students gave very general responses to this question. Better answers provided the necessary detail by using the elements as a basis for their answers. The elements of an effective legal system are:

- entitlement to a fair and unbiased hearing
- effective access to mechanisms for dispute resolution
- timely resolution of disputes
- recognition of prevailing values and basic human rights.

Social, cultural or economic differences could include:

- language barriers
- levels of understanding about legal rights of the individual and how the system works
- cultural differences and types of crimes
- experiences with different legal systems and different court experiences
- lack of economic resources to access legal services or legal representation
- the need for and use of interpreters in court
- the differences in body language and other aspects of communication
- the conflict between customary law and Australia's legal system
- recognition of Aboriginal values and basic human rights
- black deaths in custody
- issues facing people with disabilities
- women and the law and gender bias.

A good answer said:

> One cultural difference is language barriers. This can prevent indigenous people from having a fair and unbiased trial as the communication between the police and the person may not be fair as they may not understand their rights. Indigenous people also may not be able to communicate effectively with their legal representative which would also prevent a fair and unbiased trial. Indigenous people and their language barriers may prevent them from understanding that they have a right to remain silent, which does not allow prevailing values and basic human rights being recognised. Language barriers may also cause delays which will affect the timely resolution of disputes which is an element of an effective legal system. Indigenous people also may not be aware of their rights in a white legal system and the different ways that disputes can be resolved. This will reduce their effective access to dispute resolution mechanisms which is another element that should be achieved if the legal system is to be effective.

Section B

Question 8

a (Average mark 3.46/available marks 6)

This question was the least popular option in Section B and it was clear that many students who answered the question did not have a detailed understanding of the way in which a law reform body works to assess the need for change in the law. Students were not expected to provide an example of an area of law that has been assessed; the expectation was that students would explain what the body did in order to assess the need for change in the law. The only bodies accepted as 'formal law-reform bodies' were: Parliamentary Law Reform Committee, Australian Law Reform

Committee, Victorian Law Reform Commission, a government inquiry and a Royal Commission. This list of 'formal law-reform bodies', was published in 2001 and students are expected to understand, in detail, how the bodies work.

Some students forgot to answer the second part of the question, so it is important that students constantly check they have done everything required by the question; those who did remember did so very well.

The processes used by formal law-reform bodies is generally described as undertaking research to:
- review the current law
- find out how it is operating in practice
- discover any problems or omissions
- consult the public and interested parties and groups
- formulate a report.

They can use a variety of strategies including internal research, contributions from the public, community organisations, academics, lawyers, government and private sector organisations; calling for submissions from these groups; holding face to face consultations in rural and metropolitan areas; the preparation of issues and discussion papers, preparing final reports.

The second part of the question required an explanation of the need for delegated legislation in our community. Some of these reasons may be:
- eases workload on parliament
- parliament does not have the expertise of the relevant authorities
- some subordinate authorities allow for greater community participation
- subordinate authorities can implement changes more rapidly.

b (Average mark 6.18/ Available marks 14)
Evaluation of our law-makers should be expected on the examination and students should be well prepared to answer such questions. Essentially, the material required is the advantages and disadvantages of the processes used by courts and the parliament to make laws; however, this is not all that is required to answer the question well.

Students should give some thought to the way they will present their answers to a question worth 14 marks. The time to spend on this question is about 25–28 minutes (maximum) and this means that there is plenty of time to present a detailed discussion about our law-makers.

More successful answers began with the required comment about the statement which became the basis for the evaluation of the law-making processes. For example, 'Although parliament is the supreme law-maker it does not 'always' decide what the laws will be. Some of our laws have been made in the courts, the law of negligence for example. This means that we need both the parliament and the courts working together to make laws.'

As an introductory comment this paragraph provides the basis for a discussion about the advantages and disadvantages of the law-making processes of the courts and parliament. The answer could go on to say, 'Parliament is the supreme law-maker because it is representative and responsible. It is made up of the elected representatives of the people who are able to vote out of power any parliament that does not represent the views and values of society. The process that parliament uses to make laws is also very effective. It provides opportunities for detailed debate and scrutiny of legislation and this ensures that the best laws are made. The three reading stages and the committee stage ensure that bills are considered very carefully before they are passed, especially at the committee stage when amendments are most likely. Legislation also has to be passed by both houses of parliament and if the government does not have a majority in the upper house then it can be very difficult for government initiatives to become law. This can be a problem with the parliamentary process of law-making; however, if the government does have a majority in both houses it can mean that the government can pass any legislation it likes (although finally the people can vote them out of office if they don't like the laws).'

This answer could go on to discuss other aspects of the process, as well as discussing the advantages and disadvantages of the law-making processes of the courts (statutory interpretation and the use of the doctrine of precedent).

Some students made the point that judges make the law quickly – this requires a little more thought. Most cases that involve questions of law will not be conducted quickly and judges will reserve their decisions, thus increasing the time taken to produce a judgment.

Further points that could be used in an answer included:
Parliament – strengths
- parliament can investigate the whole topic and make a comprehensive set of laws
- parliament has access to expert information and is therefore better able to keep up with changes in society

- parliament provides an arena for debate
- parliament can delegate its power to make law to expert bodies
- parliament is able to involve the public in law-making
- parliament can change the law as the need arises
- parliament can make law *in futuro*
- parliament is democratically elected.

Parliament – weaknesses
- investigation and implementation of new law is time consuming and parliament is not always able to keep up with changes in society
- the process of passing a bill is time consuming
- delegated authorities are not elected by the people and there may be too many bodies making laws
- it is not always possible to change the law in accordance with changing values in society
- parliament is not always sitting, so changes in the law may have to wait some time
- changes in the law may involve financial outlay, which may not be economically viable at the time
- parliament can make laws retrospectively, which can be unfair
- division of law-making powers between the federal and state parliaments is in dispute from time to time
- parliament's upper house can 'rubber stamp' or deliberately obstruct legislation
- Cabinet's legislative proposals may dominate law-making by parliament, particularly where the government controls both houses
- parliament's response to community views may not be adequate.

Courts – strengths
- courts can change a law quickly if a relevant case is brought to it
- courts can keep the law from becoming too rigid by distinguishing, overruling and reversing previous decisions and giving meanings to words in statutes
- courts can fill the gaps in the law by making a decision on a matter when it arises
- courts can interpret the words of an act of parliament to give a more just result
- judicial decisions are free from outside pressure
- the doctrine of precedent limits the possibility of prejudices or bias influencing judicial decisions
- appeals process allows for the review of decisions.

Courts – weaknesses
- courts cannot change a law unless a case is brought before the court
- courts may be bound by an old precedent which could lead to unjust results
- changes in the law through the courts are *ex poste facto*
- changes through the courts is very expensive for the parties involved
- parliament can override court-made law
- some judges are very conservative and could be reluctant to change bad laws
- not a democratic system of law-making and judges tend to be drawn from a narrow, socio-economic background and are usually male though this is increasingly being addressed.

Question 9

a (Average mark 3.46/available marks 6)

Generally students have a good understanding of the way a referendum works and why it has achieved only partial success. However, many students were not accurate in their description of the 'double majority' required for a successful referendum. To succeed, a proposed change must be introduced to either house as a bill and approved by both houses of parliament before the proposal can be put to the people. A referendum must receive a 'yes' vote by the majority of electors in Australia AND 'yes' by the majority of electors in the majority of states (at least four out of six). The Royal Assent is then given.

Reasons for partial success include:
- it is hard to get a 'yes' vote by the majority of electors in Australia and 'yes' by the majority of states (at least four out of six)
- if a proposal is not supported by a major party, they may lobby against it and their supporters may vote against it
- voters may not understand the process of change and vote against it
- voters may not wish to increase the power of the Commonwealth, the focus of many referenda.

b (Average mark 6.18/ Available marks 14)

An answer to this question required similar material to that required for Question 8b. The main problem was the failure to address the point about subordinate authorities. Many students seemed prepared to write about the courts and parliament as law-makers; however, they did not mention subordinate authorities and therefore did not achieve full marks. It is very important that students read the question carefully and answer all parts of it. A good answer to this question began, 'All three law-making bodies – courts, parliament and subordinate authorities – are necessary in the

process of law-making. Their relationship is a complementary one, with the strengths of one balancing the weaknesses of the others. Courts should be involved in the process of law-making.' Another answer began: 'Parliament's role is to make law and it should be the prime body involved in making laws, as well as the bodies it delegates power to. However, courts also have several strengths to offer in the law-making process, and should also be involved.' Both these introductions provide a good basis for a discussion about the law-makers.

Section C

Question 10

a (Average mark 4.72/available marks 8)

i. The remainder of the criminal jurisdiction of the Magistrates' Court is to hear summary offences (minor offences) and indictable offences which can be heard summarily (that is without a jury).

ii. Criminal pre-trial proceedings/procedures can include:

- exercise of police discretion to charge
- police collection of evidence, search and seize
- police questioning before filing a charge
- arrest, with or without a warrant
- filing a charge, arrest or summons
- bail or remand
- fingerprinting
- blood and body sampling
- police questioning after charge
- right to contact another person
- right to an interpreter
- directions hearings.

Many students did not explain the purpose of the proceeding/procedure they chose to discuss. A good answer said:

> Another pre-trial proceeding which David may have gone through is the application of bail. Bail is the release of an accused from custody on their undertaking to appear before the court at a later date. The purpose of bail is that it upholds the presumption of innocence, in that since the accused in not considered guilty they may be free. Also, bail allows the accused to return to a normal lifestyle as well as allowing him/her to prepare his/her case for trial.

This answer explains the purpose of bail as well as providing a description of it.

iii. The County Court would hear this case because it has that jurisdiction.

iv. The purposes of criminal sanctions are: retribution/punishment, protection of the community, deterrence to the offender and the community as a whole and rehabilitation. A brief explanation was also required. One student said:

> One purpose of a criminal sanction is to stop others from committing the same offence as well as deterring the offender from recommitting any offences. Deterrence means to persuade someone not to commit an offence because of the fear of punishment.

This answer provides a description of deterrence as well as an explanation of its purpose.

b (Average mark 6.08/available marks 12)

Students who chose this question had a good grasp of the key features of the adversary system and its advantages and disadvantages, as well as a good understanding of the way mediation works to resolve disputes. Some students included material about criminal actions in their discussion and this earned no marks. Other answers included information about the inquisitorial system of dispute resolution as ways of overcoming some of the weaknesses discussed; however, the material was not relevant to the question and rarely scored any marks. A better approach can be seen from the following introduction to this answer:

> I agree with the statement in that the adversary system of trial when resolving civil disputes does have both advantages and disadvantages. In some cases mediation would be a better alternative to resolve disputes but not always. Courts are needed to resolve certain types of disputes that mediation and other alternative methods of dispute resolution can't.

This introduction states the student's opinion and makes the point that mediation will not always be the preferred way to resolve civil disputes. The student goes on to explain the advantages of the adversary system by looking at each of the key features and then discussing the disadvantages. In another paragraph the student suggested that mediation might be able to overcome some of the disadvantages of adversarial procedures and described how mediation worked and its benefits. In conclusion the student explained the disadvantages of mediation and concluded with:

> Mediation, although it may result in a mutual understanding, does not result in a binding agreement on the parties. This could be a disadvantage when it is imperative for one of the parties that the other party to the dispute be compelled to keep to the resolution. In the adversary system of trial however, a decision is reached, decided on the balance of probabilities and is binding on both parties. Therefore, while the adversary system does have its disadvantages it would be unrealistic to say that mediation is the preferred way of resolving disputes. Mediation may be the preferred way to resolve some civil cases but not for every situation.

The main features of the adversary system include:
- the roles of the individual parties who are responsible for the preparation and presentation of their case
- the role of the judge as an independent arbiter who presides over the court
- the need for rules of evidence and procedure
- the standard and burden of proof
- the need for representation.

(The jury system is not a feature of the adversary system; material about the jury system did not earn any marks.)

Discussion about mediation as a method of dispute resolution could include the following:
- mediation is a voluntary process compared to a formal court hearing using the adversary system of trial, which could be described as compulsory dispute settlement
- mediation involves the parties meeting to discuss the issues in the presence of a neutral third party, the mediator, with a view to reaching an out of court settlement
- the role of the mediator is to assist the parties with the discussion; try to bring out the issues and assist the parties to explore the possible solutions to the dispute
- strict rules of evidence and procedure in the adversary system do not apply to mediation
- rules of evidence can be selective and complex within the adversary system
- if parties reach a settlement, an agreement can be drawn up incorporating the terms of the settlement. This would become a binding contract. However, a party cannot be forced to consent to an agreement with which she/he is not happy
- in a court hearing, the judge or magistrate (and jury if relevant) hears the evidence put forward by each party and then makes a decision which is binding on both parties
- mediation is usually a cheaper alternative to a formal court hearing; the costs of an adversary system and court administration; the principles of this system determine that the costs of bringing an action or defending your innocence are born by the individuals involved
- mediation allows a decision to be made more speedily compared with formal court hearings using the adversary system
- adversary system makes each party responsible for the presentation of its case and while this is an advantage, costs of legal representation can be high; to appear unrepresented puts a party at a disadvantage; provision of legal aid is not adequate
- in deciding to bring a civil action, if the case is lost, a plaintiff risks having to pay the costs of the other side, as well as their own
- each side will only present evidence favourable to its case, consequently evidence of important facts might not be presented; in mediation, less formal process can lead to all matters being brought out.

Question 11

a (Average mark 4.72/available marks 8)

This question required knowledge of court jurisdictions (as did Question 10a). There are many court and tribunal jurisdictions that students are expected to know (see study design) and any of them may be examined. It is important that students begin their study of the jurisdictions early, so that they are able to learn the material in as much detail as possible.

This question covered a range of factual material from the study design. It focused on issues in civil law.

i. The case would be heard in the County Court because of the amount of damages asked for by Maria is covered by that jurisdiction.

ii. The two civil pre-trial proceedings could have been drawn from the following:
- letter of demand
- pre-trial negotiation
- writ of notice or originating motion
- notice of appearance
- statement of claim
- statement of defence
- counter-claim
- interrogatories
- discovery of documents
- interlocutory order
- pre-trial conference (County and Supreme Court)
- certificate of readiness for trial.

Purposes include:
- provide for the exchange of documents and information
- inform the defendant that legal action is being taken

- set out the precise nature of the claim and counter claim, and remedy sought
- enhance the opportunity for settling out of court
- give each side some knowledge of the opposing case
- allow issues to be clarified before going to court
- allow parties to fully prepare their cases for court
- documents prepared during pre-trial stages are used by the court as a written record of issues relevant to the action
- facilitate a settlement prior to the court case.

iii. The Supreme Court, Court of Appeal would hear any appeals, because that is its jurisdiction and role.
iv. The remedy awarded was damages – an amount of money, ordered to be paid to the plaintiff by the defendant, to generally compensate them for injury, impairment or damage suffered.

b (Average mark 6.08/available marks 12)

Students were required to 'critically evaluate' criminal trial procedures. This requires a consideration of the advantages and disadvantages of something, in this case the way in which criminal trial procedures help or hinder the achievement of a fair and unbiased trial. Students were also required to provide some suggestions for change or already existing changes and explain how they have contributed to the effective operation of criminal trials. Many students made suggestions that were too general, or impossible to implement, (for example, ensure that all trials occur within 24 hours of a person's arrest). Students should provide suggestions that indicate some consideration has been given to the nature of criminal trials and the way our system operates.

There is a wide variety of processes or procedures that could have been mentioned in an answer to this question; for example, reference to the jury system and the adversary system or its component parts. Students could talk about the advantages of the jury system in terms of it assisting criminal trials to be fair and unbiased. The following information about juries could be included:

- decisions reflect the views of the community
- a cross-section of the community, reflect prevailing community attitudes
- ensure law/system remains intelligible to the ordinary person
- decision-making spread across a number of people
- less likelihood of a wrong decision
- provide a trial which is free from political interference
- have considerable flexibility (for example, not bound by precedent)
- safeguard of personal freedoms as juries not bound to apply perceptions of 'bad law', jury acts as social conscience
- ensure hearing of evidence is conducted in open forum.

In terms of using the adversary system students could choose the system as a whole or a component part such as the role of the judge. Any part of the trial process could be applicable – for example, sentencing, use of interpreters when needed, as long as the process or procedure is related back to the question.

Following is part of an answer of one student who was able to provide the appropriate level of detail in response to the question. Students should note the way this answer uses words from the question to ensure that the answer is relevant and provides specific details to support the points made.

> The role of independent adjudicator (the judge or magistrate) is part of the adversarial process that ensures that a trial is fair and unbiased. They do this by being independent and not getting involved in the cases. This helps them remain impartial and ensures they don't give preference to one party over the other.
>
> They also ensure that all rules of evidence and procedure are followed. This helps to ensure the fairness of the trial and rights of the accused. The judge ensures that no evidence which could prejudice a jury (if there is one) against the accused in admitted, like hearsay evidence which is very unreliable. The judge also ensures witnesses are examined-in-chief, cross-examined and re-examined. This ensures the validity of the evidence they are giving. Judges/magistrates are also not influenced by outside groups or political parties which ensures they remain unbiased when coming to a decision.
>
> However, the use of the independent arbitrator can be criticised. They can be seen to not effectively use their knowledge of the law and their expertise to the best of their ability. This is due to them remaining impartial and not getting involved. They are also unable to assist an unrepresented party or suggest evidence to be brought into court. This can result in an unjust outcome and trial. Although it is more important that they ensure individuals have an entitlement to a fair and unbiased hearing, compared to using their knowledge which could damage the fairness of the trial.

The changes discussed in this answer also demonstrate a very good understanding of the material:

> In 2001 the Juries Act came into effect in order to improve the effective operation of criminal trials. The jury system is constantly criticised because it dos not accurately represent a cross-section of society. This was due to people being excused and peremptory challenges.

To overcome this, the Juries Act 2000 ensures that teachers, dentists and other professionals and people aged over 65 no longer receive immediate exemption from jury service. This ensures that the community is better represented by the jury and means that those accused of crimes are being tried by a more representative body. It means that more people are able to participate in jury service and increases the likelihood of a fair and unbiased hearing for those being tried. The more representative a jury, the more likely it is that they will reach a fair decision that the society is happy with, as well as providing a range of opinions that will protect the rights of the accused.

Another change that was introduced to improve the effective operation of criminal trials for summary offences is the Koori Court.

The Koori Court was designed to overcome problems faced by aborigines in criminal trials. This court allows for recognition of aboriginal culture when sentencing indigenous offenders in Magistrates' Courts. The recognition of aboriginal values when sentencing has improved the likelihood that aborigines will accept the punishment awarded and this should help the effective operation of our criminal system. Aboriginal elders are used in this court which helps to restore aborigines trust in our legal system. This ensures that the sanction is fair and that aborigines have better access to a fair and unbiased hearing.'

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