Law and the New Left

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Submitted for the degree of Doctor of Philosophy
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University of Melbourne
1995
ABSTRACT

When Fitzroy Legal Service (FLS) opened in December 1972 as the first non-Aboriginal community legal centre in Australia, its volunteer workers posed a radical critique of the legal system and of the legal profession. They depicted both to be intricately involved in the oppression of Australians on low incomes. In a bid to combat this oppression, FLS developed two broad objectives: to provide free and accessible legal assistance, and to operate as a medium of social change. The adoption and pursuit of these at times contradictory aims amounted to an attempt by FLS volunteers to marry the politics of the New Left to the workings of the law. The adoption of these aims also meant that FLS would be involved, at a very practical level, in the debate concerning the relationship between the law and social change in Australia.

In the years after its formation, the radical critique once posed by FLS dissipated. This occurred primarily because the State, in the form of the Whitlam Government, moved to accommodate the most persuasive criticisms that FLS workers had of the legal system. The Whitlam Government's creation of a new legal aid system in 1973, the high profile taken by FLS workers in debates about legal aid, and the fact that FLS received government funding, were all crucial to FLS's increasingly accepted status as a part, albeit an unusual one, of the legal profession.

Notwithstanding this acceptance, FLS workers have continued to pursue the organisation's two original aims. As a result of this, FLS has continued to draw clients and workers to the Service, while at the same time it has continued to operate as an effective social critic.
DECLARATION

This thesis, exclusive of words in chapter notes, appendices and the bibliography, contains less than 100,000 words. Except for where due acknowledgement has been made, this thesis contains only my original work.

John Chesterman
May 1995.
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# ABBREVIATIONS

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<tr>
<td>ALAO</td>
<td>Australian Legal Aid Office</td>
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<td>ALARC</td>
<td>Australian Legal Aid Review Committee</td>
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<td>BSL</td>
<td>Brotherhood of St Laurence</td>
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<td>FLS</td>
<td>Fitzroy Legal Service</td>
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<td>FRA</td>
<td>Fitzroy Residents' Association</td>
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<td>FSSC</td>
<td>Fitzroy Social Service Council</td>
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<td>HCTU</td>
<td>Housing Commission Tenants' Union</td>
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<td>LACV</td>
<td>Legal Aid Commission of Victoria</td>
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<td>VCOSS</td>
<td>Victorian Council of Social Service</td>
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<td>YCW</td>
<td>Young Christian Workers</td>
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PREFACE

There are many people who have assisted me in the writing of this thesis.

Professor Patricia Grimshaw, my principal supervisor, has been a source of endless enthusiasm. Her unique blend of vision and pragmatism has assisted me enormously in constructing an argument that Fitzroy Legal Service's history is of broad significance. She has also helped to ensure that this always remained an exercise that I could capably finish. Professor Stuart Macintyre, my associate supervisor, has read several drafts of each chapter, and I thank him for his meticulous comments and generous support.

Within the History Department at Melbourne University, I have become friends with a number of tutors and postgraduate students. I am most grateful for their support. In particular, I thank Tony Birch, Simon Cooke, Vijaya Joshi, Paul Sinclair and Christina Twomey. Still in the History Department, I would like to thank the students I have tutored. Even though I have spent more time tutoring in American and German history than I have in Australian history, the constant interaction with students has helped me to see the value of endless hours of archival work, and to place my work within a broad historical perspective.

At Fitzroy Legal Service, I am fortunate enough to have had the unceasing support of many people. The Thursday night volunteers and the salaried staff members have variously maintained the organisation's archives, sustained my enthusiasm for this project, and kept my humour. In particular, I thank Sam Biondo, Greg Connellan, Alistair Craig, John Finlayson, Chris Hall, Helen Kurek, Megan Macfarlane, Diana Piekusis, Paul Radlow, Kate Ring, Catherine
Rosenbrock, Melinda Walker and Denise Wasley. Further, I am grateful to the 29 people who gave up their time to be interviewed. These people are listed in Appendix F.

I would like to thank those people, in addition to my supervisors, who have read and commented on drafts: Julian Gardner, Jeff Giddings and Peter McNab. I am especially grateful to Paula Dunn and Paul Radlow, who painstakingly read my final draft. I also thank the participants at the 1994 Law and History Society Conference in Wellington, New Zealand, for their comments and interest. And I am grateful to the editors of two journals, the *Australian Journal of Legal History* and *Law in Context*, for their comments on earlier versions of two chapters. Articles based on the material in Chapters One and Seven are due to appear in the next editions of these journals, under the titles: "The Making of the Australian New Left Lawyer" and "Real Lawyers?: Fitzroy Legal Service and the Legal Profession".

Finally, I thank my friends and families. Samantha Park and Adam Deere have been especially supportive friends. My parents, Shirley and Peter, and brothers, Michael, Andrew and Simon, have been unquestioning in their support of me both before and since I abandoned a legal career four years ago. And I could not have asked for a more welcoming family-in-law than the Joyces.

Last, and most important, Catherine Joyce has discussed ideas, read and commented on numerous drafts, and generally been a wonderfully supportive partner. I cannot thank her enough for her critical insights, her patience and her warmth.

John Chesterman
May 1995
INTRODUCTION

When Fitzroy Legal Service (FLS) opened the doors to its office under the Fitzroy Town Hall on 18 December 1972, it became the first non-Aboriginal community legal centre to open in Australia. Free legal assistance was provided by up to sixty volunteers on six nights a week to anyone who came to FLS. Almost twenty-three years later, FLS still operates. A combined annual State and Federal Government grant of around $250,000 enables FLS to employ eight staff, and, through the work of hundreds of volunteers, the free nightly service continues to give assistance to thousands of clients each year. Over 49,000 clients have now received free legal assistance at FLS, and numerous socio-legal projects have been initiated.

This thesis attempts to explain why the birth and continued existence of FLS, a relatively small organisation in the scale of Australian public life, is significant. In short, FLS's history is significant because its history is very much a critical history of the law and the legal profession in contemporary Australia.

The opening of FLS was a moment in Australian history when the legal profession was confronted with a radical challenge. This challenge consisted of more than the financial threat posed to private solicitors by FLS's provision of free legal assistance, although for local practitioners this was of real concern. The challenge, rather, was the proposition put forward by FLS workers that the law and lawyers could and should be more actively involved in the quest for social change. Members of the conservative legal profession were told that their practice of charging substantial fees for their professional services made them inaccessible to poor
clients, and, worse, that their profession was helping to increase the gap between those in power and those excluded from power. Moreover, the argument continued, the law itself had to be seen as complicit in the oppression of some members of society by those in power.

In providing this critique of the law and lawyers, the volunteers at FLS sought to apply the philosophy of the New Left to the workings of the law. According to the New Left, the authoritarian character of the State - evidenced most clearly by the way conscription was introduced in Australia during the Vietnam war - resulted in the powerlessness of ordinary individuals to participate in the shaping of their world. Democracy existed in name only, and since it was not participatory, it had no substance. New Left methods of organisation and protest included ideas such as "consciousness raising" and what would later be termed "empowerment", and often saw small, theoretically non-hierarchical, groups established whose members encouraged other members of the general public to become involved in their activities.

FLS was created according to this, sometimes loosely connected, collection of ideals. Early FLS workers had a specific enemy, the inaccessibility of the law and lawyers, but the method of service delivery and the manner in which FLS was internally organised derived largely from ideals that characterised New Left protest movements.

Client participation in the resolution of their own and other people's problems was encouraged. Workgroups were formed so that people with similar problems could meet and talk about possible legal and non-legal responses to their common situations. And all of this was to be facilitated not only by volunteer lawyers but also by non-legally trained volunteers, so-called "non-lawyers", whose presence
at FLS was designed to guard against the natural tendency of lawyers to address only the legal aspects of a client's problem. According to FLS volunteers, legal problems were often linked inextricably to social problems, and to concentrate on one but not the other was to offer an inadequate service. So, unlike private law offices, FLS was to provide a broad approach to the concerns of its clients. Further, the mystique of the law was to be challenged by the volunteers in a number of ways: by their use of plain English and, where necessary, interpreters; by their refusal to dress in the standard lawyers' uniform; and by the meagre facilities which constituted FLS's office under the Fitzroy Town Hall.

Similarly, FLS's internal organisation owed much to the philosophy of New Left social movements. Local community involvement was encouraged in the operations of FLS, and ultimate management of FLS rested, as it still does, with the General Meeting - a forum open to all members of the public - rather than with a management committee. All of this helped to establish FLS as a grass-roots community organisation which would actively seek social change. FLS's Constitution, adopted in July 1973, enunciated the objectives of FLS, which may be summarised into two principal aims: the provision of accessible legal advice, and the search for social change.¹

One danger in concentrating an entire thesis on FLS is that there is a temptation to downplay the close relationship between FLS and other community legal centres. Indeed, one much disputed argument is that FLS was the forerunner to, and path-breaker for, many other community legal centres in Victoria and Australia. Less controversial is the argument that an increasing number of people in Victoria in
the early 1970s saw the need for free legal centres, and that FLS just happened to be the first Victorian legal centre to open.

The only community legal centre in Australia to pre-date FLS was the Aboriginal Legal Service in New South Wales, which opened in Redfern on 26 July 1971. The Aboriginal Legal Service received a Commonwealth Government grant of $24,250 in 1971, enabling it to employ a solicitor, a field officer and a secretary. It was not until 1974 that FLS received a comparable grant. In funding the Aboriginal Legal Service in 1971, the Federal Liberal Government recognised that the Aboriginal community in Redfern was possibly the most disadvantaged urban community in Australia.

There were other developments in the provision of free legal assistance prior to the opening of FLS. From 1952 Norval Morris, a Melbourne University Law School lecturer, co-ordinated a legal advice centre in Fitzroy in conjunction with the Brotherhood of St Laurence. Students from the Melbourne University Law School gave free legal advice one night a week under the supervision of Law School academics. The scheme seems to have ended in 1956 when Morris moved to the United States.

Several other student referral services had operated in Victoria prior to the opening of FLS. From June 1970 Melbourne University law students operated a free legal referral service from the Church of All Nations in Palmerston Street, Carlton. And from April 1971 staff and students at Monash University Law School operated a telephone legal referral scheme, the Monash Student Legal Referral Service, from the Melbourne Citizens Advice Bureau in Russell Street. Initially operating on three half-days per week, this service became the Springvale Legal Service on 27 February 1973.
Several new legal centres, in addition to the one in Springvale, opened in Victoria soon after FLS. The Victorian Aboriginal Legal Service opened in February 1973 in Gertrude Street, Fitzroy. Then, in the space of only a few months, there were legal centres in Broadmeadows and St Kilda. Within ten years sixteen legal centres were operating in Victoria.

In the 1970s, numerous legal centres opened in other States of Australia. Caxton Street Legal Service (then known as Baroona Legal Service) opened in Queensland in October 1976. Redfern Legal Centre opened in New South Wales in March 1977. Parks Legal Service opened in South Australia in May 1979, although many other legal advice bureaus had operated in South Australia prior to it. By 1982, ten years after FLS had opened, ten legal centres were operating in New South Wales, seven in Queensland, four in South Australia, four in Western Australia, four in Tasmania, and four in the Australian Capital Territory. After a further ten years, there were over 110 community legal centres operating in Australia, receiving a total of $4.5 million in recurring grants from the Commonwealth Government.

Arguments have been put as to why the first non-Aboriginal community legal centres opened in Victoria and not, for example, in New South Wales. Clare Petre has argued that there are two reasons for this. First, legal advice was more easily available from Chamber Magistrates and the Public Solicitor in New South Wales than was the case in Victoria. In addition, she argues, lawyers committed to radical causes in New South Wales applied their energies to the establishment of the Aboriginal Legal Service, the campaign for Aboriginal land rights, and prison reform, whereas in Victoria similarly motivated lawyers concentrated on developing legal centres.
Legal Centres in the United States and the United Kingdom

The concept of community legal centres was not an Australian one. A neighbourhood law office, the American equivalent of a community legal centre, opened in Philadelphia in the 1930s. In the 1960s neighbourhood law offices began to open in large numbers in the United States. This coincided with what became known as the United States' war on poverty, a war in which, according to Sargent Shriver - the first director of the newly created Office for Economic Opportunity - lawyers were to be the heavy artillery. This Federal Government initiative was to see an unprecedented amount of funds applied to establish neighbourhood law offices.

Sargent Shriver was not the only person to argue that lawyers were particularly important in the war on poverty. Attorney-General Robert F. Kennedy, in an address to the University of Chicago Law School in May 1964, described poverty as a condition of helplessness, and said that the inability of many poor people to defend themselves in court hearings was both symbolic and symptomatic of this helplessness. He continued:

> It is time to recognize that lawyers have a very special role to play in dealing with this helplessness. And it is time we filled it ... Lawyers must bear the responsibility for permitting the growth and continuance of two systems of law - one for the rich, one for the poor.

Kennedy called on lawyers to make the law less complex and more workable, to begin asserting poor people's rights, to practice preventative law through legal education, and to develop new kinds of legal rights in a bid to empower the poor in their dealings with vast bureaucracies.
In its first eighteen months of operation, during the mid-1960s, the Office for Economic Opportunity's Legal Services Program funded over 170 initiatives, ranging from a university-affiliated legal aid program in Mississippi to a neighbourhood law office in New York City. Over $29 million was spent, funding over 1,200 full-time poverty lawyers.\textsuperscript{17}

In the United Kingdom, the situation was vastly different. The \textit{Legal Aid and Advice Act (1949)} made drastic changes to the provision of legal aid by replacing the charity model according to which legal aid had previously been administered. But the similarity with America ended there. As one author has put it, the introduction of all forms of legal aid has a concept of equality at its base. In English legal aid philosophy, that concept of equality extended only to equality before the law. Legal aid would help someone who was at court, but it would not assist in remedying any of the structural inequalities that disadvantaged that person. In America, at the time of the Legal Services Program, legal aid philosophy went further and incorporated an understanding of social equality. Legal aid was considered to be an important force motivating reform in society, and that included reform of the law itself.\textsuperscript{18} Thus federal funding was made available to organisations in the United States which had law reform as one of their objectives, whereas such organisations in the United Kingdom did not attract significant funding. Despite all this, however, 25 neighbourhood law centres were established in the United Kingdom, mostly in London, between 1971 and 1979.\textsuperscript{19}

The Australian experience with legal centres is different from that of both the United Kingdom and the United States. The large number of legal centres in Australia, and their concern with bringing
about legal and social reform, make the United States the most likely source of comparison. But, unlike the situation there, most of the centres in Australia have been created through the initiative of volunteers, not through the implementation of a government plan.

Contradictions

The most problematic aspect of FLS's history first became evident in the period after FLS's opening, when the radical threat once posed simply by the organisation's existence needed to be enunciated and developed, and when compromises had to be made to ensure the organisation's continued existence.

Some time in the early 1970s the first of two enduring contradictions engaged by FLS's existence became manifest: how could broad social change be brought about by the pursuit of the legal entitlements of individuals? This remains a question which permits no easy answer. Can test cases bring about changes beyond the situation of the litigants themselves? If so, is this because of the cases themselves or because of the publicity they receive? If it is the latter, are test cases the most effective way to bring about social change? Do test cases implicitly place too much faith in the ability of the law to usher in social change?

These are questions which resounded at FLS, and the fact that a substantial proportion of FLS's work did concentrate on the legal rights of individual clients was, I shall argue, one of the reasons why FLS became an increasingly accepted part of the legal profession.

It is no coincidence that FLS opened only weeks after the election of the reformist Whitlam Government. When the Attorney-
General, Lionel Murphy, oversaw the first serious Federal Government involvement in the provision of legal aid in Australia. He saw FLS as a pilot of the project he had in mind. In June 1973 he gave a small grant to FLS, and in September the following year—seven months after the first staff member had been employed at FLS—a Federal Government grant of $20,000 ensured FLS's short-term future.

It was around this time that the second contradiction engaged by FLS's existence emerged: namely, how can an organisation in receipt of government funding continue to provide a radical critique of society? This, to be sure, is a question that has confronted members of many social movements. If, as is likely, an organisation is unable to sustain the level of commitment and enthusiasm from volunteers to enable it to exist for more than some months, or maybe years, what does it do? If it wants to employ staff, how does it raise funds? In FLS's case does it charge fees, seek to rely on public donations, or lobby governments for funding? Given that FLS chose the last of these alternatives, what does this say about the radical critique of society it sought to offer? Had the moment of radicalism passed?

These are questions which, in precisely the same period of time, confronted the women's movement. In 1973, the year FLS received its first government grant, Elizabeth Reid was appointed the first Adviser on Women's Affairs to the Prime Minister. During the 1970s, an increasing amount of government money was committed to funding organisations, such as rape crisis centres, which had initially been established in a climate of hostility towards those in power. And, during the 1970s, an increasing number of bureaucratic positions became open to women who had once been hostile to the State.20 By
receiving government funds, did the one-time activists forget the principles they once stood for?

Verity Burgmann, in her book *Power and Protest: Movements for Change in Australian Society*, discusses the furore surrounding Elizabeth Reid's appointment. Some who opposed the appointment argued that feminists lost their identity by joining patriarchal bureaucratic structures. In more common parlance, a member of the movement who became a bureaucrat had sold out and become an apologist for the system. The contrary argument was that people like Reid now had the chance and power to put into practice the reform ideas which they and others had developed.

In the new introduction to her book, *Damned Whores and God's Police*, Anne Summers, the second Adviser on Women's Affairs to the Prime Minister, offers interesting insights into how these questions are addressed by a one-time femocrat. For her, the benefits of being a femocrat were that she could put theories into practice. The limitations were that she lived in two often competing worlds, as a member of a movement and as a bureaucrat.

Whilst the analogy with legal service workers is a little strained here - Summers' comments are perhaps more applicable to legal service workers who become bureaucrats administering government legal aid - the similarities are clear. Unrestrained hostility towards governments is no longer possible when governments are ensuring one's employment or the survival of one's organisation. So, in one sense, the answer to the question "does the receipt of government funding compromise the group being funded?" is simple. Of course it does. But if that is so, to what extent ought an organisation be criticised and dismissed for receiving government funding?
In writing about social movements there is a danger in seeing them as linear and monolithic. The whole nature of the phrase "social movement", or "movement for social change" depicts the movement oppositionally, as an opposite to the status quo. Writers like Boris Frankel in *From the Prophets Deserts Come*, Verity Burgmann in *Power and Protest*, and Belinda Probert in an essay "Social Movements and Socialism", depict social movements, to a greater or lesser extent, in terms of their abilities to bring about the overthrow of capitalism.\(^{23}\) This is not a fault in itself. The authors' tasks involved them in discussing the political economy of social movements. But my history of FLS would be severely limited if I concentrated primarily on the extent to which FLS as an organisation has been oppositional.

If I did just concentrate on the political economy of FLS, I would find myself applying a linear understanding to what most certainly has not been a linear existence. Given that FLS has not brought about a revolution, I would be tempted, if I viewed FLS oppositionally, to have as my thesis that FLS once housed radical potential but that it was marginalised by dominant forces in society so that its radical potential was safely disarmed.

Such an analysis of FLS, however, would be too simple and too dismissive. It would fail to give credence to the small issues that have made the survival of the organisation a continually doubtful proposition. Moreover, such an analysis would be misleading. For it is my argument that the funding of FLS, and the simultaneous creation of a new federal legal aid system, witnessed a shift in the position of the State, from a stance of hostility to FLS and the criticisms of the legal system that it and others posed, to one of acceptance. Thus, rather than selling its radicalism in order to receive
government funding. FLS, to an extent, simply succeeded in its original aims. The State moved.

This change in the political construction of FLS, from radical voluntary collective to respected, government-funded organisation, places FLS firmly within an Australian tradition. FLS workers initially distanced themselves from the popular notion that Australia as a country stood for egalitarianism. They stood aside from the rhetoric that all citizens were equal before the law. They saw themselves as representatives of a constituency for whom those ideals were made meaningless by the inaccessibility of the law. And FLS workers were happy to be termed radicals in the process.

But, when the State, through the Whitlam Government, moved to fund FLS and other community legal centres, and when it applied unprecedented amounts of funding to the new Australian Legal Aid Office, it effectively addressed the critiques posed by workers at FLS and other community legal centres. At the same time, the State was able to emphasise the existence of those principles of egalitarianism and of the equality of all before the law. Indeed, the funding of FLS was an affirmation of those principles, and FLS workers could no longer say that those principles were meaningless.

But this does not mean that FLS's history ended in 1973. For in the years after, FLS workers, while seeking to maintain a high level of individual legal assistance, also sought to maintain a search for social change. In the search for change, FLS would create for itself a unique niche as a highly effective social critic.
Sources

The primary sources for my history are the 29 interviews I have conducted, the numerous newspaper articles that I have found at FLS and elsewhere, and the surprisingly voluminous FLS archives, which contain minutes of meetings, the various incarnations of an FLS newsletter, and correspondence.

I am the first to admit that my sources do not automatically get at the experiences of the people involved at FLS. Nor do I think that they provide a "true" picture of the Service. One example should serve to reveal the incomplete picture presented by my primary sources. In March 1975 the first paid worker at FLS, a lawyer named Danny, had been working for almost a year, and his position was up for review. A General Meeting that month decided that he should be replaced by another lawyer, Julian.

If one were to rely solely on the minutes of the General Meeting, one would get a fairly uninformative picture. It was for the General Meeting to decide who should fill the position, and the number of applicants for it was reduced by a selection committee to two: Julian and Danny. After hearing the statements of philosophy of both applicants, the General Meeting, according to the minutes, continued as follows:

Judy then advised the meeting that the Selection Committee had given Julian a unanimous vote. This caused a slight stir to the meeting. Members wanted to know why Julian was given a unanimous vote. [Debate continued] Other questions were asked to try and ascertain if the Selection Committee had been prejudiced and when discussion ceased it was put to the vote. Duly signed ballot papers were distributed and two members appointed as ballot officers. When the vote was counted, Julian had 22 and Danny 15. Julian was declared elected.24
Minutes of meetings inevitably reveal the public face of an organisation. Here, one gets a sense of the formality of minute taking, the emphasis on compliance with the proper procedures for elections, the distribution of duly signed ballot papers, the election of ballot officers, and so on. And, as anyone familiar with committees will know, the most vital information is usually preceded by "I don't think there is any need to minute this." In the meeting referred to above, there is simply the statement "This caused a slight stir to the meeting", by which one can only assume that there was some disruption or controversy. Any further conclusions about what caused the disruption are simply guesswork if the minutes are the only source of information.

A contrasting picture was given to me by a person who had been present at the meeting:

I was on the Selection Committee that selected Julian ... all we had the power to do was to make a recommendation to the General Meeting. And the General Meeting had to vote on whether to approve the recommendation or choose someone else ... We rocked up to this meeting ... there must have been about fifty people there this night. There were a lot of new faces there I'd never seen before ... We brought it to the attention of the chairperson during the meeting that there were a lot of new faces. What are they there for? ... we didn't have the numbers. We were going to get beaten. So we rushed down to the Fitzroy Legal Service and shut the legal service for half an hour. We had to. We had no choice. There were about fourteen volunteers there. We got them all. We won by two votes.25

Upon reading extant documentation, this version of events is quite inaccurate on specifics. For example, the margin of the vote was not two but seven, and the total number of voters was not 50 but 37. The point here is not to be churlish about the inaccuracy of someone's memory: the meeting did take place seventeen years prior to my interview. What I want to suggest is the obvious point that both sources, the minutes and the interview, have serious flaws if they
are to be relied upon to present the history of FLS. One can well imagine how many other stories I would get if, for instance, I spoke to people who voted for Danny.

One might take into account here Jeanette Winterson’s comment in *Oranges Are Not the Only Fruit*, where she writes that "... when I look at a history book and think of the imaginative effort it has taken to squeeze this oozing world between two boards and typeset, I am astonished." How does one respond to this? If it is accepted that there is no such thing as a truthful depiction of an event, or an objective depiction of someone’s experience, why do historians not just free ourselves from the burden of illusion and accept that we are all writing novels?

The first point to be made in response is that my subjectivity, for instance in interpreting sources, is not usually so idiosyncratic as to make its production meaningless. For this is where ideas of "contact" or "agreed meaning" come in, according to which life does go on despite all our subjectivities. Further, whilst I do not deny subjectivity in my research, that subjectivity can and ought to be influenced by an exposure to my sources.

A different attack on the use of sources is provided by Judith Allen in an essay entitled "Evidence and Silence: Feminism and the Limits of History". Her argument is that the existence of sources often merely replicates a division of power, and to base a history on the sources that exist can be positively misleading. In support of her argument, Allen looks at studies on prostitution, amongst other things, and she points out that the extant sources are those by and large left by policemen. Allen concludes that one should not refrain from questioning the conclusions drawn by crime historians just
because there is little source material in support of alternative conclusions.\textsuperscript{27}

I take no issue with this argument. But it does not follow from it that I ought to ignore the records about FLS that I have available to me, nor that I ought not to be influenced by them. What it does suggest is that I should question them.

Allen's persuasive argument also makes another suggestion, namely that one ought not to recoil from making an argument simply because there are no sources to support it. This is relevant to a study like mine, and I can think of one example where it is directly of use. The Constitutions of FLS over the years, the official and unofficial documentation, and even the recollections of most members of the organisation, all suggest that the internal structure of FLS has been non-hierarchical. As Allen's argument suggests, the lack of evidence to the contrary ought not to prevent me from arguing that hierarchies have existed at FLS.

My sources have provided me with a context in which to engage theories. But the sources do not speak for themselves. I fully accept Hayden White's argument that the structure of the historical narrative directs the content of the narrative.\textsuperscript{28} That is, I accept that by collecting, ordering and presenting information I am directing the content. Rather than seeing sources in a linear manner, as being simply the precursor to the formulation of arguments, a more symbiotic relationship between writer and sources is adopted in this thesis. In such a relationship what is important is not a true reading of sources, but a constant exposure to them. In this way sources help to formulate theories, and theories assist in the reading of sources.
In short, what I am trying to do in writing a history of FLS is to use the available sources and the reflective capacities that the discipline of history permits to evaluate what I consider to be the claims made by FLS. Principally those claims concern the conservative nature of both the law and the legal profession, and the ways in which dissent is voiced in contemporary Australian society.

What I have not tried to do in this thesis is to provide a social history of FLS clients. That would be a different project entirely. I have, however, attempted to speak to numbers of former clients. For ethical reasons I did not use client files in my research, and instead I advertised for former clients to contact me. Unfortunately, two notices in the *Age* newspaper, an article in the *Melbourne Times*, a pamphlet distribution at the Atherton Estate Housing Commission flats in Fitzroy, and a notice in the waiting room at FLS, managed to motivate only four former clients to contact me. In retrospect, this is not surprising. Most FLS clients have dealt with the organisation on only one occasion, and that has usually been because some problem in their lives has driven them there. So the likelihood that they would want then to speak to a researcher about their experiences was always going to be slim. This has meant that the experiences of clients have not been central to my thesis.

Instead, I have attempted to investigate and contextualise FLS's history in terms of its connection to the phenomenon of the New Left in Australia. Thus my focus is on the people who formed and sustained FLS, rather than on those whom it sought to assist. At the same time, I have leavened my narrative with the accounts of some former FLS clients.
There is only a small amount of secondary material that has been devoted to analysing FLS, and indeed this is part of the reason why I have chosen to write this thesis. Two theses were written in 1973, by Peter Cashman and Harry Van Moorst, which give very early overviews of FLS. Some of the research for both theses was done in collaboration: for instance, the authors shared much of the work involved in collecting and analysing statistical information on FLS clients. Both theses are heavily reliant on statistics, but each draws quite different conclusions about the operations of FLS.

Cashman’s thesis gives an overview of legal aid in the United Kingdom, the United States and Australia, and then moves to give a close account of FLS’s clients, concentrating on their demographic details and the nature of their legal problems. Van Moorst gives a similar overview of legal aid and a similar analysis of FLS’s clients. But he then argues that FLS is unable to meet its objectives of community involvement, law reform, and education about the law because its orientation is legal rather than political, and because its emphasis is on service rather than change.30

David Neal has written more than anyone else about FLS. His 1978 article “Delivery of Legal Services - The Innovative Approach of the Fitzroy Legal Service” gives a background to the opening and first few years of FLS, and then provides a statistical analysis of the characteristics of around 6,000 FLS clients who used the Service in a 30 month period between 1974 and 1976. After giving this analysis, Neal’s principal arguments are that voluntary legal services should receive funds to employ staff, and that all legal aid bodies should monitor their activities in a way similar to FLS.31

Neal’s most significant contribution to the literature on FLS and other legal centres is the publication he edited, entitled On
Tap, Not On Top: Legal Centres in Australia 1972-1982. This is a collection of articles on legal centres in Australia, the most useful of which for my purposes were Neal's two contributions. "Ten Years After - The Victorian Centres" focusses primarily on FLS and gives a brief overview of FLS's history from 1972 to 1982. Neal's "Interviews: Some Founding Mothers and Fathers" contains transcripts of his interviews with several former FLS volunteers. I have interviewed most of these people myself, but Neal's transcripts have provided a very useful starting-point.32

Neal joined with two other people, John Basten and Regina Graycar, to write a 1983 article, "Legal Centres in Australia". This article traces the development of community legal centres and legal aid in Australia. It provides a good overview of this subject and closes with some perceptive comments on the future directions that legal centres might take. In assessing the history of community legal centres, the authors conclude that some people must have been disappointed that more social change did not result from their establishment. Yet the authors acknowledge that community legal centres have made the legal system accessible to many more people, and have set up a platform on which the interests of poor people on legal issues and law reform can be voiced.33

The final secondary source which deals directly with FLS is the book Practising Poverty Law, written by Susan Bothmann and Robert Gordon. This book was the result of an idea, conceived at FLS in 1977, that an economically self-supporting poverty law practice could and should be established in Melbourne. The book bases much of its discussion on the work carried out at FLS, and it provides interesting theoretical considerations on topics such as "a socio-legal profile: the poor and poverty law", and "developing a change-
oriented legal resource". In its larger context, the book is an attempt to argue that a casework practice devoted to the legal problems of poor people can both pursue the aims of a community legal centre and remain economically viable. The book was a blueprint for the creation of the Flemington/Kensington Community Legal Service.

In addition to these works, numerous brief but useful articles have appeared in the journal once known as the Fitzroy Legal Service Bulletin, then as the Legal Service Bulletin, and more recently as the Alternative Law Journal.

In all of this literature there is an enormous gap which I seek to fill. None of these works has attempted to consider FLS's history in terms of its broader significance. Several works have provided detailed analyses of FLS clients, but there has been no attempt to consider FLS in its wider historical context, as an organisation that has sought to apply a particular philosophy to the provision of what in contemporary society must be considered an essential service. This, of course, is not a criticism of those works I have mentioned, for they have not sought to do this. Indeed, I may be criticised myself for not providing enough statistical information on FLS clients, although I do present some statistics in Appendix A. But my purpose is to look at FLS as an organisation, and to suggest how it has involved itself with a number of theoretical issues. Much of my analysis consists of a close reading of the development of FLS. But from this close reading I draw larger conclusions about the nature of the law, the legal profession, and the place of dissent in contemporary Australia. My history of FLS, hopefully, offers insight into all of these things.
Participant Observation

It would be remiss of me not to mention my own involvement with FLS. I have been a volunteer lawyer at FLS for six years and a member of the Service's Implementation Group, the closest thing the organisation has got to a management committee, for four years.

In recent times the line between participant observation and non-participant observation has been fudged, as has the once clear line between subjective and objective writing. It is now accepted that our individual experiences affect what we see, no matter how familiar or unfamiliar we consider ourselves to be with the thing being seen. In Greg Dening's words. "There is no other way to 'do' history ... than by participant observation, than by blending a foreign and a familiar experience into something new."

Having said that, my research has certainly benefitted from my prior involvement with FLS. Access to archives, addresses of former volunteers, ideas, and motivation have all been made readily available to me by people associated with FLS, and for these I am most grateful.

However, there have also been some problems in being closely involved with my subject. At the August 1993 Annual General Meeting of the Service, a motion was discussed and put that a pamphlet be produced outlining a short history of the founding of FLS, in order to develop "a more explicit and positive identity for the Fitzroy Legal Service as a basis for present campaigning and future planning". As soon as the proposal was put, many eyes turned to me.

The benefits of a reflective discipline such as history are not always immediately obvious. And, for people at an organisation like
FLS, which has constantly had to campaign for its ongoing survival, the perceived benefits of me writing a history of the Service are not necessarily consistent with the aims of a PhD thesis. For whilst I see the benefits of my research to be the opportunity and freedom I have been given to reflect on the claims made by the Service over its near 23 years of operation, many friends and colleagues of mine at FLS see the benefits in terms of survival and funding. That is, for some people at FLS it is a good thing that I have written a history of the Service because it will make it that little bit harder for governments to cut the Service's funding. The problem is that if my primary aim in writing a history of FLS had been to support campaigns for funding, then the temptation would have been to write an uncritical history.

To be sure, these different understandings of the benefits of my project are not always in competition. Given my involvement with FLS, I am obviously not going to mind if in some way my project makes it a little less likely that the organisation will fold. But that has not been my primary aim.

Chapter Outline

My chapters contain both narrative detail about FLS's history and discussions upon several broad thematic topics that are engaged by FLS's history. Chapter One examines the opening of FLS and introduces the argument that the establishment of FLS saw for the first time in Australia the marriage of New Left politics to the operations of the law. I argue that the operations of FLS shared characteristics with many contemporaneous social movements, in particular the anti-Vietnam war movement and the women's movement.
Chapter Two then explores how New Left ideals, with their emphasis on community involvement, were embraced at the local community level in Fitzroy in the early 1970s. In its first few years, FLS was just one of a number of local groups in Fitzroy that sought to motivate local community members to voice their dissent at what was perceived to be the increasing powerlessness of ordinary individuals. In many ways, Fitzroy was a social laboratory for the implementation of new approaches to the provision of welfare. These origins are strongly relevant to understanding the way FLS was internally organised, and to understanding the services it provided. Most notably, the desire of FLS workers to empower individuals to make their own decisions about how to respond to legal problems, and their desire to motivate "community action" over perceived injustices in the operation of the law, bear strong resemblance to the philosophies of other Fitzroy community groups.

In Chapter Three I explore the rise of legal aid in Australia, when the Whitlam Federal Labor Government created the Australian Legal Aid Office. I examine how people at FLS came to be heavily involved in debates about legal aid, and argue that as a consequence of the Federal Government's initiatives, the project of providing legal assistance to people on low incomes became an increasingly acceptable one amongst mainstream lawyers. This informs my argument that, in the Whitlam years, FLS moved from being a hostile outsider to the legal profession to become a respected insider.

During the Whitlam years the possibility had existed that FLS might be subsumed by the ALAO. In Chapter Four I discuss how this prospect receded in the five years from 1976. In these years, when the Fraser Liberal Government effected its plan to abolish the ALAO and replace it with State legal aid commissions, FLS established for
itself an enduring and independent role as a medium of change. At the same time, the increasingly respected status that FLS now commanded was evidenced by the fact that a former staff member, Julian Gardner, became the first Director of the Legal Aid Commission of Victoria.

Chapter Five then examines the period from 1981 to 1989. I argue that FLS’s dependence on government funding limited its ability to promote change, an argument informed by the public debates over several FLS initiatives in these years that drew the ire of conservative politicians and the Victoria Police. Despite this, I conclude that in these years FLS managed to position itself as a vigorous watchdog over the operations of police. In Chapter Six I consider the developments at FLS in the years 1990 to 1994, a period during the latter half of which the Kennett State Liberal Government made several significant changes to the legal system in Victoria. I argue that FLS at this time aligned itself, somewhat uncharacteristically, with several organisations it once would have considered to be opponents.

In Chapter Seven I provide an overview of how FLS lawyers have challenged what it means to be a lawyer in Victoria and Australia. That challenge, which was once radical but soon became pragmatic, has not resulted in significant change to the legal profession. But there is evidence to suggest that FLS and other community legal centres can take credit for some of the changes that have occurred in the way lawyers operate in Australia.

My final chapter looks closely at those workers who have enabled FLS to provide the level of legal assistance that it has: the volunteers. I explore competing arguments as to whether FLS volunteers ought to be viewed as social change activists or rather as simply the providers of a needed service. I argue that there is
evidence for both interpretations, but that a depiction of the
volunteers solely as social change activists is inappropriate because
of their largely casework function. Even so, I conclude that the goal
of social change has motivated many volunteers to become involved
with FLS. This, in turn, has enabled free legal assistance to be
given to tens of thousands of clients.

To summarise, my thesis is as follows. When FLS opened in
December 1972 as the first non-Aboriginal community legal centre in
Australia, its volunteer workers presented a radical critique of the
legal system and of the legal profession. They depicted both to be
intricately involved in the oppression of Australians on low incomes.
In a bid to combat this oppression, FLS developed two broad
objectives: to provide free and accessible legal assistance, and to
operate as a medium of social change. The adoption and pursuit of
these at times contradictory aims amounted to an attempt by FLS
volunteers to marry the politics of the New Left to the workings of
the law. The adoption of these aims also meant that FLS would be
involved, at a very practical level, in the debate concerning the
relationship between the law and social change in Australia.

In the years following its formation, the radical critique once
posed by FLS dissipated. Primarily this occurred because the State,
in the form of the Whitlam Government, moved to accommodate FLS
workers' most persuasive criticisms of the legal system. The Whitlam
Government's creation of a new legal aid system in 1973, the high
profile taken by FLS workers in debates about legal aid, and the fact
that FLS received government funding, were all crucial to FLS's
increasingly accepted status as a part, albeit an unusual one, of the
legal profession.
Notwithstanding this acceptance, FLS workers have continued to pursue the organisation's two original aims. As a result of this, FLS has continued to draw clients and workers to the Service, while at the same time it has continued to operate as an effective social critic.
NOTES FOR INTRODUCTION

1 FLS Constitution (July 1973). Appendix E contains a copy of this constitution.


3 House of Representatives Standing Committee on Aboriginal Affairs, Aboriginal Legal Aid (Canberra: AGPS, 1980), 24-5.


8 See Regina Graycar, "Legal Centres in the Festival State", in Neal (ed.), On Tap, Not On Top, 21.


10 Many community legal centres also receive State Government funding: Federation of Community Legal Centres, Community Legal Centres in Victoria (Fitzroy: Federation of Community Legal Centres, 1993), 4.

11 On this point see further John Basten, Regina Graycar and David Neal, "Legal Centres in Australia", (1983) 6 University of New South Wales Law Journal 163, at 166.


20 See Patricia Grimshaw, Marilyn Lake, Ann McGrath and Marian Quartly, Creating a Nation (Ringwood: McPhee Gribble, 1994), 304.


24 Minutes of General Meeting, 13 March 1975.


32 David Neal, "Ten Years After - The Victorian Centres" and "Interviews: Some Founding Mothers and Fathers", in Neal (ed.), On Tap, Not On Top.

33 Basten, Graycar and Neal, "Legal Centres in Australia", 187. John Basten has written a more recent article in which he argues that, despite the advent of State legal aid commissions, community legal centres still have an important role to play in the administration of justice and in legal service delivery in Australia. John Basten, "Legal Aid and Community Legal Centres", (1987) 61 Australian Law Journal 714.


36 Proposal put by Brian Collingburn to Annual General Meeting, 31 August 1993.
Chapter One
RADICALS

On Thursday 14 December 1972, less than a fortnight after the election of the reformist Whitlam Government, a public meeting of around eighty people was held in the plush mayoral rooms of the Fitzroy Town Hall. The purpose of the meeting was to discuss the opening of the Fitzroy Free Legal Service. Amongst those present were the organisers of the meeting, John Finlayson, Michael O’Brien and Lou Hill, together with the director of social services at the Brotherhood of St Laurence, Peter Hollingworth, the director of the Fitzroy Ecumenical Centre, Brian Howe, eight Fitzroy City Councillors, and the treasurer of the Law Institute of Victoria.

It soon became clear that the meeting was divided on the issue of whether the legal service should open. Brian Howe was against it opening, on the basis that there were enough welfare agencies in Fitzroy, and he said that the last thing Fitzroy residents needed were more handouts. Against this it was argued that the aim behind the service was not to give handouts, but to give free legal advice. The treasurer of the Law Institute of Victoria questioned the standard of legal advice that could be given free of charge and argued that the service should not open because the Legal Aid Committee was catering for the legal needs of those who could not afford private lawyers.¹

John Finlayson, a 28-year-old youth worker, was ready for this challenge. He had brought with him to the meeting seventeen young people who had either been through, or were facing, the criminal justice system. Several of them spoke, saying that they had never had a lawyer, and that they would like one now.
Arguments continued for and against the establishment of the Service, with some people wanting to complete impact studies before proceeding.\(^2\) The mood became progressively more heated, until one lawyer jumped up on his studded leather chair and said something like "John's got the evidence. The kids are here. There are lots of people out there who need legal aid. You can get fucked, we're going to start with John."\(^3\)

After that, the meeting separated into two groups. People in the group opposed to the formation of the legal service either drifted in to join those in favour or went home. And on the following Monday, 18 December 1972, the Fitzroy Legal Service (FLS) opened, in Finlayson's office under the Fitzroy Town Hall.

From that night free legal assistance was provided by over sixty rostered volunteers. One of the first clients of FLS had broken and missing floorboards in his house. Unable to walk safely from one room to another, he wanted to know whether he had any legal grounds for complaint against his landlord. He was not particularly interested in social movements, nor in discussing the inaccessibility of the law and legal remedies: he just wanted to know if he had any legal grounds for complaint.\(^4\)

His was hardly a radical question, and the affirmative response he received hardly constituted radical advice. Yet, in a way, this scenario on 18 December 1972 was radical. For this client had received a privileged commodity, legal assistance, free of charge. Just like the group of anarchists in the "Free Store" at 42 Smith Street Fitzroy, who dispensed free books and clothes, so the volunteers at FLS were giving away a different commodity, legal knowledge, from the basement of the Fitzroy Town Hall.
How is this to be understood? Why did people who had been given possession of this commodity, through legal education, wish now to give it away and not sell it? And why did the desire to give away legal assistance lead to the establishment of a free legal service instead of just an increase in the number of private lawyers who undertook free work from their offices?

The answers to these questions lie somewhere in the mixture of politics and the culture of dissent for which the 1960s decade has become renowned. For some FLS volunteers, the unjust ownership of privileged information by lawyers, resulting in the inability of poor people to gain access to legal information, was a driving force behind the establishment of the Service. For others, the giving of legal assistance from the centre of working-class Fitzroy was a lively, anti-authoritarian, "power to the people" activity. For most, it was a combination of the two.

It was not the case, however, that the 1970s witnessed the sudden birth of a breed of sensitive lawyers. Many lawyers had provided some level of free assistance for many years, even if most had not. But in the early 1970s, for the first time in Australia, the idea emerged that not only should poor people have access to free legal assistance, but that the legal assistance ought to be given in such a way as to enable recipients to work to alter the social conditions that affected them. In this way, the opening of FLS was consistent with the politics of many other contemporary social movements. Indeed, the opening of FLS saw for the first time in Australia the application of New Left politics to the workings of the law.
The New Left

The task of supporting an argument that the opening of FLS constituted a manifestation of the Australian New Left is doubly problematic. For it is difficult enough to provide a clear definition of the amorphous political movement, let alone demonstrate its applicability to the workings of the law. But, as I shall show, there are good reasons for arguing that FLS was the product of a union between the law and the New Left.

In England and the United States of America, the term New Left first arose in the 1950s to describe those former communist party members who sought to escape communism's authoritarian excesses and theoretical sterility. Nigel Young, in his book *An Infantile Disorder? The Crisis and Decline of the New Left*, is reluctant to provide any simple explanation of how and where the New Left arose, arguing that the phenomenon was multi-centred. But authors agree that 1956 probably provides a fair starting point for the New Left in England and the United States.

Peter O'Brien dates the initial phase of the New Left to the years 1956 to 1965, when members of what would become known as the New Left, driven by socialist humanism in the United Kingdom and by radical populism in the United States, agitated around single issues. Wini Breines traces the emergence of the New Left in the United States to two concurrent phenomena of the 1950s. The first was the emergence of the so-called "beatniks", a collection of mainly young people from suburban and middle-class America who rejected dominant American values and promoted non-materialist lifestyles. The second, and more important, was the civil rights movement, which dates back to the mid-1950s and the push for equal schooling for
black children. These two happenings, Breines argues, shared a moral critique of society that the New Left would inherit.  

Meanwhile, in the United Kingdom, the Cold War nuclear threat generated enormous activism. Marches "Against Nuclear Death" began in the late 1950s, and they attracted many young participants to challenge the quietude of the established left on this issue. Concurrently, the English journal, the *New Left Review*, was in its infancy but was fast gaining prominence.

Developments in both countries over the next decade saw more and more groups make connections between a range of issues: for instance, between nuclear disarmament, civil rights, and racism. The old left seemed to lack credibility on all these issues, and the New Left activists, a large proportion of whom were students, became increasingly unified in their methods and theory.

Nigel Young argues that it is in the mid-1960s that one can begin to define a core identity of the New Left in England and the United States. Non-violence, anti-militarism and direct action became common themes. At the same time, trans-nationalism, counter-culture and a desire for innovation over traditionalism were the more ethereal ideals that separated the new from the old.

In Australia, the exodus of intellectuals from the Communist Party of Australia in the late 1950s, following the Russian invasion of Hungary, provides probably the clearest time of division between the old and the new; the title old left came to refer to the established Communist Party of Australia. So, the term New Left was used in Australia around this time to describe various new groupings of ex-Communist Party members.
But this was not the only way the term was used in Australia. Indeed, as a definitional term, New Left was ambiguous. One could be of the New Left simply by espousing a left wing politics and by rejecting membership of established left wing groups. This is a definitional problem which haunts any work on the New Left, and it is one which leads authors like Robin Gerster and Jan Bassett to argue that the New Left can hardly even be referred to as a movement.

Richard Gordon and Warren Osmond argue that in Australia in the late 1950s the term "New Left" was applied to some quite disparate groups: a Sydney-based group displayed a revival of interest in the nature of socialist ideas and theory, while in Melbourne a different New Left was more influenced by European social democratic principles, and had an added religious component.

In addition, Australian students in the 1960s grasped the New Left label. Their activism initially centred around particular issues, like the white Australia policy, apartheid, Anzac Day, nuclear disarmament and the Vietnam war, but quickly spread to encapsulate a broader critique of society. Geoffrey Bolton adopts this usage of the term, arguing that the New Left comprised "a coalition of young university-educated urban-dwellers, many of them radicalized by experience of anti-Vietnam protest, who were endeavouring to breathe new life into the bones of Marxism after its eclipse in the 1950s." For reasons which will become clear shortly, it is this usage of the New Left label, in its application initially to student protests, on which I shall focus.

But is it meaningful now to use the term "New Left" in this regard? Was there, for instance, any New Left political philosophy which linked student activism against the Vietnam war to student
activism against the touring Springbok rugby team, or was there simply something uniform in being oppositional in the 1960s? In short, was "New Left" a term which connoted a particular politics?

According to John Murphy, libertarian issues were at the forefront in student movements in Brisbane and Adelaide. At Melbourne University, Students for a Democratic Society emerged in 1968 from the Communist Party-aligned Labor Club, and espoused a radical democratic and libertarian politics, with an emphasis on participatory forms of organisation. Students for a Democratic Society were also active in Sydney around this time. Meanwhile at Monash University, a strongly Maoist group emerged.\(^\text{16}\) So it is at best misleading to suggest that there was a philosophically united student movement in Australia.

This has led authors like Robin Gerster and Jan Bassett to conclude that when students in Australia objected to Australia's involvement in the Vietnam war, they tried to do so by referring to a range of diverse political philosophies "... promoted by the hybrid international political phenomenon ... called the New Left ..."\(^\text{17}\)

Certainly Gerster and Bassett are correct in saying that there was no unified political philosophy which was distinctly New Left. There was no Australian New Left manifesto. Murphy argues that the New Left did not develop a coherent critique of society around which a movement could be formed. Humanist ideals sat awkwardly with Leninist revivals of Maoism, pacifism and theories of participatory democracy co-existed with calls for revolution.\(^\text{18}\) And matters are confused even more if one considers that associated with the rise of student activism in the 1960s was the contemporary manifestation of the "culture of dissent" in clothes, popular music and attitude.
But herein lies the point of connection between the various student protests, and between two broader movements which involved many people who were not students: the anti-Vietnam war movement and the women's movement. The point of unity in all of this was in the fact of protest, and in the method of protest. The protests around the issues I have mentioned were strongly oppositional, and all of the sometimes disparate groupings of people developed discourses against power.\textsuperscript{19} All were, to some extent, anti-authoritarian, anti-imperialist, anti-racist, and anti-capitalist.\textsuperscript{20} Certainly, there was no unified call for a new political order; indeed there were often points of contradiction amongst the various protests. This has led Gerster and Bassett, in their book \textit{Seizures of Youth}, to dismiss much 1960s activism as "childish insubordination".\textsuperscript{21} Yet, whilst their attempt to temper the often idolatrous memories of the 1960s may be useful, it would seem inappropriate to dismiss too quickly the many challenging events which occurred at that time. Indeed I would argue that, despite its essentially amorphous nature, there is a sense in which the term "New Left" can be used meaningfully to refer to many of these challenging events, just as it can be used to refer to a particular politics, a politics of protest.

Before moving to examine how FLS manifested many of the characteristics of what I call New Left protests, I want to provide a brief overview of the principal sites of protest in 1960s and early 1970s Australia.

\textbf{Sites of Protest}

The issues about which large numbers of people protested in the 1960s and early 1970s were numerous. In a country where Aboriginal
people were denied full citizenship until a referendum in 1967. Aboriginal rights, or the lack of them, was one contentious issue. Other race issues of the time saw strong opposition to the white Australia policy and an increasing level of support for overseas movements, particularly the civil rights movement in the United States and the anti-apartheid movement in South Africa. Rallies in Australia accompanied major overseas crises, such as the Sharpeville massacre in South Africa in 1960,22 while large and violent protests followed events like the 1971 Springbok rugby tour of Australia.

Here I want briefly to discuss the protests in Australia on three issues, the Springbok tour, the Vietnam war and the women’s movement, before drawing out some characteristics that connect these protests to each other and to the opening of FLS.

The demonstrations against the Springbok tour displayed many of the traits which characterised New Left protests. Demonstrators displayed influences of anarchism by yelling abuse at the players and by charging on to the playing field to disrupt games. And the many battles with law enforcers pitted the mainly young scrappily dressed protestors against uniformed and organised police. It is easy to see how these battles were interpreted by demonstrators as instances where the people fought the bureaucracy.

The three month tour began in June 1971. Demonstrations against racism in South Africa were a feature of every match on the tour, and they eventually led to the cancellation of the South African cricket tour, which had been planned for late 1971.

Sydney and Melbourne witnessed the biggest demonstrations against the Springboks, with 7,000 and 5,000 protestors respectively attending the matches in those cities.23 Protestors chanted slogans
such as "Go Home Racists" and "Sharpville, Sharpville, 69 Dead" and other taunts learned in Afrikaans. Protestors also waved placards and ran onto the field during games.

Before the Melbourne match, the then Victorian Liberal Premier, Sir Henry Bolte, was quoted as saying that the Victorian police "will be playing it their way. There are no instructions being given to them. Anything they do we will support." Reports after the match, during which over 130 people were arrested, referred to the small groups of demonstrators who ran onto the field being "run down and trampled by police horses" and to the policemen on foot who "flailed into them with batons."

Participants considered their anti-Springbok demonstrations to have been successful because they had managed to bring the issue of racism before the Australian community. One demonstrator wrote that "We set out to prove to the rest of the world that Australians, despite White Australia, New Guinea and so on, were not entirely racist." This form of protest, involving high principles and direct action, was to become characteristic of this time.

Perhaps the 1960s will best be remembered as a time of strong anti-war protest. Opposition to Anzac Day celebrations, campaigns for nuclear disarmament and, in particular, the anti-Vietnam war movement, saw deep divisions open in Australian society. The Vietnam war seems to have fortified in many Australians, particularly the young, the belief that alternatives needed to be found to a culture which permitted its twenty-year-old males to be forced to face possible slaughter in what was widely regarded as someone else's unjust war.
From the early 1960s Australian troops were engaged in Vietnam, although Australia first really became an active participant in the war in April 1965, when Prime Minister Menzies announced that 1,000 troops would be sent in response to a request for military assistance by the South Vietnamese Government.

More than the war itself, it was conscription which stimulated the growth of the anti-war movement in Australia. In December 1964 the Federal Parliament passed the *National Service Act*, which required all twenty-year-old men to register for national service. Conscientious objection to any and all wars was a ground for exemption, but since most men in question were unable to maintain an opposition to all wars, the exemption was rarely utilised. Imprisonment for up to two years was the penalty for dodging the draft, and the maximum penalty was incurred for the first of many times in 1968 when postman John Zarb was sentenced to two years' jail.\(^\text{28}\)

A lottery decided who would be conscripted to fight in Vietnam. Those men whose birthdays matched the dates on the marbles drawn from a barrel were sent to war. The first conscript left for Vietnam in April 1966, and by 1968 conscripts numbered one-half of Australia’s army in Vietnam.\(^\text{29}\)

Such was the level of protest against this process and against the war, that by 1971 it has been estimated that nearly 12,000 eligible men, more than the number of Australians engaged in Vietnam, had not complied with the *National Service Act*. Meanwhile, draft-resisters' groups were becoming popular in Melbourne, with the establishment of over 20 such organisations.\(^\text{30}\) The Save Our Sons group, one of the first protest movements against the war, was a
particularly strong women's group. It depicted conscription as anti-democratic and as a crime against the rights of the individual.\textsuperscript{31}

Groups opposing conscription often depicted conscription as the ultimate tool of manipulation used by an authoritarian government against its people. The Draft Resisters' Union, formed in Carlton in June 1970,\textsuperscript{32} published a newsletter, Resist, in one edition of which it was argued that the Government needed conscription because this was the easiest way to raise an army rapidly in an emergency, the "sort of 'emergency' that might arise in South America or South-East Asia when the people try to take power". The article continued: "The draft resistance campaign is one which is and will attract many people to consider for the first time their responsibility to their society, not to accept the establishment simply because it does exist."\textsuperscript{33}

In another edition of Resist an open letter was written to the Federal Attorney-General, under the heading "There is far too much law and order, not nearly enough justice". The writer stated that:

\begin{quote}
Until such time as you decide to apply the law impartially, we are bound by our solidarity with the Vietnamese people and oppressed peoples everywhere, to defy and resist laws designed to repress the growing international movement for justice and human liberation ... The revolution sought by suffering humanity, and everywhere feared and opposed by ... the Unyoung, Uncoloured, Unpoor, may be interrupted by the repressive measures of governments prepared to cynically abuse their powers, but it will never be stopped. All power to the people!\textsuperscript{34}
\end{quote}

The notion of the anti-Vietnam war movement being anti-authoritarian was put neatly by Geoff Mullen, a draft-resister, in March 1971 when he addressed a Magistrates' Court in his own defence, saying:

\begin{quote}
This is a country, like others, governed by a compulsion to manipulate. In the factory or office, you have no more significance than any other working machine. For the
government you are liable to be used for whatsoever they choose. I am not a machine. I am not to be used merely as others will!35

Of course, not all anti-war protestors were of like mind. Indeed, by the early 1970s the anti-war movement had almost gained mainstream acceptance, as the moratorium marches revealed.

The most popular protest against the Vietnam war came in the moratorium from 8-10 May 1970. The march on 8 May in Melbourne drew at least 70,000 participants. The Age newspaper, in its lead story, reported that all sorts of people took part: "Students with Red Indian headbands; tough-looking wharfies; middle-aged men in business suits; mini-skirted girls; workers in construction helmets. But the young predominated."36 Another moratorium march was held on 18 September 1970, attracting between 50,000 and 70,000 people.37

Whilst the anti-war movement did attract many mainstream adherents who would not have conceived the war in terms of the people being manipulated by the bureaucracy, the metaphor of manipulation was potent. And for people involved in establishing FLS, the metaphor was to have real significance.

The anti-Vietnam war movement certainly called large numbers of people onto the streets, but the most broad-reaching social movement to develop in the 1960s and 1970s was the women's movement, inspired by what is sometimes referred to as "second-wave feminism". Many reasons can and have been given for why this social phenomenon took off at this time, including the fact that Australia's recent economic expansion made it an increasingly unlikely choice for married women to stay out of the work force. On this analysis it is easy to see why equal pay and child care were fought for around 1972, and it is also easy to see why the time was right, in February 1972, for the
formation of the influential Women's Electoral Lobby in Melbourne. The emergence at this time of authors formulating and defending strong feminist positions, such as Kate Millett, Shulamith Firestone and Germaine Greer, also partly explains the rise of the women's movement.

But these factors are not enough to explain the power of the women's movement, particularly among more radical groups like the Abortion Action Coalition. Verity Burgmann and Patricia Grimshaw are two historians who consider the Vietnam war protests to have had a significant impact on the Australian women's movement. Burgmann cites a women's liberation pamphlet which maintained that:

There is an increasing self-awareness on the part of the powerless and the manipulated of all societies. Third world struggles against imperialism, black demands for power, student demands for shared control of the university, rank and file workers' opposition to union bureaucrats as well as bosses and community demands for control of environment all share the same idea of combatt[ing] particular repressions and injustices where they occur. And the same goes for Women's Liberation.

The movement against the Vietnam war was seen as significant because it politicised many women who were to become important in women's groups. Most important, it would seem, was the way anti-Vietnam war activists tackled the perceived authoritarianism of conscription. The anti-war movement had located an enemy in authoritarianism, and was able to encourage social action against this enemy using marches and civil disobedience. For the women's movement, this was a crucial discovery, and one which informed the "act now rather than organise for later" method of protest. The immediacy of the protest march made it an effective medium through which to display the rejection of authoritarianism and the strictures of patriarchy.
An early editorial of *Vashti's Voice*, a women's liberation newspaper, reported on the International Women's Day march in March 1972 which attracted 2,000 people in Melbourne. The editorial writer commented that:

Just as the March demonstration represented many points of view, so does Women's Liberation. Women's Liberation is no fixed organization with a rigid platform that its members must adhere to -- it is a state of mind. It is the realization that all women have the right to fulfill their lives in a way that is meaningful to them, and that no one has the right to compel them en masse to play a role in society alien to their personal wishes just because they are women.  

Likewise the *Women's Liberation Newsletter* eschewed the planning and organisation usually characteristic of social movements prior to the 1960s. Instead it proclaimed that "We are the revolution now" and that "Slogans achieve nothing! We express our belief in what we say only by doing it."  

The need to give voice to the powerless was a strong theme in the first editorial of *Refractory Girl*, a women's journal which first appeared late in 1972. "Consciousness raising" was one method by which women could attempt to break from the intellectual restrictions imposed upon them, and it was a method embraced and promoted within many of the feminist journals. Anne Summers has written that consciousness raising was a form of self-help, where small groups of women would help each other "stumble out of the mire of female passivity and masochism."  

Naturally it is difficult to pull together threads of what were, sometimes, quite disparate social movements. The anti-war movement attracted considerable support from middle-aged Australians, while the anti-Springbok demonstrations did not. Thus it is unreasonable to suggest that there was one group of people who
protested about all these issues. Nor, of course, can it be said that all of these issues were inherently linked to each other in such a way that they formed one monolithic protest movement. Even so, it is fair to refer to some points of unity between the various protests, and to argue that that unity is able to attract the name New Left.47

Verity Burgmann has argued that the so-called "new social movements", under which heading are typically included the black rights movement, the women's movement, the anti-Vietnam war movement, homosexual liberation movements and the environmental movement, did not really manifest new forms of protest at all. Most of these movements, she argues, have long histories. The anti-Vietnam war movement was no more significant than the anti-conscription movement during the first world war, second-wave feminism probably made less impact than first-wave feminism, and so on.48 Whilst this may be true for each of the individual movements, it is the links between the new movements which are important. All of them contained strongly similar language and understandings of oppression, and all sought to fight this perceived oppression in similar ways.

Most notably, the protests, like the counter culture that had emerged contemporaneously, displayed strong opposition to restrictions on individual freedoms, and were typically expressed in a communitarian form. In an increasingly technocratic world, the new conflicts were depicted as being between the people and the bureaucracy, the powerless versus the powerful.49 The battles were about people's rights and abilities to control their own lives, free from the strictures imposed by an impersonal State.50

In The Australian New Left, a book published in 1970, Dennis Altman wrote that there was both an anarchic strain as well as a
search for community in the culture of the New Left. "Doing your own thing" and the search for community were both important.\textsuperscript{51}

More recently, John Docker has argued that the New Left drew inspiration from anarchism and libertarianism and interpreted aspects of each in a communitarian rather than individualistic spirit. Thus street marches and consciousness-raising groups were preferred to meetings underpinned by organisational structures like chairpersons and minutes. The old left, with its need for these structures, even constituted part of the problem.\textsuperscript{52} According to activists within the New Left in Australia, the failures of the old left were that it created no counter-hegemony, achieved no major structural changes and produced no viable mass protest movements. A middle-class hegemony had imprisoned the left.\textsuperscript{53}

Humphrey McQueen, whose \textit{A New Britannia} was first published in 1970, accused the old left of "harking back to great days of yore" and of being "a brigand of contemporary hopes and a debaser of present struggles".\textsuperscript{54} His book criticised the old left for providing an image of Australian nationalism that was blind to racism.

Marches became the trademark of the New Left. The possibility of immediate participation, together with an element of anarchy, made the march the perfect vehicle for New Left protests. Requiring little organisation and debate, the march stood for community over bureaucracy, for involvement over disaffection. The caption in the \textit{Age}, under a photograph of a Vietnam Moratorium march, read: "Hands raised in protest. A dramatic view of the mass anti-war protest ... The finger 'Vee' signs are calls for peace. But there's a clenched fist there as well."\textsuperscript{55}
Virtually inseparable from the ideas which the New Left entertained, were the ways in which one expressed membership of the New Left. Rejection, or at least the appearance of rejection, of mainstream culture was an essential element. Indeed, mainstream culture itself was a site of protest.

According to Theodore Roszak, the responsibility for most of the new and provocative developments in politics and social relations in the 1960s lay with young people, and with those who addressed themselves primarily to the young. The young, large numbers of whom were profoundly, even fanatically, alienated from their parents' generation, were at the forefront in the search for new methods of social organisation. The protests against the Vietnam war clearly involved people of all ages. But, as Barry York writes, the anti-Vietnam war movement owed much of its style and popularity to the youth culture from which it emerged. The same could surely be said for the women's movement.

Popular conceptions of the way this protest or counter culture manifested itself involved the image of the stereotypical young, long haired (for men), pot smoking, sexually promiscuous, rock 'n roll adoring, anti-authoritarian radical. Stereotypical though they may be, these characteristics defined membership. As the *Go Set* newspaper commented on one anti-war demonstration:

> The police and other officials made it clear they saw this battle as Them versus the Longhairs ... all those old men in power think longhair means rock music, freewheeling sex, dope, and socialism. The symbol of everything that threatens their scene. They're right! Keep on growing that hair ...

As shall be seen, many of the people involved in the establishment of FLS placed themselves well inside this protest culture. But together with adopting many of the general
characteristics of this protest culture. FLS volunteers had their own specific enemy which their organisation was to challenge. It was not racism, war or patriarchy that FLS directly confronted, but rather a different manifestation of the manipulation of people by authority: the inaccessibility of the law and legal processes to people on low incomes.

Access to the Law

In an all but completely privatised industry, access to legal advice and representation in 1972 largely depended on one's ability to pay for it.

Short of relying upon the beneficence of a private practitioner, the alternatives poor people confronted in 1972, whether they were defending criminal prosecutions or wishing to initiate or defend civil litigation, were limited. Poor people could appear for themselves, or they could rely on either of the organisations which provided limited free legal assistance: the Office of the Public Solicitor or the Victorian Legal Aid Committee. Federal Legal Aid, other than post-war legal assistance schemes for those associated with the Commonwealth armed forces, did not come into existence until after September 1973.59

From 1969 the functions of the Office of the Public Solicitor were governed by the Victorian Legal Aid Act 1969. Although the Office of the Public Solicitor was not mentioned in the legislation, which stipulated that the provision of aid in criminal law matters was entrusted to the Attorney-General and the Legal Aid Committee, in
practice the Attorney-General's power in this area was delegated to the Public Solicitor. 60

Under the Legal Aid Act 1969, aid through the Attorney-General's department was available only for indictable offences and, unless the charge was murder, treason or manslaughter, it could only be obtained after a person had been committed to stand trial. 61 Rarely was aid granted for bail applications. The Public Solicitor was thus mainly used by people being tried for serious crimes in the County and Supreme Courts. Representation for defendants in summary Magistrates' Court matters, the vast majority of criminal law cases, was not possible through the Public Solicitor. 62

The Victorian Legal Aid Act 1961 established the Legal Aid Committee, a referral body appointed by the Victorian Bar Council and the Law Institute of Victoria to administer a scheme for providing assistance to poor persons. 63 The Committee's role was to assess applications for assistance. If an application was accepted, the matter would be referred out to a private solicitor who would recover an unspecified percentage of normal professional costs. Contributions were expected from clients, often in instalments, according to their ability to pay. The Victorian Government was to pay the administrative charges associated with the operation of the scheme, and the lawyers who participated were to receive only a percentage of the costs to which they would normally be entitled. Payment to the lawyers would be according to what the Committee deemed equitable. 64

The Legal Aid Committee had power to administer a scheme which provided "legal assistance", 65 a phrase interpreted to mean assistance in relation to court proceedings. 66 Legal assistance, theoretically, could be given for all hearings before courts and
tribunals. A rough means test was applied to applicants for aid and was based on the ability of the applicant to afford to meet the likely legal costs.

Despite there being no reference to it in the legislation, it appears that a merit test was also applied to applicants, such that, according to one analyst, a less than fifty percent chance of success in a civil case would automatically result in the rejection of an application.67

According to an early legal aid pamphlet, the legal aid scheme was established in order to ensure that people who would not qualify for assistance by the Public Solicitor, but who were unable to afford normal legal costs, could gain adequate access to legal advice.68 There was no immediate intention to replace the Office of the Public Solicitor, although it was thought that the need for the Public Solicitor might disappear. It was expected, at least in the early stages of the scheme, that the Committee would provide assistance primarily in civil matters, with criminal cases to be handled chiefly by the Public Solicitor.69

However, with the operations of the Public Solicitor restricted to assisting people charged with indictable criminal offences, the limited resources of the Legal Aid Committee tended to be applied to fill the void in criminal cases. As early as in 1967, it was clear that a substantial amount of Legal Aid Committee referrals involved criminal cases.70

The inability of the scheme to provide for the legal needs of poor people was illustrated by the Legal Aid Committee's report for 1966. In the year ending 30 June 1966 there were 2,168 applications for aid. Of these, 897 were rejected before being referred to the Committee. Of the remaining applications which were referred to the
Committee. 902 were approved. The 897 figure represented those applicants who did not qualify for legal aid together with those who, according to the State Government, had "minor problems relating to entanglements with hire-purchase companies." These people were given brief advice or were convinced that "there was no need to secure legal representation in order that they might extricate themselves from their difficulties." 71

Free legal advice, as opposed to representation, was available only from the handful of solicitors employed by the Legal Aid Committee at its Central Office, high up in an inner city office building, and no means test was imposed on recipients of advice.

From 1964 to 1975 the Legal Aid Committee enabled assistance to be given in approximately 76,000 cases. 72 This represented a significant achievement for those involved, especially considering the size of the Committee's staff, which by 1974 consisted of three solicitor administrators, four solicitors, three clerks, an accountant and a small administrative staff. It was significant, too, considering the minimal and erratic nature of the Committee's funding. 73

Nevertheless, the Committee, not surprisingly, failed to provide the public with a right to legal assistance. The Committee was extremely reluctant to advertise its existence for fear of being deluged with applications. 74 Testimony to the Committee's invisibility is the fact that in November 1972, eleven years after the legislation forming the Committee was enacted, a brochure was printed to "inform the public as to the existence of the Legal Aid Committee." 75

In practice, the location and secrecy of the Committee meant that a potential applicant had first to see a solicitor before an
application for assistance could be lodged. Even then, the function of the Committee was often simply to allow clients time in which to repay the majority of their legal fees. As one FLS volunteer was to say: "The myth here is that the legal profession is doing a benevolent service for the poor. In fact lawyers are paid something like 80 per cent of all fees they render and although there is a means test most people have to pay on a time-payment basis."76

Prior to 1972 there was a real shortage of agencies that would provide free or even cheap legal advice to those who could not afford to pay for private solicitors. There were doubtless private solicitors who would occasionally, even regularly, provide their services free of charge. And there had been a couple of brief experiments with voluntary legal advice services, as I mentioned in the Introduction. But in the early 1970s poor people had no place to go where they could be guaranteed to receive free legal assistance.

In addition to the inaccessibility of legal assistance to poor people, little effort was being put into community education about the law. Community education was not a priority for the private legal profession; indeed it was and still is anathema to the operations of most private practitioners. Nor did the Federal or State Governments reveal an interest in remedying this situation. But times were changing.

Tony Street

Against this general background, it is appropriate to consider one person's experiences of the law and lawyers in the early 1970s. Tony Street has dealt with "suited lawyers" in three states since the
1970s. A man now in his 30s, Street's first experience of the law came as a thirteen year old boy in New South Wales. He served two sentences in boys' homes for being uncontrollable, and he recalls being flogged most days. Some of the boys he met in the homes are now serving sentences for serious crimes such as malicious wounding and murder.

Street first went to jail at the age of sixteen. He had smashed a window, and was charged with attempted break-in and theft. He had attempted neither crime, but had smashed the window out of anger. He was not represented at his trial, and was convicted. Street has since served time for armed robbery and burglary. He has been fined several times for cultivating, trafficking and possessing marijuana.

It was only after serving five years in jail that Street first met a lawyer. His view of the private legal profession is unambiguous: "Basically the suits are just there for the dough, they don't really care. Unless you've got long term business dealings ... with them ... You get more respect from the guy that's [selling] the ticket ... on the bus." When asked why he thinks lawyers are like this, Street responds: "Because they're upper middle class ... it's just where they come from. They're just protecting themselves and their ... environment. They don't want to step out into the real world." In the 1980s Street moved to Fitzroy and became an FLS client.

Contested Origins

So to the origins of FLS. One now enters murky waters in the attempt to identify the founders of FLS, for the effects of time, memory and pride have ensured that this is a contested issue. And the
debate has raged, to the extent that a T-shirt was designed in the 1980s with the slogan "Who Cares Who Founded Fitzroy Legal Service?"

It is sufficient for my purposes to state that the origins of FLS are traceable to a connection of coincidental events, and to the willingness of a large number of people to support an idea, regardless of how that idea came about.

The shop at 42 Smith Street Fitzroy, known as the "Free Store", housed arguably the most radical display of counter culture imaginable. The Store, which stocked clothes, shoes and books, opened in late 1971 and was closed by early 1973.\textsuperscript{78} Everything in the Store was free, including, from 1972, legal assistance. Managed, if that is possible, by self-proclaimed anarchists, the concept behind the store was that if people had clothes they no longer needed, or if they wanted new shoes, they would take from or give to the store as they chose. There was no compulsion that things be traded. As one store worker has commented, the concept of the Free Store "freaked a lot of people out".\textsuperscript{79}

Vincent Ruiz, a young man heavily involved in the student movement, worked at the Free Store, and attributes the idea for the store to Margot Nash, a woman strongly committed to the Working People's Association. It was her suggestion that the Free Store provide free legal assistance.\textsuperscript{80}

During 1972 Remy Van de Wiel, a city solicitor disaffected by conveyancing and by legal practice generally, began giving free legal advice from the back of the store. Van de Wiel, who had completed his articles of clerkship in 1968 and who was to join the bar in 1973, recalls being driven by the idea that poverty did not consist of a lack of material possessions. Rather, poverty was a situation of
powerlessness. Assisted by Ruiz, who interpreted for French, Spanish, Italian and Portuguese speakers, Van de Wiel would give on the spot advice from the store or, if necessary, he would attempt to organise legal representation. Notes were not kept unless representation had to be arranged, and bureaucracy, not surprisingly, was kept to a minimum.

Van de Wiel remembers being told about a public meeting that had been called to discuss the opening of a legal service in Fitzroy. He liked the idea that a number of people might soon be doing what he was doing, not least because the Free Store had seen its share of violent clients. Van de Wiel and Ruiz were to become early FLS volunteers.

Another important development causally related to the formation of FLS was the establishment, in June 1970, of a small legal referral service at the Church of All Nations in Palmerston Street, Carlton. Initially, around five or so Melbourne University law students took part in the program, which was co-ordinated by Ronald Sackville, later a Commissioner in the Commonwealth Poverty Inquiry. The volunteers' lack of experience, however, meant that the service provided was inconsistent and rudimentary. Volunteers tended simply to assist people to complete Legal Aid Committee application forms. Eilish Cooke, who was to be an important early member of FLS, was one of the students involved in this scheme.

The group most centrally involved in the creation of FLS consisted of a number of people who were working in different ways to alleviate the problems they saw affecting youths in poor neighbourhoods like Fitzroy. The three men who organised the December
1972 public meeting which led to the creation of FLS. John Finlayson, Michael O'Brien and Lou Hill, had all been involved in some capacity with the Young Christian Workers (YCW). Their involvement with FLS confounds any argument that the organisation was wholly secular in origin, lending FLS instead an air of Christian radicalism.

In 1972 Finlayson was a youth worker at the Fitzroy Community Youth Centre, a drop-in centre which had recently been established by the Fitzroy City Council. Born in November 1944 in Abbotsford, only a couple of kilometres from Fitzroy, Finlayson’s background differed from that of most FLS volunteers. Unlike most, he did not have a university education, having left his school, St Bede’s Mentone, after year 9. Prior to becoming a youth worker he, like his father, had worked in a foundry. At the end of 1971 Finlayson became the Fitzroy Council’s youth worker. He was also the coach of the Fitzroy YCW football team, a team comprising many rough and disaffected teenagers which was banned at one stage from competition for two years.84

Although he was not a lawyer, Finlayson’s work gave him a keen understanding about the way the law treated young people. He was regularly used as a character witness in Magistrates’ and Children’s Courts, when unrepresented teenagers faced charges of theft, breaking and entering, illegal use of cars, and assault. Frequent offenders regularly faced jail sentences. As Finlayson was later to tell the media:

The kids in Fitzroy and Collingwood need help. They have been pushed around too long ... Nearly all the kids here have police records. They are resigned to being put into jails or institutions because they don’t know how to defend themselves and they can’t afford representation. 85

Through a YCW friend, Michael O’Brien, Finlayson heard about the operations of the Victorian Legal Aid Committee. He completed
sixteen applications for legal assistance on behalf of young people in need of legal representation. The Committee rejected all the applications, ostensibly on the basis that they had not been lodged a sufficient time before the hearings.86

Michael O'Brien was an articled clerk in 1972. Since the early 1960s he had been a volunteer with the YCW, visiting young people in Melbourne's Pentridge jail.87 He later became a volunteer with the St Vincent de Paul prison visitation group. In his work with prisoners, O'Brien, amongst other things, arranged for appeals against sentences and he organised legal representation for the hearing of those appeals. Representation was arranged either through the Legal Aid Committee, or, when that failed, O'Brien drew upon his friendship with lawyers and asked them to act without payment. In one twelve month period O'Brien organised 72 appeals for young people in prison who had been unrepresented at trial. In all but one of those cases the result was a non-custodial punishment.88

In a thesis submitted to Melbourne University Law School in 1972, entitled "Young Offenders in the Criminal Process in Victoria", O'Brien wrote of the powerlessness of young suspects in the hands of police. His thesis focussed on the issue of legal representation for young offenders, and he referred to the fact that while 2,725 young men went to jail in Victoria in the year ending 30 June 1971, only 638 people, young and old, were granted legal assistance in criminal matters in the same time period by the Legal Aid Committee. One problem with the Committee, O'Brien wrote, was that it did not advertise its services. This meant, in practice, that a solicitor would normally have to be consulted before an application would be submitted to the Committee. Since the people O'Brien was writing about largely came from a social and economic background where the
consultation of solicitors would be an extraordinary event. 
applications for assistance from the Legal Aid Committee were, not 
surprisingly, uncommon. 89

O'Brien, Finlayson and several other people - including Gerald 
Edgar, who was in charge of youth services at Fitzroy Council, and 
Jenny Miller, then a Fitzroy Councillor - established a half-way 
house in 1971 for young people who had been released from youth 
training centres and prisons. Discussions at the half-way house often 
turned to the inaccessibility of the legal profession, and the idea 
for a free legal service emerged. O'Brien believed that he knew 
enough lawyers to staff a legal service, and that all that was needed 
was a base and a telephone. Edgar was happy for a room under the 
Fitzroy Town Hall to be made available, provided the Council agreed, 
and Miller offered to seek Council approval to pay telephone 
expenses. 90

O'Brien and Finlayson joined up with a third person, Lou Hill, 
to organise a public meeting. Hill had a background in the YCW and 
had worked for the Probation and Parole Service in Victoria in the 
Youth Parole Division. He had also just graduated in law and had some 
time free to devote to this new development. The three met over a 
period of months during 1972, and eventually allotted themselves 
specific jobs: O'Brien would chair the public meeting and encourage 
practitioners to attend. Finlayson would organise a meeting place and 
ensure that Fitzroy Councillors were there, and Hill would draw up 
the agenda and document the whole process. 91 Four days after the 
meeting FLS opened.
FLS Opens

The Service was open from 5.30 pm until 11 pm, six nights per week, and was staffed entirely by volunteers. Office, telephone and postage expenses were borne by the Fitzroy Council and, with the assistance of a collection of $550 from FLS members, the Service managed to meet its operating expenses for several months. Other early donations included $300 from the Council for Civil Liberties, 20 jars of coffee from a client, and 144 pens from Parker Pens Australia. The Mayor of Fitzroy introduced the first client, a woman who had lived in Fitzroy for 45 years and who had a fencing dispute with the Housing Commission of Victoria, which had recently purchased the property next door.

The opening of FLS drew a blaze of media attention. Television news crews came and reported, as did the print media and radio. The Age newspaper reported that “Australia's first free-to-all legal aid centre staffed by trained volunteer lawyers has opened in Fitzroy” and quoted an unnamed barrister who said that “Legal aid run by the legal profession just doesn't provide an adequate service.”

The first night brought two clients, the second brought thirty, and on the third night, after much media attention, about fifty clients sought advice. There was chaos. After the first two weeks it was reported that around 50 volunteers had given advice in areas of law ranging from tenancy matters to serious criminal offences, such as attempted murder. The number of clients remained steady, while the number of volunteers increased for some time. Volunteers worked one or more nights each week, and in January 1973 the total number of volunteers was around 60. By the middle of 1973 around
100 volunteers were assisting an average of 40 people each night. The
volunteers in mid-1973 consisted of 8 interpreters, 5 social workers,
30 "non-lawyers", 10 law students, 12 articled-clerks, 35 solicitors
and 6 barristers.\textsuperscript{101} By the end of 1973 the number of volunteers had
dropped to around eighty.\textsuperscript{102}

The media seem to have been interested in the opening of FLS
because of its implicit criticism of the legal profession: for here
was a group of people challenging the idea that legal advice should
be paid for. Nor should the extent of the challenge be understated.
Six weeks prior to the opening of FLS, the Law Institute of Victoria
had set up the "Brusey Committee" to look into increasing the
provision of free legal advice in Victoria. Upon seeing FLS open, the
Committee recorded its unanimous condemnation, arguing that legal
action could not proceed smoothly when undertaken on a roster system,
nor could professional standards be maintained.\textsuperscript{103}

This was not the only criticism that the legal profession
directed towards FLS. Soon after FLS opened, its volunteer barristers
were threatened with being struck off the bar roll for touting for
work. Their crime was that they were acting like solicitors at FLS,
they were not waiting for solicitors to instruct them. As such, they
were in breach of the Bar Rules. A Bar Council ruling in March 1973,
which followed some considerable lobbying, did however permit
barristers to continue to be volunteers.\textsuperscript{104}

An anonymous letter to an FLS volunteer in 1973 summarised some
of the other concerns that private lawyers had about FLS. The letter
read, in part:

It seems you are helping a lot of dead beats and botes. There is ample
work available today, unemployment is at [a] record low, why are these
people so broke? ... They are mostly the sort of people who take the aid, then
laugh at you behind your back for being naive. I am in
the law myself. I know Fitzroy and I know human nature. Things are not so promising for solicitors now, what with Murphy's $150 divorces, do it yourself kits and [moves] to weaken our status adumbrated by this socialist government. I hope Mr Hayden gives no help and that no help comes from any man who has the welfare of the profession at heart. Charity begins at home.105

Protest Culture at FLS

Many of the first volunteers at FLS were involved in the social movements that characterised the 1960s and early 1970s as a time of protest. Vincent Ruiz had been very active in student politics. Peter Faris and Geoff Eames, two barristers who became volunteers, had, prior to the opening of FLS, represented many people charged with offences relating to the Springbok rugby tour. Eilish Cooke recalls women at FLS being involved in pro-abortion marches and supporting the establishment of women's refuges. Numbers of early FLS volunteers, like John Finlayson, Peter Faris and Vincent Ruiz, had been heavily involved in the anti-war movement.106

According to Felicity Faris, there was a cross-fertilisation of ideas amongst the various groups and movements. Roz Jones, a Friday night volunteer who was not legally trained, sums up the times by saying that there was simply an idea that people could do something.107 That idea was carried into the operations of FLS.

The draft-resisters' movement was even directly connected to the formation of FLS. During 1972 Finlayson had organised a fund-raising function for draft-resisters at a youth centre in Brighton. Police infiltrated the function and arrested Finlayson and others and charged them with selling alcohol on a Sunday without a licence. Finlayson feared he would be sacked from his youth worker's position if convicted, so, upon hearing about a barrister who was willing to
appear free for draft-resisters, he arranged for representation. Peter Faris, a lawyer in his early 30s with ten years' experience, had Finlayson acquitted, and over lunch Finlayson told Faris about the ideas for the free legal service.\(^ {108}\)

Faris had previously planned to open an alternative legal practice in Carlton with a friend, Phil Molan. Molan, a solicitor with a practice in Preston, had been heavily influenced by developments in the United States, particularly by the civil rights movement and by the emergence of neighbourhood law centres. So far his activism had been expressed in the work of the Carlton Association, the influential anti-development inner-city action group. Both Faris and Molan were to become integral and, in age, senior members of the early FLS.\(^ {109}\)

The trends of protest movements quickly became established at FLS. Anarchic and libertarian characteristics were manifested by people who objected to meetings being chaired and to minutes being recorded.\(^ {110}\) Some volunteers even required meetings to be held in circles, without tables to lean on, in the belief that this would stop individuals dominating discussion.\(^ {111}\) As the FLS newsletter reported, "structure", in the early days of FLS, "was a dirty word."\(^ {112}\) Emphasis was on the collective, not leaders. It was on immediacy, the superfluousness of documentation, and the importance of confrontation.

In reflecting on the first days at FLS, Felicity Faris comments that FLS's chaotic organisational structure worked because everyone wanted it to, not because it was inherently workable. For Roz Jones, the structure was unwieldy, but it at least made everyone accountable.\(^ {113}\)
As well as in political philosophy, the culture of protest movements manifested itself at FLS in other ways. Posters in support of Ho Chi Minh adorned some of the walls, and many workers sported long hair and eastern clothes.

With many volunteers working virtually every night, Monday to Saturday, workers became very close. Much drinking went on after work, and for many volunteers, FLS became the hub of their social life. Not surprisingly, attitudes to drugs and sex at FLS were consistent with the other counter cultural traits of the organisation. Eilish Cooke, whose marriage to Lou Hill constituted the first marriage between FLS volunteers, recalls that to be a radical lawyer "you had to smoke pot and screw". Indeed, what underpinned the whole movement was not just politics, but sex. Sexual adrenalin, sexual tension, and sexual politics, are three phrases other early volunteers have used to characterise the times. According to Felicity Faris, the whole place ran on sexual energy. One late night discussion at FLS concerned the possibility of the service opening 24 hours daily. The only problem, according to Phil Molan, was in fitting a double-bed into the office.

Of course, not all volunteers were counter-cultural. Roz Jones recalls one volunteer lawyer who would arrive in an immaculate car wearing an immaculate suit. Unlike many other volunteers, his was a quiet commitment to how the law should be.

Accessibility and De-mythologising the Law

Clearly many characteristics of protest movements manifested themselves at FLS. But more than this, the politics associated with other protest movements directly influenced the provision of legal
assistance. FLS sought to differentiate itself entirely from private legal offices. Just as many of the characteristics of protest culture were conceived in opposition to mainstream culture, so the method of providing legal assistance at FLS was conceived in opposition to the way mainstream lawyers provided legal services. For a start, of course, the legal assistance was to be free. But more than this, workers at FLS did not simply want to reproduce the type of legal work done by private lawyers. There was the lofty and at times analytically tenuous hope that FLS would be able to facilitate change in society, that it would be a grass roots organisation which could engage people to work actively to alter their society.

When I questioned John Finlayson about why he became involved in the establishment of FLS, he mentioned one of his favourite books, Pedagogy of the Oppressed, written by the radical Brazilian educator Paolo Freire. First published in 1970, Pedagogy of the Oppressed is more than a collection of arguments about the education of illiterate adults in the third world, although it is certainly this. It is also a political treatise on how education can be used as an instrument for liberation, as a means for achieving "humanization". Freire wrote that:

The struggle for humanization, for the emancipation of labor, for the overcoming of alienation, for the affirmation of men and women as persons ... is possible only because dehumanization, although a concrete historical fact, is not a given destiny but the result of an unjust order ...

In the search for a liberating educational method, Freire rejected what he termed "banking education", where education consists of teachers depositing information in students. Freire instead advocated "problem-posing education", where the teacher and student become jointly responsible for a process in which both grow. This type of
education promised to make students critical thinkers, and "sets itself the task of demythologizing".\textsuperscript{122}

One need only substitute the word "lawyer" for "teacher" and "client" for "student" into Freire's analysis to reveal Finlayson's plans for FLS. Finlayson and other FLS workers sought to break down the traditional lawyer and client relationship, they hoped to de-mythologise the role of lawyers. And in the process, they sought to assist their oppressed clients to take control of their lives.

FLS workers clearly sought to play a role in the New Left battle between the people and the impersonal bureaucracy. The left-wing publication \textit{Nation Review} reported in January 1973 that the "radical young lawyers" at FLS "regard the present legal machinery as the instrument of middle class repression and feel that lawyers should ... serve the people".\textsuperscript{123} In March 1973 the \textit{Age}, referring to FLS volunteer Peter Faris, reported that:

A Melbourne barrister claimed yesterday that Victorian law courses were turning out little cogs in a capitalist society who were concerned only with making money.\textsuperscript{124}

The desire to change society relied on two crucial concepts, the incorporation of which would separate FLS from standard law offices: accessibility and de-mythologising the law.

"Accessibility" was the word used to express the hope that poor clients would feel comfortable talking to workers about their legal problems. It connoted people talking together on roughly the same level, rather than replicating the power imbalance of most lawyer/client relationships, and it incorporated the notion that it was not just for financial reasons that many people did not seek legal advice. Shyness, language difficulties and ignorance of one's legal rights were all thought to be reasons why people did not seek legal advice.\textsuperscript{125}
Early in 1973 a volunteer, Denyse Dawson, was quoted in *Woman's Day* as saying:

To a lot of people there's some sort of mysticism about a wood-panelled Collins Street office; about being met by a perfectly groomed receptionist who introduces you to an immaculately suited man to whom you're supposed to tell all your problems.  

Phil Molan, in a similar comment to the *Herald*, said that "Panelled offices and important-looking legal men terrify this sort of people."  

The *Sun* began an article in March 1973 reporting that "There are no plush carpets, no piped music, no expensive office furniture, no paintings on the walls ..." It quoted Peter Faris, who had hair below his shoulder blades and who was wearing faded jeans, a yellow T-shirt and a green army jacket, as saying that "Apart from the obvious fact that we don't charge for any service, we conduct our dealings on the most informal basis imaginable."

Accessibility was behind Finlayson's idea to make his office and the adjoining rooms under the Town Hall available at nights as the offices of FLS. The location of the Service, in what became known as "the dungeon", and the fact that the Service was open at night, six nights per week, were crucial to its accessibility. The *Herald* newspaper reported that:

In a couple of grubby rooms and a crowded corridor underneath the Fitzroy Town Hall. Melbourne's strangest law practice is booming ... Up to eight lawyers at a time sit at desks, stand in corners, squat on their haunches, listening to problems and complaints from people, many of whom would never go near a normal legal practice.

The FLS offices consisted of two rooms and a corridor, the latter doubling as a waiting room. The surrounds were dingy. According to Felicity Faris, it was all grey and damp, yet "buzzy". Much of the limited space was taken up by tables, chairs,
benches, and a couple of filing cabinets. Usually more than one client would be seen in either of the rooms. Peter Faris remarked at the time that "People who couldn't afford to go near a lawyer in the past or who were too intimidated by lawyers, are now coming out of the woodwork to seek aid." Symbolic gestures reflected the significance given to accessibility. Desks were to be placed against walls in a bid to ensure that client interviews were informal and not prescriptive. Male lawyers were expected to at least remove their ties before seeing clients. One lawyer even had a tracksuit waiting for him at FLS which he could change into before giving advice. The symbols of power were at least to be hidden. The Woman's Day magazine ran an article in April 1973, entitled "Legal Eagles in Jumpers and Jeans", and reported that:

The basement in this Fitzroy, Melbourne, building is dingy. The people working there are dressed mainly in jumpers, jeans and sneakers. The scene is a far cry from what you would expect of a legal office - but that is what it is. And the staff are working without pay.

The second aim, which embodied the Service's desire to be an agent of change in society, was for FLS workers to remove the mystique of the law. This aim was sought to be met both in individual client interviews and through more general community education about the law. If people could become more educated about their legal rights and about the law in general, society's dependence upon lawyers would diminish. So, it was hoped that when clients came in to FLS for legal advice, they would be given sufficient information to be able to make informed decisions about their own affairs. This could, in theory, both save them money and also deny private lawyers
the opportunity of telling more clients what to do with their lives. 136

To be sure, this second aim, which later attracted the name "empowerment", was and is not without practical and theoretical problems. The failure of FLS to provide the sort of legal environment that many people associated with a high standard of assistance did occasionally lead people to question the accuracy of their advice. Similarly, empowerment was not always desired by clients. People who just wanted a legal answer were, no doubt, often frustrated by the language of empowerment. Not everyone wanted a range of options, just as not everyone was interested in interpreting his or her problem as evidence of ruling-class oppression.

In any case, the act of empowering a person to make a decision about his or her legal affairs can never be the objective act it might at first glance seem to be. Since lawyers will inevitably have in mind what they consider to be the best legal responses for clients, it is somewhat unrealistic to expect them to be able to give clients information without influencing their decisions. And if indeed clients are influenced in this way, how have they been empowered?

Setting such deconstructionist scepticism aside for the moment, it is clear that the twin concepts of accessibility and de-mythologising the law did set FLS apart from all other law offices existing at the time.

Indicative of the attempt by FLS workers to discard the power hierarchy of other law offices, was the initial uncertainty about what to call users of the Service. The dilemma was that where the recipient of legal assistance is called "the client", a model is adopted under which the recipient of advice expects to receive, and
is expected to take, the legal prescriptions offered. Early FLS documents alternate between "customers" and "clients", with the word "clients" often surrounded in inverted commas. Slowly the inverted commas would disappear.

FLS presented itself as vastly different from private law offices by striving to be a grass roots community organisation which would facilitate local resident involvement and work towards social change. Remy Van de Wiel states that:

We wanted to give people the opportunity to control their own lives. The legal service was meant to help people look after themselves ... I thought people could change things outside parliament and that I had a skill that I could give away which would help them and I felt I had a duty to give it away. We did have a lot of potential to change people's lives.

It is difficult to separate the rhetoric about the importance of changing society from the aims of making legal advice accessible. And the reason there is this difficulty is probably because no division between these concepts existed in the minds of many FLS workers. To make legal advice accessible was to empower individuals in the community, which was to enable them to assert control over the problems which confronted them. When numbers of individuals were empowered in this way real social change was possible.

Minutes from a meeting in February 1973 of the Core Group, the de facto management committee prior to the creation of the Central Committee in June 1973, reveals how interrelated these ideas were:

"Client" participation needs to be encouraged more, including lawyers suggesting people see non-lawyers about possible group action on the general problem [affecting them. Although lawyers lack time, people are often more willing to "open up" to them. Necessary to convey to people their ability to alter their society.
"Non-Lawyers"

The lack of distinction between ideas promoting accessible legal advice and ones advocating social change is probably best illustrated by the role of "non-lawyers" at FLS. The irony of defining a group of people by reference to what they are not, was not lost on early workers. Indeed, a document distributed in May 1973 pointed to this irony. Over the next few years attempts were made to find a new name for those people working at FLS who were not lawyers. In an FLS Information Sheet, it was reported that:

Suggestions to date are social interviewer, supporter, people, visiting experts, preliminary contactors, and glurbs. Please leave a suggestion of something better.

The title "non-lawyer" endured.

The use of volunteers without legal training signified the beginning of FLS's commentary on the relationship between the law and social change. The apparent objectivity and all-pervasiveness of the law is such that one could be forgiven for thinking that any significant social change must start with the workings of the law. Equally, the temptation then is to think that the only people qualified for such a project are lawyers. Here, with the emphasis given to the role of non-legal staff, FLS was stating a contrary position. FLS workers showed that they were sceptical of the law's power to bring about change, and they revealed their approach to be more than simply legal.

From the first night of operation it was a requirement that non-legal staff members accompany lawyers in client interviews. Behind this practice were the assumptions that lawyers have a tendency to overwhelm clients with legal language, and that clients
are often too self-conscious to ask questions when they do not understand the advice being given.

The non-legal volunteer, it was anticipated, would break into this relationship by asking questions of the lawyer in an attempt to ensure that the lawyer's advice was clear to someone not legally trained. The Nation Review referred to this non-legal volunteer as the "human being" who would help break down barriers between lawyers and clients. Phil Molan, who still believes that lawyers are educated to dominate, also saw the "non-lawyers" as the "human beings" who could facilitate communication between lawyer and client.

Felicity Faris, whom Finlayson remembers being virtually the administrator of FLS for its first two years, recalls that there was an attempt to be as casual as possible and force the lawyers to relax. We wanted to stop them sitting behind the desk firing questions. We wanted to try and make the lawyers see things holistically.

The volunteers without legal training were often responsible for challenging other traditions which separated lawyers from clients. For instance, they would often sit and talk with clients in the hall of the basement while they waited to see lawyers. Finlayson recalls this to have been an important process by which volunteers came to realise that a client's legal problem often involved other problems not strictly legal in nature but which, nevertheless, required attention and discussion. Informal discussions with clients continued to be an important part of the work of many non-legal volunteers, and this led to workers searching for clients and potential clients outside the office. All of this assisted in breaking down the notion that clients would simply cross the
threshold at FLS with a problem to be fixed. Rather, FLS workers were to be open to constant dialogue: at FLS, on the street, in a pub, or elsewhere.

The non-legal workers came to represent the point of divergence between FLS and other law offices. Simultaneously, they represented the New Left face of the Service, that part which advocated social change through community action. An article in the Melbourne Times in January 1973, subtitled "Lawyers And Non Lawyers Band Together To Give Help", reported that: "Peter Faris thinks one excellent aspect of the service is that lawyers and non lawyers learn to work together and the lawyers are getting a closer understanding that people's legal problems are also social problems." As Faris now comments, one of the major things early FLS workers tried to do was ensure that the organisation was not run by lawyers. The only decisions lawyers would make on their own would concern actual legal advice. "The whole philosophical bent was aimed at having the citizens on top and not the lawyers on top. It was anti-lawyer."  

Finlayson, always a strong advocate of the importance of non-legal staff to FLS, argues that these people generally have the greater community development skills. Felicity Faris sets out how non-legal volunteers were integral to the philosophy of the organisation. It was envisaged, she recalls, that the service provided should not stop at just handling clients' legal matters. Their matters should be seen as part of the whole system that people came up against. She continues:

The initial idea was to try and get the clients involved in solving their own problems and ... the ripple effect of that would be that you would have your reform agenda alongside of the actual casework agenda and ... clearly ... people didn't need to be lawyers to participate in that.
The centrality of non-legal volunteers to FLS's operations was entrenched very quickly. As early as February 1973, in-service workshops were being arranged for non-legal volunteers.150 And when the de facto management committee, the Central Committee, was established in June 1973, there was a requirement that its ten members include five lawyers and five "non-lawyers".151

Felicity Faris gave a talk to a General Meeting in June 1973, in which she addressed the role of "non-lawyers". Their role was to explain to clients the philosophy behind FLS, to listen to people's problems, to break down the usual lawyer/client relationship, and to make clients aware of "our belief that one problem which directly affects them may be a problem that affects others and if necessary urging them to join with others and take action ..." Lawyers, she reflected, were often too busy to ensure that these aspects of the service would be emphasised. Non-legal staff could also facilitate community involvement, by encouraging people to attend the Service even if they did not have a legal problem. Faris stressed the importance of accurate record-keeping, and saw administrative tasks falling largely to the volunteers who did not have legal training, a view enforced by guidelines drawn around this time. Knowledge of other local service providers was also something which non-legal staff would be expected to have. Faris closed her talk by saying that "non-lawyers" were important to the propagation of the theory that people ought to participate in community affairs.152 When the guidelines for the operation of the Service were drawn up around the middle of 1973, "non-lawyers" were responsible for ascertaining "the social cause of the problem".153

FLS's method of internal organisation, its manner of service delivery, its use of non-legal staff, and its criticisms of the law
and the legal profession, positioned the organisation strongly with other social movements of the 1960s and early 1970s. Indeed FLS may be described as the result of a marriage between New Left politics and the workings of the law.

As with the New Left on a broad scale, FLS did not have a coherent political philosophy with which to theorise and plan the transferral of power from the possessed to the dispossessed. Nor did workers at FLS, or any other members of the New Left for that matter, articulate a developed theory on the workings of the law. But by the actions of its volunteers, FLS did engage in a critique of the legal system. FLS workers depicted the law to be political: they saw it to favour the powerful in society, particularly the rich. They questioned the legal aphorism that all were equal before the law, pointing to the gap between the rhetoric and the practice. The aphorism was meaningless to the people FLS workers came to represent, for whom the law was otherwise inaccessible.

At the same time, FLS workers knew that broad social reform could not be implemented simply by pursuing the legal rights of individuals. Their methods for seeking social change were not as refined in 1972 as they would become. But from the earliest days, FLS volunteers made use of the media and a variety of other strategies to enable themselves to be advocates outside the confines of their clients' individual cases. For change to happen, FLS workers knew that they could not rely solely on events in the courtroom.

In adopting this broad approach to social change, FLS workers situated themselves within a long tradition of legal radicalism. Theorists within the three most influential critical schools of legal thought, Marxism, Critical Legal Studies and Feminism, differ on many issues, but they tend to agree that the revolutionary or reformer
should not place too much faith in the ability of the law and legal processes to bring about significant social change. FLS stood as the New Left's very practical attempt to implement this theory.

In short. FLS set itself up as counter to the legal profession. Individual problem solving was to take place in an accessible and empowering environment, and many individual legal problems would be seen as manifestations of larger social problems, a belief which would inform much community development work. All of these emphases were the antithesis of standard legal practice in the 1970s.

For Geoff Eames, a volunteer and later a Supreme Court Judge, it was a peculiarly striking thing about FLS that the radical left, having only recently and hotly debated issues like Vietnam and apartheid, should agree on a social welfare scheme like FLS, let alone participate harmoniously in one. It was peculiar because it is rare that something positive should be born of so much criticism. The culture of protest seemed to have produced a viable alternative. Just how long FLS could remain both part of a protest culture and viable was a question which loomed.
NOTES FOR CHAPTER ONE

1 John Finlayson, interview, 19 August 1992.


9 Young, An Infantile Disorder?, 28.

10 Young, An Infantile Disorder?, 25.

11 Young, An Infantile Disorder?, 24.

12 See Breines, Community and Organization in the New Left, 13.


17 Gerster and Bassett, Seizures of Youth, 46.

18 Murphy, Harvest of Fear, 221.

19 On this point see Murphy, Harvest of Fear, 223.

20 See John Docker, In a Critical Condition: Reading Australian Literature (Ringwood: Penguin, 1984), 156.

21 Gerster and Bassett, Seizures of Youth, 19.


23 Meredith Burgmann, "What the Demos Won", Nation, 18 September 1971, 12; Sun-Herald (Sydney), 4 July 1971, 2.


26 *Sun-Herald* (Sydney), 4 July 1971, 2.

27 Meredith Burgmann, "What the Demos Won", 12.


31 Save Our Sons pamphlet, reprinted in York, "Power to the Young", 235.

32 Scares, *'Draftmen Go Free'*, 52.


35 Quoted in Scares, *'Draftmen Go Free'*, 78.

36 *Age*, 9 May 1970, 1.

37 Scares, *'Draftmen Go Free'*, 66.


42 *Vashti's Voice* (n.d., believed to be the first edition c1972), 3.


44 (1972/3) 1 *Refractory Girl*, 3-4.

45 For example, *Vashti's Voice* (n.d., No.2), 8.

47 For an argument on how the women's movement was conceptually linked to anti-racist movements see Anne Summers, Damned Whores and God's Police (Ringwood: Penguin, 1994), 69ff.

48 Verity Burgmann, Power and Protest, 1-3.

49 See, for example, Dennis Altman, "Students in the Electric Age", in Gordon (ed.), The Australian New Left, 134.

50 Roger Scruton argues that the distinctive voice of the New Left derived from an emotional synthesis between old ideas of justice, and a desire for emancipation from every system, every structure, every inner constraint; in Roger Scruton, Thinkers of the New Left (Harlow: Longman, 1985), 2.

51 Altman, "Students in the Electric Age", 135.


53 See Terry Irving and Baiba Berzins, "History and the New Left: Beyond Radicalism", in Gordon (ed.), The Australian New Left, 93.

54 Humphrey McQueen, A New Britannia: An Argument concerning the Social Origins of Australian Radicalism and Nationalism (Ringwood: Penguin, 1980), 16. For further discussion on the importance of McQueen's work to the New Left in Australia, see Bolton, The Oxford History of Australia: Volume 5, 202, and Docker, In a Critical Condition, 155-162.

55 Age, 9 May 1970, 1.


57 York, "Power to the Young", 233.

58 Quoted in York, "Power to the Young", 233.

59 See Chapter 3.

60 Ronald Sackville, Legal Aid in Australia: A Report by the Commissioner for Law and Poverty, Professor Ronald Sackville (Canberra: AGPS, 1975), 98.


62 In the years 1970 to 1974 the average number of applications for Public Solicitor aid was 1,022, with an average of 703 cases being granted assistance. When a grant of assistance was made, all the legal costs were covered by the Public Solicitor. Public Solicitor staff, which by 1975 included three lawyers, were salaried. Counsel who appeared were paid according to a low schedule of fees. See Sackville, Legal Aid in Australia, 101, 104. Funding for the Office of the Public Solicitor in the years 1969 to
1973 averaged out at $322,350 per year. See Victorian Parliamentary Debates, Legislative Assembly, 8 May 1975, 6301.

63 Legal Aid Act 1961 (Vic), sections 3 and 4.

64 Legal Aid Act 1961 (Vic), section 9(4).

65 Legal Aid Act 1969 (Vic), section 8(1).

66 Sackville, Legal Aid in Australia, 52.

67 Sackville, Legal Aid in Australia, 52.

68 See Sackville, Legal Aid in Australia, 50-53.


70 Victorian Parliamentary Debates, Legislative Assembly, 14 March 1967, 3564.

71 The quotations are from the Hon. A. Todd on the 1966 report of the Legal Aid Committee, Victorian Parliamentary Debates, Legislative Assembly, 21 February 1967, 2988.

72 Victorian Parliamentary Debates, Legislative Assembly, 29 April 1975, 5496.

73 For example, $71,000 was given to the scheme for the financial year 1969-1970. Nothing was given for 1970-1971. In 1971-1972 $75,000 was received and in 1972-1973 nothing was contributed by the State Government. Victorian Parliamentary Debates, Legislative Assembly, 8 May 1975, 6300.


75 (1972) 46 Law Institute Journal, 448.

76 Peter Faris, quoted in an article in the FLS newspaper collection, annotated as "Nation Review. Jan '73", but unable to be verified.

77 Tony Street (not his real name), interview, 19 May 1994.


80 Ruiz, interview, 6 March 1993.


82 Peter Cashman, "The Fitzroy Legal Service" (unpublished fourth year thesis, Criminology Department, University of Melbourne, 1973), 1 and appendix 1.
83 Eilish Cooke, interview, 3 March 1993. See also Harry Van Moorst, "Fitzroy Legal Service" (unpublished fourth year thesis, Criminology Department, University of Melbourne, 1973), 34.

84 Finlayson, interview, 19 August 1992.

85 Article in the FLS newspaper collection, annotated as "Nation Review, Jan '73", but unable to be verified.


87 Neal, "Interviews", 56.

88 Letter from O'Brien to me, 17 February 1993.


90 Letter from O'Brien to me, 17 February 1993.


92 Van Moorst, "Fitzroy Legal Service", 44.

93 FLS Newsletter, June 1973, 1.


96 For example, O'Brien was interviewed on Radio 3LO soon after the first meeting; O'Brien, interview, 3 March 1993.

97 Age, 27 December 1972, 5.


99 Article in the FLS newspaper collection, annotated as "Nation Review, Jan '73", but unable to be verified.


102 Van Moorst, "Fitzroy Legal Service", 37.

103 Van Moorst, "Fitzroy Legal Service", 46.

104 Victorian Bar News, March 1973, 4; Phil Molan, interview, 24 October 1992. This is discussed in more detail in Chapter Seven.

105 FLS Newsletter, June 1973, 1.

106 Ruiz, interview, 6 March 1993; Peter Faris, interview, 22 February 1994; Cooke, interview, 3 March 1993; Finlayson, interview, 19 August 1992.

107 Felicity Faris, interview, 6 April 1994; Roz Jones, interview, 13 March 1994.

109 Molan, interview, 24 October 1992; Van Moorst, "Fitzroy Legal Service", 34. Eilish Cooke was also influenced by the United States' war on poverty, which gave rise to the establishment of neighbourhood law centres: see Neal, "Interviews", 57.


112 FLS Newsletter, June 1973, 1.


114 Letter from O'Brien to me, 17 February 1993; Molan, interview, 24 October 1992; Geoff Eames, in Neal, "Interviews", 58; Gardner, interview, 8 October 1992.


116 Eames, Hill and Van de Wiel, in Neal, "Interviews", 58.

117 Felicity Faris, interview, 6 April 1994.


119 Jones, interview, 13 March 1994.

120 Finlayson, interview, 19 August 1992.


122 Freire, Pedagogy of the Oppressed, 53-64. The quotation appears at 64.


124 Age, 5 March 1973, 3.

125 Kennan and others, Legal Aid - A Proposed Plan, 2.


128 Sun, 20 March 1973, 22.


132 Van Moorst, "Fitzroy Legal Service", 38.


136 An example of an expression of this aim is in the minutes of General Meeting, 29 May 1973.

137 For example, the minutes of the Core Group Meeting on 3 February 1973 adopt "client" in inverted commas, while a discussion paper for the 29 May 1973 General Meeting uses "customers".


139 Minutes of Core Group Meeting, 3 February 1973.

140 The document, entitled "Suggested Area of Discussion", was prepared in order to generate discussion at the General Meeting on 29 May 1973.

141 FLS Information Sheet, No. 1, 9 September 1975, 2.


144 Felicity Faris, in Neal, "Interviews", 58.


147 Peter Faris, interview, 22 February 1994.


149 Felicity Faris, interview, 6 April 1994.

150 Minutes of Core Group Meeting, 3 February 1973.


152 Transcript of Felicity Faris' talk to the General Meeting, 12 June 1973.

153 The guidelines appeared in a document entitled "Guidelines for who the service can and can't act for", n.d.

154 Marxists, naturally, would not seek to rely on minor changes within capitalist legal systems to bring about the sort of social change that they advocate. Zenon Bankowski and Geoff Mungham, two English Marxists, are even heavily sceptical of the ability of neighbourhood law centres to bring about social change. Their concerns are that in assisting poor clients with their legal problems, legal centres do little to question structural inequalities. See Zenon Bankowski and Geoff Mungham, *Images of Law* (London: Routledge & Kegan Paul, 1976), 74-9.

Critical Legal Studies (CLS), a movement which has its origins in a conference held in the United States in 1977, was instituted and has largely been maintained on the basis that it exists purely as a critique. As such there cannot be said to be one CLS program for reform. Nevertheless, several CLS writers have discussed their thoughts on this matter. Mark Tushnet argues that in order to achieve change, atheoretical decisions ought to be made on individual issues as they arise: Mark Tushnet, "Perspectives on Critical Legal Studies", (1984) 52 *George Washington Law Review*
Many other CLS writers advocate political agitation, but they also leave it up to the agitator to decide when and how to make a stand: see, for example, Victor Rabinowitz, "The Radical Tradition in the Law", in David Kairys (ed.), *The Politics of Law: A Progressive Critique* (New York: Pantheon Books, 1990), 434; and Cornel West, "The Role of Law in Progressive Politics", in Kairys (ed.), *The Politics of Law*, 472. CLS writers like Tushnet condemn the search for an ideology of law reform because they believe that while existing legal systems have faults, so too would any other systems that sought to replace them. Thus, rather than trying to bring about social change by concentrating narrowly on implementing programs of law reform, they suggest that arguments should be made and opportunities seized both within and outside the bounds of legal conceptions. The law ought not to be accorded too much power if meaningful social change is to be achieved.

Within feminist legal theory, Carol Smart points to a recurring criticism put forward by the critical movements: that positive programs for reform tend to focus too much on identifying legal ways to alter the position of people whom the legal system oppresses. By concentrating on law reform, feminism is brought into law's own paradigm. See Carol Smart, *Feminism and the Power of Law* (New York: Routledge, 1989), 82-9. Smart is not alone in this concern. Many other feminist legal theorists are sceptical about the importance of law to the achievement of real social change. For example, see: Margaret Thornton, "Feminist Jurisprudence: Illusion or Reality?", (1986) 3 *Australian Journal of Law and Society* 5, at 20; Hilary Charlesworth, "A Law of One's Own? Feminist Perspectives on Equality and the Law", (1992) 1 *Meanjin* 97, at 74; Frances Olsen, "Feminism and Critical Legal Theory: An American Perspective", (1990) 18 *International Journal of the Sociology of Law* 199, at 207.

Chapter Two

COMMUNITY

The opening of FLS, the first non-Aboriginal community legal centre in Australia, was certainly of national significance. FLS was, arguably, the first organisation in Australia to combine the politics of the New Left with the operations of the law. FLS workers questioned the impartiality of the law, and they sought to apply their politics to its workings. FLS workers encouraged people to critically consider the way the law impacted upon them. The workers sought to demystify the law, and they sought to provide an accessible forum in which to give legal assistance.

However, while of national significance, FLS was also very much a local concern. FLS sought to be relevant to the residents of Fitzroy and its neighbouring suburbs. who in the early 1970s were amongst the most economically disadvantaged people in Australia. "Think global, act local" is a cliche now primarily associated with the environmental movement. But it is a cliche which was directly applicable to the politics of the New Left and to the operations of numerous organisations in Fitzroy in the early 1970s. With their emphasis on participatory democracy, on activism and on protest, the ideals of the New Left found fertile ground in Fitzroy.

The argument I will pursue in this chapter is that FLS was one of a number of organisations in Fitzroy to embrace the politics of the New Left at the local community level. For the volunteers at FLS, the provision of legal assistance, like other welfare services, was one method by which local people could be encouraged to identify as members of a community. According to New Left philosophy, this would have the broader significance of challenging the increasing
disaffection which afflicted people in their relationship with an ever more technocratic and bureaucratic world. Furthermore, this community politics, or New Left politics at the local level, was central to the challenge which FLS posed to the operations of the law. For in adopting these politics, FLS was challenging the individualism inherent in the law.

Workers at FLS made strong use of the concept of community. Three weeks after FLS opened, the *Nation Review* reported that one of the organisation's major aims was "to involve local members of the community in the running of alternative services." The importance of fostering local community involvement and action was evidenced by the way FLS was organised. It was to be a service of the community for the community, and power to direct and manage FLS lay with the General Meeting, a forum open to all. It was hoped that the involvement of local residents in the organisation, as volunteers, as clients, or simply as participants at General Meetings, would draw the Service's attention to the needs of the community. Remy Van de Wiel recalls that "We thought we could involve the customers and outside people. We invited them to meetings to try to get them to direct the service."  

When in July 1973 a General Meeting adopted the first FLS Constitution, the power of General Meetings to direct the operations of the Service was enshrined in Article 4. So strong was the belief that FLS should be run by the community, that some anarchist members at the July meeting argued vigorously against the adoption of a constitution, on the basis that it would establish a bureaucracy which would wield de facto power. Julian Gardner recalls being asked with what authority he considered himself able to chair the meeting.
The FLS Constitution embraced the aims of providing accessible legal advice and of facilitating community involvement by listing FLS's objectives as:

To provide a free and readily accessible legal service...
To participate in and involve local citizens in the recognition, understanding and solution [of] their own legal and related problems.
To participate in and practice preventative law.
To participate in and provide legal education in the community.
To initiate and participate in law reform.⁴

As indicated by the objectives, the community involvement orientation of FLS extended beyond work with individual clients to the provision of legal education and preventative law programs, tasks which years later would be described as "community development" work. Legal education, a term which covered a range of activities from production of information pamphlets to the giving of free speeches, was seen as a specific means of facilitating community involvement. Within six months of opening FLS had established around eleven work groups which would meet and discuss ways of pursuing the organisation's objectives. One of these groups was known as the "Community Action" work group.⁵

In the first year of operation plans for community development work included: preparation of a report outlining objectionable used car sales practices, research into specific areas of law, such as the rights of tenants and the powers of the Criminal Injuries Compensation Board, preparation of a summary on self-representation in the Magistrates' Court, and publication of an information pamphlet on abortion.⁶ All of these projects, it was hoped, would lead people to exert more control over the situations in which they found themselves.
Clearly, workers at FLS were interested in more than providing legal handouts. The provision of legal advice did constitute a substantial part of the service offered, but FLS was envisaged by many workers to be an agent of social change. The involvement of community members in the solution of their own problems and the existence of more general community education programs were seen to be methods of achieving social change. But how is it that FLS came to have this orientation and its workers a belief in social change through community involvement? How is the emphasis and rhetoric on community involvement to be understood?

Before moving to answer these questions, it is worth considering the usage of the term "community". Margaret Stacey has considered a number of ways in which the term has been used. One definition of community is a territory in which the whole of one's life may be passed. Another definition sees community as a collectivity which forms a total system of social life capable of bringing its members through the ordinary problems of a single year or a single life. A third definition sees community as being an organised system standing in a determinate relation to its environment which has a local basis but not necessarily a rigid boundary. The term thus has geographic and temporal connotations.

A fourth definition, and one which I prefer, draws on a different connotation which the word generates. David Minar and Scott Greer argue that the concept of community "expresses our vague yearnings for a commonality of desire, a communion with those around us, an extension of the bonds of kin and friend to all those who share a common fate with us." Thus Minar and Greer draw on the ethereal sense of belonging which community connotes.
In similar fashion, Robert Nisbet argues that people search for communities because of the nature of modern society. The modern state is too large and too bureaucratised, according to Nisbet, to provide the security and sense of belonging which seem to accompany a feeling of well being. And, according to Nisbet, the search for communities is one of the fundamental themes of the twentieth century.  

This understanding of community, as the antithesis of the modern bureaucratic state, received strong expression in the language of the New Left. Dennis Altman, in his 1970 article "Students in the Electric Age", argued that the counter culture of the New Left possessed two planks: "'Doing your own thing' and the need for community".  

Altman contrasts the word community with ideas of competition and remoteness, two words which members of the New Left associated with the modern bureaucratic State. Ellen McEwen has argued that the language of "community" was used in the 1970s ... by counter-culture groups to criticize all kinds of social institutions for being 'too distant, too remote and too bureaucratized to be responsive to the needs of people.'  

This usage of the term community clearly resonates with the politics identified in the previous chapter as New Left. It is easy to see why the conceptions of "belonging" and "people-centredness" associated with the term community were attractive to members of the New Left. And it is easy to see why FLS adopted the word and concept so vigorously. By becoming community-oriented an organisation could signal that it stood for a politics of participation over the bureaucracy and anonymity associated with the modern State. The term community came to signify a politics which problematised the relationship between individuals and the State.
Nowhere was this politics more vigorously adopted in the early 1970s than in the working-class suburb of Fitzroy. As shall be seen shortly, the language and methods utilised by an extraordinary number of Fitzroy organisations at this time were such as to suggest the existence of a local "community" movement, a movement for which the concepts of community involvement and community action were rallying points.

But before looking in detail at community organisations in Fitzroy, it is worth providing some background information on the suburb in which they operated.

Fitzroy

Until perhaps the 1980s Fitzroy had the reputation of being a tough, predominantly working-class, inner suburb. The early twentieth-century activities of underworld figures such as Squizzy Taylor, whose shootings, thefts and beatings were carried out in the streets of Fitzroy, are notorious. In the early 1970s Fitzroy was still considered to be a tough neighbourhood, so much so that the branch of the Commonwealth bank located in Brunswick Street in the middle of Fitzroy listed its address as Collingwood. Early FLS volunteers recall the stigma attached to the suburb. Julian Gardner remembers Fitzroy being renowned as the place where more murders were committed per square inch than anywhere else in Victoria. Roz Jones recalls being told at Melbourne University Student Housing that she would be better off not renting a house which overlooked the Exhibition Gardens in Carlton because it was "just across the road from Fitzroy."
John Romeril wrote about Fitzroy in the early 1970s in this way:

... no-one likes to walk down Brunswick Street late at night, glancing over the shoulder, past ancient shops and deserted warehouses: where occasionally an old drunk can be seen curled up in a doorway; where occasionally in a sudden shock of light and noise one comes upon a pub, its rough clientele spilling out onto the pavement, hostile, leering faces: or a broken shop window, its burglar alarm whining ceaselessly into the empty night.\textsuperscript{14}

John Finlayson, through his role as a community youth worker, experienced Fitzroy as a place where many disaffected young people would congregate. Street brawls were common. He recalls how Fitzroy, like Redfern in New South Wales, had a reputation for being tough, even when compared to other inner city suburbs.\textsuperscript{15}

The image of disaffected young people congregating in Fitzroy in the early 1970s received its most famous depiction in Helen Garner's \textit{Monkey Grip}, a novel set mainly in and around the streets of Fitzroy. One of the central characters, Javo, is portrayed as a disoriented junkie teetering on the edge of drug dependence, who heads just east of Fitzroy to Easey Street, Collingwood, for his hits. Meanwhile Nora, the narrator, is a young mother seeking solace in the Fitzroy location and lifestyle from her wealthy and oppressive eastern suburbs family. One Christmas, Nora goes to visit her family:

\begin{quote}
I tried to find clothes which would serve as a disguise when I visited my grandmother, but nothing could soften the impact of my haircut ... My Uncle, or "the big boss" as his sister called him with not quite enough irony, filled my grandmother's house with his ruling class confidence. I watched him from inside my peculiar head. I thought of him in boardrooms: very expensive clothes, Italian shoes: big loud laugh, the expansiveness of being able to buy the whole world.\textsuperscript{16}
\end{quote}

After the family gathering Nora makes the symbolic return to Fitzroy from the eastern suburbs, riding her bike through Kew junction, up Studley Park Road, then, faced with half a mile of downhill run to
Collingwood and Fitzroy. "I let go and flew down it in ecstasy, head thrown back, mouth open, feet at quarter to three..."17

As well as being a place for the young and disaffected, Fitzroy was also home to many old homeless people. Eleanor Harding, a former Fitzroy resident, recalls many homeless people living in Fitzroy, "winos and derros", who often slept on doorways and might have had a coat from the Brotherhood of St Laurence as their blanket.18 The Green Van, a parks and gardens wagon used by police to round up people perceived to be homeless drunks, was a common sight.19

Most Fitzroy residents in 1972 were born outside Australia, and just under half were born in non-English speaking countries. One in every three residents was born in southern Europe, with fourteen percent of residents born in Italy, twelve percent in Greece, and eight percent in Yugoslavia. Neighbouring Collingwood had a twenty-one percent Greek and six percent Italian population.20

The multicultural nature of Fitzroy was reflected in its shops, its Greek and Italian cafes where men would play cards, talk politics, swap information from back home and find out about jobs. Many shops in Smith street displayed signs in Greek and Italian.21

The clearest display of multiculturalism was, however, in the churches. Italian catholics worshipped with the Scalabrinian priests at St Brigid's, on the corner of Alexandra Parade and Nicholson Street, North Fitzroy. The Macedonian Orthodox church was in Young Street, the Hungarian Presbyterian church in Napier Street, and the Russian Orthodox church held services in St Mary's church hall in Fitzroy Street. Meanwhile the huge Greek orthodox church lay just south-east of Fitzroy in Victoria Parade, East Melbourne.22
Many of the large percentage of foreign born residents in Fitzroy occupied low-paying jobs. Lidio Bertelli, in a paper presented to a seminar on "Ethnic Rights, Power and Participation" held in the Fitzroy Ecumenical Centre in early 1973, argued that these workers felt their working-class status even more in Australia than they would have were they working the same jobs in their countries of birth. Here, he said, they realise they belong to a very definite section of the community. He remarked that the distinction between a migrant group and a working-class group had become blurred, the common link being poverty and ignorance of rights.23

Fitzroy was the most densely populated inner Melbourne suburb in the 1970s. As Melbourne's first suburb, its subdivisions dating back to the 1840s, Fitzroy has always had narrow streets, in contrast to most other Victorian suburbs. This, combined with the construction of Housing Commission flats in the 1960s, made it possible for Fitzroy to house a population of just under 26,000 in 1971, in an area of four square kilometres.24

Not surprisingly, Fitzroy had a low socio-economic status in the early 1970s. A Melbourne and Metropolitan Board of Works report in 1974 categorised Fitzroy, along with the other inner Melbourne suburbs of Collingwood, Melbourne, Port Melbourne and Richmond, as the most "socially dysfunctional" suburbs in Victoria. Nine variables, including unemployment, crime statistics and broken marriages, were used to indicate social dysfunction.25 Further, these inner Melbourne suburbs were well below the Victorian average in socio-economic status, according to variables which included average dwelling rental price, percentage of owner-occupied dwellings, and unemployment.26 Census statistics for 1971 reveal Fitzroy to have been above the Victorian average in its percentage of unemployed
people, private tenants and Housing Commission tenants. According to an unnamed barrister and FLS volunteer, quoted in the *Age* in December 1972, Fitzroy had "... a heavily entrenched working class which has been there for generations, low income people who don't have many services provided and get pushed around by authorities." 

The physical landscape of Fitzroy in the early 1970s could be described as a mixture of quaint small streets and architecture, and garish modern buildings. Looking out in 1972 from FLS's office in Condell Street, underneath the Fitzroy Town Hall, one was confronted by the imposing sight of the four huge Housing Commission monoliths which comprised the Atherton Estate. The Atherton Estate flats were then, and remain, the most conspicuous feature of Fitzroy's skyline. Completed in the late 1960s, these twenty storey flats - likened by Phillip Adams to inhuman, 20-storey filing cabinets - were responsible for the displacement of 561 people whose homes were compulsorily acquired and demolished. The estate now houses around 3,500 people. Colin Talbot, in an article published in 1974 entitled "Concentration", wrote about these Housing Commission flats:

Concrete togetherness. *Concentration*. We'll put them in the inner suburbs, they said. Two reasons. One, the middle class suburbs won't get offended by the buildings, which have to be cheap. Two, the old poor folk won't have to walk far to get to the city to look in all the pretty shops and dream about square meals which they cannot afford. Now the joke. We'll make them vertical. This way for those who live at the top, they'll have blood pressure trouble in the lifts, or heart trouble on the stairs. And they laughed ... 

Built with a view to combatting the shortage of cheap private rental and lodging house accommodation, the Atherton Estate and other Housing Commission initiatives in Fitzroy provided one of the few ways poor residents could continue to live in the inner suburbs.
Rental prices and the number of owner-occupiers in Fitzroy began to rise as the suburb's proximity to the city, and the general "trendification" of town-house living, began to attract middle-class people to Fitzroy from the late 1960s. Many poor people were forced out. Yet such was the number of Housing Commission flats that one in every eight or nine people in Fitzroy in 1971 lived in one.33

A walk west from FLS along Condell street, past the Atherton Estate on the left and the police station on the right, takes one to Brunswick Street. Going north down Brunswick Street in 1972 would have taken one past a Catholic Presbytery, the Italian Catholic Foundation, and a number of shops selling books, toys and plastics. Further on were the Perseverance Hotel, a metal works, a mechanical engineer, a taxi depot, and a collection of ten or so clothing and shoe manufacturers. Crossing over Brunswick street and heading back south towards the spire of St Patrick's cathedral, one would have passed more clothing manufacturers, a coffee lounge, Virgona's restaurant, a hairdressing salon, a grocery store, a chemist, a gun shop, a fishmonger's, a launderette, the local TAB, an opportunity shop and a fruitier's. Further south lay more clothing and shoe manufacturers, the offices of the Brotherhood of St Laurence and Community Aid Abroad, and a hamburger house.34

The other major trading street in Fitzroy is Smith Street, less than a kilometre west of Brunswick Street. In the 1970s it was home to banks, real estate agents, hairdressers, butchers, grocery stores and a range of clothing and shoe shops.35 It was also home, as I mentioned in the last chapter, to the Free Store.

Eating houses, which now more than ever are associated with Fitzroy, were relatively sparse in the early 1970s. While the wealthy ate at Virgona's in Brunswick Street, poor people had a choice of
cafes like Nick's, Harry's or Peter's in Gertrude Street, which offered three course meals for under a dollar.36 Eleanor Harding recalls Peter's cafe, which opened at 5.30am everyday:

I could always remember Peter - the drunks would go in there and Peter used to go crook at them - and Peter would say, "I never turn, I never turn anyone away from my cafe! But you never tell me lies. I don't wanna see anyone hungry! But always, if you got no money, tell me you got no money."37

Community Organisations

Perhaps the most notable feature of Fitzroy in the early 1970s was the extraordinary number of community welfare initiatives centred there. A combination of factors, including the social and economic status of Fitzroy residents, and the proximity of the suburb to central business district professionals, made Fitzroy a prime site for welfare initiatives. John Finlayson recalls Fitzroy being a leader in terms of its number of community-based welfare organisations. Michael O'Brien remembers Fitzroy being like a social laboratory for welfare initiatives. John Morgan, a former FLS client who was born in Fitzroy, recalls Fitzroy being at the forefront in shopfront community organisations.38

The Brotherhood of St Laurence (BSL) began operating in Fitzroy in July 1933, when Gerard Tucker and Guy Cox arrived to establish a Melbourne outpost of the Newcastle-based Anglican organisation.39 Community Aid Abroad, founded by Tucker's nephew David Scott in 1956, had its base in Fitzroy. Both organisations were located on Brunswick Street, just north of Gertrude Street.

Another religious group seeking a relevant ministry to the Fitzroy community was the joint Presbyterian and Methodist
congregation, which worshipped at the church on the corner of Napier and Webb Streets. Behind this church was the Fitzroy Ecumenical Centre. The Centre’s purposes were, amongst other things, to conduct research on slum reclamation by the Housing Commission of Victoria, and to facilitate the organisation of community action, especially with regard to housing.\textsuperscript{40} The Centre, which often organised community seminars on issues such as "Who Runs This Town".\textsuperscript{41} became increasingly concerned with low-cost housing and immigrant welfare issues. In 1973 it conducted a series of ethnic rights seminars, at which the importance of the development of a sense of community was repeatedly stressed.\textsuperscript{42} In 1974 the Centre changed its name to the Centre for Urban Research and Action to better indicate the scope of its operations.

Further religious welfare initiatives in Fitzroy included the Sisters of the Mission to the Streets and Lanes, who moved from St Mary’s in Fitzroy Street to Napier Street in 1972.\textsuperscript{43} Mother Teresa’s Missionaries of Charity, known in Fitzroy as the Indian sisters, arrived in Gore Street in 1971 to work with homeless men. Meanwhile, the Daughters of Charity operated their St Mary’s House of Welcome in Brunswick Street, providing food and counselling for homeless and alcoholic people.\textsuperscript{44}

In addition to religious initiatives, there were a number of other welfare organisations in Fitzroy. Fitzroy in the early 1970s had a significant Koori population, although census statistics for 1971 do not give specific details about this. Several Aboriginal welfare initiatives were centred in Fitzroy. The Victorian Aboriginal Health Service was established in Gertrude Street in early 1973, and operated on a largely voluntary basis before receiving any significant funds from the Department of Aboriginal Affairs.\textsuperscript{45} The
Aboriginal Legal Service, which was formed at a meeting in June 1972, received grants from both State and Federal Governments in December 1972 enabling it to open an office in Gertrude Street in February 1973. Phil Molan, an early FLS volunteer, was the Aboriginal Legal Service’s first lawyer.

Many local organisations in Fitzroy in the early 1970s drew on the idea of "community" in implementing programs for reform and in deciding upon methods of internal organisation. It is here that one can see the New Left politics of protest being exercised at the local level. Concepts such as community involvement and collective decision-making became increasingly more common. These ideas were crucial to the political program of early FLS workers, but they were certainly not confined to the operations of FLS. Indeed, the number of organisations which began to express what I would term "community" politics was staggering.

The Housing Commission Tenants' Union (HCTU) was formed on 2 May 1973 and initially began as a conglomeration of individual housing estate tenant groups. As well as having aims of enforcing tenants' rights by acting as an advocate for tenants, the HCTU sought to educate tenants on how to achieve the rights they saw as desirable, and it sought to work with existing community organisations to encourage greater tenant participation in all plans and programmes affecting their estates. One long-term ambition was to have the Housing Commission of Victoria replaced by an administration with tenant participation at all levels of policy making.46

In 1974 the HCTU opened an office opposite the Atherton Estate Housing Commission flats, at 67 Brunswick Street, and in the same year it produced a pamphlet entitled *Tenants' Rights - A Programme for
Dignity. In the pamphlet the HCTU presented itself as the body which could facilitate collective decision-making and which could express the concerns that Housing Commission tenants themselves were reluctant to voice. The immediate plans of the HCTU were the seemingly modest ones of achieving a clear statement in writing of tenants' rights, and the negotiation of a sensitive eviction policy under which tenants could no longer be evicted for hammering a nail into a wall.47

Meanwhile, in 1974, a private tenants' group, the Tenants' Union, opened an office in Brunswick Street. The Tenants' Union emerged from the Royal Court Residents' Association in Parkville. Michael Salvaris, a member of the Tenants' Union and a former FLS volunteer, had been operating the Tenants Advice Bureau for private tenants from the offices of the HCTU. It was hoped, in vain as John Finlayson recalls, that the HCTU and the Tenants' Union would work to complement each other.48 The Tenants' Union concentrated primarily on private rental and consumer credit problems, and its activities in the early 1970s ranged from giving lectures on tenancy law to making detailed submissions to the Victorian Attorney-General on landlord and tenant law.

The Tenants' Union was closely linked to the Centre for Urban Research and Action, and together these organisations produced several booklets on tenants' rights, including Tenancy Reform: A Community Development Approach and Tenants in Australia: A Selection of Views.49 As indicated by their titles, both of these publications sought greater participation by tenants in the making of urban and housing policies, the former advocating a program which:

... should aim to stimulate organisation and action by and among tenants themselves with a view to community
participation and eventually the direct involvement of tenants in urban and housing policies.50

More striking than the simple existence of all these community organisations in Fitzroy was their virtual unity of voice about the way that the poverty and powerlessness of the people with whom they dealt should be addressed. The literature put out by these organisations reveals an almost standard model of action, where the emphasis was upon the collective rights and responsibilities of people as a society and as a community. Welfare initiatives were presented not in terms of charity but in terms of people's rights and society's obligations. And the direct participation of people in the welfare initiatives which affected them was considered crucial.

As Eilish Cooke recalls:

There were a lot of experiments and innovations in welfare thinking at the time and they were all centred in Fitzroy ... The language which you find in the legal service ... it was on about empowerment, it was on about consultation ... it was on about ... people doing things for themselves. What people were trying to get away from was lawyers and social workers telling you how to live your life.51

Peter Hollingworth, Vicar of St Marks and Director of Social Services at the BSL in the early 1970s (and later Anglican Archbishop of Brisbane), wrote The Powerless Poor in 1972. In it, he stressed the need for special programs to be established to develop new ways of involving poor people in welfare decision-making and in sustaining action for change. He wrote:

It is essential that any modern view of welfare is concerned not only with security and service but with the participation of individuals in responsible decision-making and action.52

This view was echoed in the BSL's 1973 submission to the Commonwealth Inquiry into Poverty, where the BSL argued that alternatives to the creation of commissions of inquiry and the establishment of welfare
bureaucracies needed to be developed. The BSL submission suggested the investigation of ways of:

(a) Encouraging individuals to release and utilize their own creative resources and insights in the resolution of problems.
(b) Sharing skills, knowledge and experience so that people can participate equally in this problem resolution.
(c) Opening access to organizations to enable individuals to understand the difficulties and complexities as well as the obstacles to necessary change.53

An important step towards implementing this theory was the publication by the BSL of *The Have Not's*, a study by Judith O'Neill and Rosemary Nairn of 150 low-income families, many of whom lived in Fitzroy.54 This study, together with Hollingworth's book, were important factors in the establishment of the BSL's Family Centre Project. The project, which was formally adopted as a BSL program in November 1971 but which began operation in November 1973,55 aimed to test the hypothesis that poverty was caused by society and not by the traits of those who were poor. To test the hypothesis, sixty poor families were to have access to considerable resources to see whether they could change their own lives and maybe some of the social institutions which affected them. The resources included a large building, an income supplement, and the opportunity to participate fully in decision-making, with access to eighteen staff members.56 Michael Lifffman identified one of the aims of the project as being to help families view themselves not as passive victims of society but as active participants capable of change. He continued: "This includes both change in themselves and the capacity to change the environment in which they live. Thus, the Centre will aim to involve them fully in making the decisions about their families' future."57
David Scott, a founder of Community Aid Abroad, identified the early 1970s as a period in which there arose a new philosophy of social welfare. A philosophy which sought to make provision for decentralised and less bureaucratic approaches to the delivery of services, and one which provided an opportunity for personal participation in decision-making and service provision. This new philosophy had as its essence a belief in the importance of assisting people to take action to meet their own and other people's needs. To be sure, this was not something confined to Fitzroy. Nationally and internationally, the practice of "community development" was becoming increasingly more common. Nor was the practice of community development solely the preserve of the New Left. Many Christian groups, like the BSL, found their ministry to be expressed convincingly through the language of community development. But in Fitzroy, perhaps more than anywhere else in Australia at this time, the New Left was finding community development to be a powerful vehicle for its message.

Resident Action

The most obvious example of community involvement in Fitzroy in the 1970s came in the form of resident action against government plans to alter the suburb. Concerted action in the early 1970s against the Housing Commission of Victoria saw the sometimes lofty rhetoric about the benefits of community action yield tangible results. The Housing Commission, having already established the Atherton Estate, had designs on other areas of Fitzroy, in particular the Brooks Crescent area in North Fitzroy. Furthermore, freeways planned from the north and the east threatened to turn Fitzroy into a
thoroughfare. These threats, probably more than anything else in the early 1970s, encouraged community action and organisation in Fitzroy on an unprecedented scale.

As early as in 1960 the Commission had considered redevelopment of the Brooks Crescent area. In 1967 approval had been given to the preparation of a plan for redevelopment, and in 1968 the Commission demolished the first house it had purchased in the area. On 2 June 1969 the Commission, in a resolution which was not made public until much later, proposed the Brooks Crescent area for reclamation. Only slowly did residents in the area become aware of the Commission's plans.

The pretext on which this and other Housing Commission redevelopment plans were based was that the areas chosen for redevelopment were slum areas. "Slum reclamation" was the slogan used, and it conjured up images of the Commission, a faceless and largely secretive government instrumentality, repossessing properties because they were unfit for human habitation. It was commonly understood that the authors of the 1960 Shaw-Davey report, a survey of inner Melbourne housing and land which the Housing Commission used to justify its actions in Brooks Crescent, had conducted a "windshield survey" by never stepping out of their car.

The Housing Commission's plans for Brooks Crescent led to the establishment of one of the most significant community organisations in Fitzroy in the 1970s, the Fitzroy Residents' Association (FRA). The FRA would come to share many similarities with the residents' organisation in neighbouring Carlton, the Carlton Association, which had been very active and successful in the 1960s in involving members of the local community to work to prevent the demolition of houses and consequent development of factories and high-density housing.
The origins of the FRA can be traced back to a Victorian Council of Social Service (VC OSS) report dated June 1969 and titled *The Community and Welfare Facilities in Fitzroy*. The report was the result of a public meeting of representatives from government and voluntary community organisations held in the Fitzroy Town Hall in 1967. The introduction to the report pointed to the changing nature of Fitzroy caused by private and government redevelopment in the area, and went on to cite the Housing Commission as one of the most important forces changing Fitzroy. The report presented concerns that the existing health and welfare organisations, as well as other community organisations, would not be able to face the inevitable increase in the demand for their services which would result from the changes going on in Fitzroy. In particular, it stressed the need for consultation and co-ordination between community and State Government bodies in the planning and development of suburbs. The report recommended that a residents' association be established from the local community, and even went so far as to draft a constitution for such a body. Membership would be open to any resident of Fitzroy, and the aims of the organisation would be to formulate and implement specific policies about the development and conservation of Fitzroy.

Soon after the VCOSS report a Fitzroy Residents' Committee was established. Brian Howe, later Deputy Prime Minister in the Hawke and Keating Labor governments, was president. The Committee later became the FRA. FRA minutes explain the purpose of the organisation as being to "... assist residents ... to become better informed and to have a more effective voice, and to take a more active part in the determination of matters affecting their common welfare." Several
FLS volunteers, like Geoff Eames, became heavily involved in giving legal assistance to members of the FRA.67

The FRA soon involved itself in a variety of issues, which included the preparation of a history of Fitzroy, the investigation of childcare and education facilities, and the preservation of historic buildings. Soon after its establishment a sub-committee was formed to begin challenging the Housing Commission over its plans for Brooks Crescent. Barry Pullen, later a Fitzroy Councillor and then a State Labor Minister, wrote to the Fitzroy Council advising that public meetings, demonstrations and, if necessary, legal challenges would replace the more formal means of debating government decisions which were contrary to public opinion.68

Strong resident action against the Housing Commission's plans for Brooks Crescent began with a public meeting on 13 May 1970, attended by around 250 people. The meeting followed an FRA survey of the area and was organised jointly by FRA members and other local residents. It was chaired by Brian Howe. The meeting elected a North Fitzroy Residents' Action Committee, which comprised half FRA members and half local residents.69 According to the *Brooks Crescent Report*, a report published by the FRA which was dotted throughout with newspaper headlines critical of the Housing Commission, the meeting on 13 May was a very noisy one. The terms "fascist", "dictator" and "gestapo" flew around to describe the Commission and its faceless executives. The battle was presented as the people against a faceless and authoritarian government body.70

The Fitzroy Ecumenical Centre (later the Centre for Urban Research and Action) was also concerned about the changes to Fitzroy threatened by the Housing Commission's plans for Brooks Crescent. The Centre had prepared detailed reports about life in Housing Commission
flats, which were published as part of the Australian Government Commission of Inquiry into Poverty.\textsuperscript{71} The Centre had also been involved in the promotion of a tenants' action committee at the Atherton Estate Housing Commission flats.\textsuperscript{72} In a confrontational publication entitled \textit{This House Not For Sale}, the cover of which depicted a woman in front of her house holding a rifle, the Centre documented instances of slum reclamation and community conflict in four inner Melbourne areas. One of these areas was Brooks Crescent.

The FRA maintained a heavy involvement in the dispute, and depicted resident involvement in political terms, as part of a process in which power was being transferred to the poor and disenfranchised. A representative of the FRA hoped that by discussing alternative methods of redevelopment with local residents, they could "... demonstrate the potential of participatory or consultative planning in an inner urban area in Melbourne."\textsuperscript{73}

The central argument against the Housing Commission's plans was that the Brooks Crescent area was not a slum. A Supreme Court injunction was granted in February 1971 upon application by manufacturers and residents of the Brooks Crescent area, the effect of which was to prevent the Housing Commission from recommending that the area be declared a slum reclamation area. The injunction was granted because the Housing Commission was judged to be going beyond its statutory power of dealing with unsatisfactory housing conditions.\textsuperscript{74}

The injunction suspended the broad acquisition and demolition powers of the Commission, pending a full hearing of the case some years later. However, the injunction did not prevent the Commission from buying houses on the public market and demolishing them. By March 1971 the Commission owned 60 properties and, following the
injunction, simply left them vacant. Vandals stripped the houses. If
the area had not been a slum before, it was soon to become one, for
which the Housing Commission was publicly blamed. The *Age* on 20 May
1972 ran the headline "Commission 'creates a slum' in Fitzroy".75

In June 1971 the Commission demolished 25 houses, using non-
union demolition contractors. Meanwhile, houses continued to be sold
to the Commission by residents who either feared that the Commission
would eventually regain its compulsory acquisition powers, or who saw
the area to be rapidly declining and who wanted to sell before the
market declined further. Some attempts were made at instilling
community solidarity. Occasional working bees took place to clean up
the area. But, according to the Centre for Urban Research and Action,
it was mainly activists from outside the specific Brooks Crescent
area who were promoting community action. Individual residents were
seen to lack the strong communal ties needed to encourage them to do
more than protect their own interests.76

As late as in January 1972 the Commission was unable or
unwilling to declare what eventual plans it had for Brooks Crescent.
The Chief Commissioner, in a letter to the FRA secretary, wrote that
the Commission had no firm intentions as to the ultimate form of
development. By March, however, a plan was revealed for a number of
three, four and five storey units to be built. Still the Commission
was evasive, with the Housing Minister telling Parliament later that
month that although a tentative plan had been produced showing ways
in which the Brooks Crescent area could be developed without
destroying the character of the area, there were no definite plans.77

The court case against the Commission, pending which the
injunction had been granted, was due to be heard late in 1973. It
collapsed, however, with residents reluctantly settling. Once Ivan
Porter, a shoe manufacturer and one of the plaintiffs, settled, oppressive costs then compelled the residents in the action to do likewise. In September 1973 the Brooks Crescent area was gazetted as a slum reclamation area.

High rise flats, however, did not go ahead. A Fitzroy Council and Housing Commission Joint Planning Committee, the first of its type in Victoria, was established to develop more appropriate plans for Brooks Crescent.

The achievements of the residents' campaign were said to be many. The Centre for Urban Research and Action claimed that:

The residents' campaign challenged the policy of block clearance and the autocratic way in which that policy was carried out. In demanding their right to a voice in the planning process, residents have done more than just question the procedures used by public authorities. They have raised questions of political power or powerlessness, of social justice and of human rights... Organised activity at the grass roots neighbourhood level has been shown to be effective despite the partial social disintegration of the neighbourhood... [T]he importance of social or political movements such as these lies in their demand for ordinary people to have the right and the power to effectively shape their own lives...

The irony in this period in Fitzroy's history is that whilst resident action helped to maintain the area for long-time residents, a gradual process of gentrification or "trendification" was taking place which gradually forced out such residents. Rates and rentals increased in Fitzroy, and slowly a new class of resident was moving in. Proximity to the city made Fitzroy attractive to the urban professional. William Logan, in his book *The Gentrification of Inner Melbourne*, describes gentrification as occurring where a high status social group moves into an area traditionally associated with low-income residents. Logan, however, prefers the term "trendification" over gentrification to describe the population changes in both owner-
occupied and rented houses in inner Melbourne, changes which, he
suggests, appear to have been tied to rising occupational status and
life-style patterns.\textsuperscript{81}

According to the Centre for Urban Research and Action's
publication \textit{The Displaced}, Fitzroy house prices rose dramatically in
1973, and experienced an increase in median sale price between 1972
and 1975 of 123 percent, the highest of all inner suburbs.\textsuperscript{82} On the
basis of these and other statistics, the Centre concluded that low-
income people, particularly renters, were facing restricted choices
of location and threats to their security of tenure.\textsuperscript{83} The term
"displacement" was used to describe the forced movement of low-income
people from increasingly sought-after inner suburbs like Fitzroy.

Several of the articles and poems in the book \textit{Into the Hollow
Mountains} were aimed at the new middle-class residents of Fitzroy.
David Parsons wrote that "The newcomers are moving in, inflating land
prices with absentee landlords, students, and unemployed sensitives
leading, having challenged and beaten Carlton."\textsuperscript{84} The last poem in
the book is an angry vignette directed at these new residents, titled
"Get out of Fitzroy".

The effects of the changing nature of Fitzroy divided those who
opposed the Housing Commission initiatives. Some, like Miles Lewis in
a letter to the \textit{Age}, opposed the Housing Commission with the
argument that suburbs in which the Commission had not been active,
like East Melbourne and Parkville, had become prosperous and sought
after.\textsuperscript{85} The Commission's plans were thus to be opposed because they
were threatening the trendification of Fitzroy. Groups like the FRA
were criticised for adopting this approach and for being thinly
disguised middle-class self interest groups which did not really care
about low-income earners.\textsuperscript{86} FRA involvement in conflicts with the
Housing Commission had to be considered in the context of the FRA's other activities which did not concern low-income housing, such as acting to save historic buildings.  

Other people, like David Scott and Peter Hollingworth from the BSL, were equally opposed to trendification as they were to high rise Housing Commission flats. Groups like the Centre for Urban Research and Action joined them and called for active government intervention to assist low-income earners to remain in the inner suburbs, by either granting subsidies or by providing more appropriate public housing.

The Fitzroy City Council

The period of the Brooks Crescent dispute witnessed an important change in the approach taken by the Fitzroy City Council to housing and other local concerns. Having agreed in the late 1960s to pay $256,000 to the Housing Commission towards the cost of developing the Atherton Estate, the Council's position toward the Housing Commission was initially supportive. The Council shared the Commission's low opinion of many areas in Fitzroy, and agreed that much slum housing existed.

But with council amalgamations being touted, Fitzroy Council, with the assistance of the public relations firm Image Australia in 1971, was eager to seem relevant to the Fitzroy public. The possibility of council amalgamations was seized on by the FRA as an opportunity to extract, or even direct, Council policy on a number of issues. In March 1971 the FRA asked the Council to prepare answers to a questionnaire on policy issues, in order that the FRA's submission to the Local Government Advisory Board hearing on council
amalgamations could be completed. The FRA is minuted in Council records as wishing to be certain that the maintenance of existing municipal boundaries would enable Fitzroy to implement proper planning procedures, to present a strong policy on the complex problems associated with housing, and to finance the rapidly increasing demand for social services.\(^{91}\)

Fitzroy Council sided against the Housing Commission in the Brooks Crescent protest. The Council's support for the resident groups, however, was initially limited to words of encouragement. The Council's position was put to the second Brooks Crescent public meeting, on 27 May 1970. Resident action was supported, but the battle had to be fought by the residents. Councillor Byrne commented that the Council had no power to prevent the Housing Commission going ahead. The protest was "your" protest, not "ours".\(^{92}\)

The Council's support was rhetorical, but even this level of support assisted to make the battle political. By welcoming public meetings between Councillors, residents and representatives from the Housing Commission, the dispute at least could be seen to involve more than self-interested lobby groups.

An enormous change in the role of the Council in the Brooks Crescent dispute occurred after the 1972 local elections, when FRA members and sympathisers sought and gained office. The first FRA member elected onto the Council was Councillor Lennnan in 1971. In 1972 three new Australian Labor Party councillors, who were either FRA members or supporters, were elected. By 1975 the Council was dominated by FRA members and supporters. At around this time the FRA began to dissolve.\(^{93}\)

Following the 1972 elections the Council became active in the Brooks Crescent dispute. In April 1973 the Council unsuccessfully
sought a Supreme Court injunction against the Commission to stop all demolition in Fitzroy. Signs were erected on vacant blocks declaring that "this house was demolished directly contrary to the policy of the Fitzroy City Council". The Council also pledged limited financial support to the Court action being run by local residents and manufacturers.

Fitzroy Council in the early 1970s was also supportive of resident action against the other major threat to the local environment, the F19 freeway. The freeway, which now links Doncaster to the city, threatened to pour thousands of cars through the streets of Fitzroy. Fitzroy and Collingwood Councils supported their residents, who formed the group Citizens Against Freeways. Whilst action against the F19 was eventually lost, Fitzroy Council ensured that traffic from the freeway would stick to Alexandra Parade and not cut through the streets of Fitzroy. It established a maze of one-way and dead-end streets which even locals find awkward to negotiate.

The change in direction of the Fitzroy Council was not limited to policies on housing and freeways. After 1972, social welfare quickly became a priority. Before the 1972 elections the Council's involvement in social welfare had been largely superficial. A Council social worker had been appointed in February 1970, and in 1971 she identified a number of areas of community need. Her report listed child care and elderly care as areas in need of attention. She also advocated the establishment of a citizens advice bureau. The report was criticised by Jenny Wills, in her book Local Government and Community Services, for lacking concrete proposals for debate and decision, and for giving the Council the easy path by which it could ignore the report. The Council itself was criticised by Wills for continuing to shirk its welfare responsibilities, the burden of which
fell onto the Fitzroy Social Service Council (FSSC), a committee of agencies and residents formed in 1969 which concentrated on welfare issues in Fitzroy.\textsuperscript{98}

Meanwhile, 1971 was a year when local groups sought a more active role from the Council. The FSSC asked the Council to investigate the feasibility of establishing a Youth Services Development Committee. It was anticipated that the committee would co-ordinate youth services and conduct surveys in Fitzroy, whilst ensuring the maximum participation of the community, especially young people, in these processes.\textsuperscript{99} The FRA made it clear that it sought a more active role from the Council in confronting housing problems and in addressing the sharply increasing demand for social services.\textsuperscript{100}

Further, the Fitzroy branch of the Australian Labor Party passed a resolution requesting the Council to "take all available steps to obtain expert advice on what [preventative] social services should be freely available in the City of Fitzroy".\textsuperscript{101}

Following the 1972 local elections the Council became more active in social welfare issues. Immediate actions included a submission to the Commonwealth Inquiry into Poverty, the provision of funds for an adventure playground and an application to the Federal Government for a child care grant.\textsuperscript{102}

The new approach of the Council to welfare initiatives was termed a "social developmental" one. The implementation of two projects, the Fitzroy Advice Service and the Fitzroy Accommodation Service, reveal the effects of this approach.

In early 1973 the Council met with the FSSC and the BSL to discuss social work and community development in Fitzroy. When funds were provided to the FSSC to investigate the viability of a citizens
advice bureau in Fitzroy, an FSSC sub-committee, which included Peter Hollingworth from the BSL and Brian Howe and Arthur Faulkner from the Fitzroy Ecumenical Centre, produced a report which adopted much of the language of Hollingworth's *The Powerless Poor*. One section reported that:

The ability to direct one's life, to choose between meaningful alternatives is the basis of human dignity. When people's free will is entrapped by physical and social circumstances not of their own making, they become "object-like", as they gradually sense their powerlessness ... One aspect of powerlessness that can be dealt with more easily than the rest is lack of knowledge. People cannot benefit from their rights, both legal and social, if they are unaware of what their rights are. They cannot work towards improving "their lot" if it looks worse than it is.\(^{103}\)

The report adopted a "network" model for the advice service, and stressed the need to decentralise information outlets so that information would be available at everyday communication points. Information would "percolate through all levels in Fitzroy, and at the same time provide a channel or avenue of access for people to communicate their own needs or concerns."\(^{104}\)

The report went on to list several aims for the advice service, which included: to provide information to people at places with which they are familiar, and to assist the Council in the development of citizen participation at the local government level.\(^{105}\) The advice service was to operate independently of Fitzroy Council, with a management committee to consist of three representatives each of the Council and the FSSC, and with four members to be appointed by the advice service. From October 1973 the positions of Liaison Officer and Clerk Typist were funded by the Council, and in December, when the Council appointed a Community Worker, work began on the production of a directory of Fitzroy community services. FLS members were asked to contribute any relevant information, and the directory,
with multilingual information, was launched in October 1974 with a first run of 2,500 copies.106

The second project which highlighted the new approach of the Council to welfare initiatives was the Fitzroy Accommodation Service. The accommodation service had been established by a number of small agencies in 1973 when workers at the Fitzroy Community Youth Centre raised the problem of young people's housing with the FSSC. The Council's role at this stage was limited to providing emergency funds.107

In September 1974 it was proposed that two services be merged to form the Fitzroy Collingwood Accommodation Service. Financial support was provided by both Councils, while Councillors and representatives of other local bodies, such as FLS and the HCTU, served on the committee of management.108

Jenny Wills argues that the Fitzroy Accommodation Service signified a divergence from a welfare approach to accommodation problems, because it attempted to do more than react to need. Its aims were to mobilise existing community resources to provide emergency, temporary and permanent accommodation and to identify accommodation needs in Fitzroy.109

The Fitzroy Council was very supportive of many new welfare initiatives in Fitzroy in the early 1970s, and this included the establishment of FLS. FLS was housed in offices under the Town Hall which the Council had made available. And the Council covered all of FLS's postage and telephone expenses.

But the new role of the Fitzroy Council in the provision of welfare services can perhaps best be summarised by detailing the Council's response to an application by FLS for funds. An FLS
delegation met with the Council on 28 June 1973 in a bid to secure a grant of $4,000. The meeting was told that in its six months of operation FLS had handled about 1,000 cases involving Fitzroy residents, and many more cases besides. The Council decided to grant FLS $2,000. The first $1,000 would be paid when FLS drew a constitution, which occurred soon after the meeting, and the second $1,000 would be paid when the Council "is satisfied that the organisation is taking necessary steps to become a community-based organisation".110 This presumably meant that FLS would have to set about restricting its availability, so that only local residents could receive assistance. FLS would also, it appears, need to ensure that emphasis was given to the idea of community involvement which so characterised many Fitzroy organisations around this time. The second instalment of $1,000 was not received until late in 1974.111

A Community Legal Service

The strikingly common characteristic of the local groups and the Council in Fitzroy in the early 1970s was the emphasis on local community involvement. This emphasis, and its attendant dialogue about empowerment and social development, affected the way FLS operated. Early workers at FLS reminisce that the Service formed part of a local movement.112 Links with other organisations were strong. FLS workers became involved with the FRA, the FSSC and the HCTU. Meanwhile the Tenants' Union was formed by a former FLS volunteer. Further, FLS meetings were often held at the offices of the BSL, and the BSL even underwrote the agreement to employ Danny Spijjer for one year as the first FLS full-time worker.113
Beyond the formal and informal links, the ideas and motivations which defined this local community movement soon became incorporated in FLS practices and philosophy. According to Eilish Cooke, the philosophies of many local organisations, in particular the residents' associations like the FRA and the Carlton Association, were crucial to the operations of FLS. The residents' associations had motivated local people to become involved to protect their local community from government attempts at change. Cooke states:

That idea firstly of community and secondly of self help ... was being fought over at the legal service, and you had that underpinning the thinking about the legal service.\textsuperscript{114}

When Felicity Faris addressed an FLS General Meeting in June 1973 she emphasised that the "need for participation in community affairs" ought to be impressed upon clients. Further, it was important, she said, for FLS workers to become familiar with all agencies operating in the area so that referrals could be dealt with smoothly.\textsuperscript{115}

FLS workers, however, faced a problem in maintaining a community orientation. The problem was the sheer demand for legal assistance. Phil Molan was one of many volunteers who never anticipated that so many people would seek legal help.\textsuperscript{116} In the first six months over 1,700 clients sought assistance, and only one in three clients came from the local Fitzroy area.\textsuperscript{117} Requests for advice came from as far away as Canada and Uganda,\textsuperscript{118} and clients travelled from places like Frankston, Geelong and Shepparton to receive assistance.\textsuperscript{119} Clients would be receiving advice at 11.30pm on what were, sometimes, old problems. Julian Gardner remembers frequently being exhausted after work. As the first service of its kind, FLS was inundated. It was chaos.\textsuperscript{120}
Workers had difficulty finding time to devote to community development when the demand by individual clients was so great. Peter Faris recalls that "We were overtaken by events. People came from all over Melbourne and diluted the community aspect."\textsuperscript{121}

Less than a year after it began, Harry Van Moorst wrote a thesis about FLS in which he asked whether FLS provided more to clients and to the community than legal assistance. He answered that it did not, arguing that FLS had done little to change people's views on how the law functioned. It had done little to point out what the law's limitations were, and it had not assisted people to understand how they could change the law. He continued:

It has done nothing to use the Service as an organizing base for more fundamental community action projects. Instead it has become defensive about its legal role ... The fault lies not only in the heavy work load, nor does it lie only with the lawyers; it lies in the theory and concepts which form the basis for the Service ... It cannot meet its own objectives ... because its orientation is legal rather than political, service rather than change, and immediate rather than longer term.\textsuperscript{122}

It seems that realistic hopes that members of the local community would actually come in and direct the Service were gone by the middle of 1973. However, the concept of FLS facilitating social change through empowerment and community action remained strong in the minds of many workers, and continued to motivate volunteer involvement. Indeed, an enduring trait of many FLS workers has been their attempt to retrain the Service's focus on its community. The General Meeting on 29 May 1973 was asked to consider how the rapid growth of the Service had affected its initial aims. The writer of a document, circulated before the meeting, discussed the dual aims of access to legal information and provision of preventative services, and advocated that greater emphasis be put on the needs of the
community. The document ended with what may be termed the perennial question for FLS, "how is this to be done?" 123

Attempts were subsequently made to reduce the number of clients and to only assist members of the local community. A General Meeting on 12 June 1973 decided that only people from Fitzroy, Carlton and Collingwood could receive assistance, and a rough means test was formulated by a work group to limit clients to people on low incomes. It was further decided to close the Service on Saturday nights. 124 In July 1973 Richmond was added to the catchment area, and a detailed means test document was prepared. 125 The FLS newsletter reported that by deciding upon a catchment area and by decreasing the impossible workload "... we should be able to stick to our original concept of becoming a 'real' community centre, to get out into the areas we cover." 126

While the catchment area limitation was only sporadically enforced, which was more than could be said for the means test, 127 a decision was made to lessen the pressure on FLS workers by limiting the areas of law in which FLS would provide assistance. The Central Committee met on 20 June 1973 and produced a set of guidelines limiting the services FLS would carry out. Cases involving personal injuries, wills, and family law were to be referred out to private solicitors, although initial advice could be given. In other areas, such as property claims arising from car accidents, only letters of demand and subsequent negotiation, not representation, were to be provided. 128 This represented a significant attempt to reduce the workload on FLS volunteers. Early statistics, taken between December 1972 and July 1973, reveal that over one in four FLS clients sought assistance in family law matters. In addition, around fourteen percent of clients sought advice in relation to car accidents. Work
in both of these areas was to be reduced by the implementation of the guidelines. This would leave volunteers to concentrate on the areas of law considered to be more appropriate to the objectives of the organisation: criminal matters, which so far accounted for nineteen percent of clients, consumer matters, for which thirteen percent of clients had sought assistance, and housing problems, which accounted for eleven percent of clients.  

When Danny Spijker, a lawyer, was employed in February 1974 as the first FLS full-time worker, one of the requirements of his job was to facilitate community involvement in the organisation. Although Spijker was permitted to operate a private legal practice "on the side", and although his primary task at FLS was to follow-up work from the night service, members at the General Meeting which appointed him agreed that one of his functions was to "... encourage involvement in Fitzroy at all levels."  

At around this time, the political aims of FLS began to receive new expression through the production of a monthly newsletter. The Fitzroy Legal Service Bulletin began life as a roneoed publication in May 1974, and in September 1974 became the Legal Service Bulletin. The journal was much later to become the Alternative Law Journal. Early issues were primarily written in the style of a newsletter, and they gave emphasis to topics such as client involvement and community education. Gradually, however, the emphasis moved to broader issues, as the name changes would suggest.

In this chapter and in the previous one I have argued that FLS was a manifestation of the Australian New Left, and that FLS was one of a number of organisations in Fitzroy in the early 1970s to apply "community" politics to the delivery of a social service. FLS was
part of a local community movement, a movement consisting of a number of organisations in Fitzroy which all emphasised the need for community participation and involvement.

FLS's origins, as part of this local community movement, explain some of the organisation's philosophical underpinnings. These origins explain why the FLS General Meeting, a forum open to all comers, and not a management committee or board of directors, was and remains responsible for the major decisions of the organisation. These origins also help to explain why, after two decades, the organisation still includes amongst its objectives "to seek guidance and direction on policy and policy development from the community" and "to involve local citizens in the recognition, understanding and solution of their own legal and related problems".¹³²

As part of this local community movement, FLS sought to do more than simply provide legal assistance. Most importantly, it sought to motivate people to identify as members of a group or community. As an organisation involved in the delivery of legal services, this was a profound political statement for FLS to make. For the law is a phenomenon primarily concerned with the rights of individuals. FLS sought to use the law to the benefit of groups of people, to the benefit of the community.

That is not to say that FLS's emphasis on community involvement and participation was never questioned. Nor is it to say that such an emphasis for an organisation involved in the provision of legal assistance was easy to maintain. Indeed a common complaint voiced at General Meetings was that "the main need of FLS at the moment was to get it back into the community".¹³³ Furthermore, people reminiscing now about the early days at FLS, like Felicity Faris, argue that the
attempts to encourage community involvement were never hugely successful.¹³⁴

Indeed, just as the belief about the importance of community involvement has endured throughout FLS's history, so has the concern that the theory has remained too remote from the practice. Throughout the organisation's history there has been constant debate over how to give practical effect to the language of "community".

It would be fair to say, however, that at no time was FLS's community orientation more under threat than in the five or so years from 1974. For during this period FLS increasingly, and somewhat extraordinarily, found itself to be a central player in the debates about federally funded legal aid. When Lionel Murphy, the Attorney-General in the Whitlam Federal Labor Government, created the Australian Legal Aid Office, he saw FLS to exemplify the type of organisation he wanted to see throughout Australia. Barely eighteen months old, FLS's local community focus was to be challenged by its role in the debates over legal aid in Australia.
NOTES FOR CHAPTER TWO


4 FLS Constitution (July 1973), clause 2. Appendix E contains a copy of this constitution.

5 FLS Newsletter, June 1973, 2.


11 Ellen McEwen, "The Ties that Divide", in Verity Burgmann and Jenny Lee (eds), Staining the Wattle: A People's History of Australia Since 1788 (Fitzroy: McPhee Gribble/Penguin, 1988), 27.


16 Helen Garner, Monkey Grip (Melbourne: McPhee Gribble, 1977), 188.

17 Garner, Monkey Grip, 189.


20 Commonwealth Bureau of Census and Statistics, "Characteristics of the Population and Dwellings, Local Government Areas (Victoria)", in Census of Population and
Housing, 30 June 1971 (Canberra: AGPS, 1971). I have rounded statistics to the nearest full percent.


25 F.M. Little (on behalf of the Research and Development Division, Planning Branch, Melbourne and Metropolitan Board of Works), Social Dysfunction and Relative Poverty in Metropolitan Melbourne (Melbourne: Advocate Press, 1974), 15-17.

26 Little, Social Dysfunction, 20-25.


28 Age, 27 December 1972, 5.

29 Age, 2 March 1977, 8.

30 J.A. Lyne, "Fitzroy, Victoria, An Inner Suburb", in Valerie Tarrant and Alex Lyne (eds), Conserving Australia (Melbourne: Cambridge University Press, 1974), 42.


32 Andrew Burbidge, Housing Rehabilitation: Some Ideas on an Alternative Approach to Public Housing for Low Income Groups for Comment and Criticism (Fitzroy: Brotherhood of St Laurence and Fitzroy Ecumenical Centre, 1971), 3.


35 Sands and McDougall Pty. Ltd., Sands and McDougall's Directory of Victoria 1972, 93, 128.

36 Mark Gillespie, "Micky Two (One)", in Gillespie (ed.), 'Into the Hollow Mountains', 40.

37 Harding, "Aboriginal Fitzroy", 295.


40 (1972) 4 Ekstasis, 1 (editorial).

41 Six lectures were planned under this heading for April 1972; minutes of Fitzroy Council Meeting, 20 March 1972.


43 Minutes of Fitzroy Council Meeting, 30 October 1972.


46 Housing Commission Tenants' Union (HCTU), Tenants Rights - A Programme For Dignity (Melbourne: HCTU, n.d.), 2.

47 HCTU, Tenants Rights, 3; see also Australian Government Commission of Inquiry into Poverty, Consumer Views on Welfare Services and Rented Housing (Canberra: AGPS, 1975), appendix b, 81.


50 Tenants’ Union, Tenancy Reform, 5; see also Salvaris and Faulkner, Tenants in Australia, 29.

51 Eilish Cooke, interview, 3 March 1993.


53 Brotherhood of St Laurence (BSL), Submission to the Commonwealth Commission of Enquiry into Poverty (Fitzroy: BSL, 1973), 13.


56 Carol Ride, The Housing Battle: A Study of the Housing Difficulties of 60 Low-Income Families (Fitzroy: BSL, 1976), 4; see also David Scott, 'Don't Mourn For Me

58 David Scott, *Cost-Rental Housing Associations: A New Initiative To Meet Housing Need* (Fitzroy: BSL, 1975), 3; see also Scott, *Voluntary Agencies - Adapting to Change* (Fitzroy: BSL, 1975), 1.

59 Scott, *Don't Mourn For Me - Organise ...*, 30.

60 Kay Hargreaves (ed.), *This House Not For Sale*: *Conflicts Between the Housing Commission and Residents of Slum Reclamation Areas* (Fitzroy: Centre for Urban Research and Action, n.d.), 31.

61 The area proposed was reduced in February 1970 and the first resolution was amended.


63 Carole Woods argues that the Brooks Crescent dispute was one factor which led to the formation of the FRA; in Carole Woods, *Fitzroy: A Descriptive Bibliography* (Fitzroy: Ethel Margaret Ewing Cutten Trust, 1989), vi-vii.


69 Hargreaves (ed.), *This House Not For Sale*, 39-40.


71 The Fitzroy Ecumenical Centre prepared the reports published as Parts II and III of the Australian Government Commission of Inquiry into Poverty, *Consumer Views*.


73 Hargreaves (ed.), *This House Not For Sale*, 43.


75 Age, 20 May 1972, 5.

76 Hargreaves (ed.), *This House Not For Sale*, 59.

78 Hargreaves (ed.), 'This House Not For Sale', 79.

79 Hargreaves (ed.), 'This House Not For Sale', 85.

80 Hargreaves (ed.), 'This House Not For Sale', 89.


82 Centre for Urban Research and Action (CURA), The Displaced: A Study of Housing Conflict in Melbourne's Inner City (Melbourne: CURA, 1977), 21, 25.

83 CURA, The Displaced, 97.

84 David Parsons, "A Jaundiced Finger", in Gillespie (ed.), 'Into the Hollow Mountains', 5.

85 Age, 1 February 1972, 7.


87 See, for an account of one FRA battle to save historic houses, Jane Lennon, "The Vicpar Case", in Cutten History Committee (ed.), Fitzroy: Melbourne's First Suburb.

88 David Scott and Peter Hollingworth made their opposition to "trendification" clear in a letter to the Age, 7 February 1972, 9. On the advocacy of housing subsidies, see CURA, The Displaced, 98ff. One joint proposal of the BSL and the Fitzroy Ecumenical Centre in 1971 was that the Housing Commission buy houses and rent them to low-income earners; see Hollingworth, The Powerless Poor, 148.

89 Hargreaves (ed.), 'This House Not For Sale', 70.

90 Minutes of Fitzroy Council Meetings, 4 October and 18 October 1971.

91 Minutes of Fitzroy Council Meeting, 22 March 1971.

92 Hargreaves (ed.), 'This House Not For Sale', 41-2.


94 The case, Mayor, Councillors and Citizens of the City of Fitzroy v. Housing Commission of Victoria, is reported in [1973] Victorian Reports 631.

95 Minutes of Fitzroy Council Meeting, 18 September 1972, referring to a resolution passed on 13 June 1972 according to which the Council would contribute $2,000 towards legal costs incurred in the action; see also Hargreaves (ed.), 'This House Not For Sale', 73-4.

96 The idea for a second freeway, to follow the course of the Merri Creek, was abandoned.

98 Wills, *Local Government*, 30, 32.

99 Minutes of Fitzroy Council Meeting, 8 February 1971.

100 Minutes of Fitzroy Council Meeting, 23 February 1971.

101 Minutes of Fitzroy Council Meeting, 5 April 1971.


106 On FLS members being asked to contribute to the directory, see (1974) 2 *Fitzroy Legal Service Bulletin*, [25]-[26]; details of the launch are provided in Wills, *Local Government*, 109.


111 Minutes of General Meeting, 23 October 1974. Fitzroy Council was not the only Council to assist FLS financially. Collingwood Council granted FLS $1,000 in 1973: minutes of Co-ordinating Committee Meeting, 22 November 1973.


114 Eilish Cooke, interview, 3 March 1993.

115 Transcript of Felicity Faris' talk to the General Meeting, 12 June 1973.


117 Van Moorst, "Fitzroy Legal Service", 40. The number of clients assisted in the first six months was put at over 2,000 in the *Herald*, 20 June 1973, 2.


120 Gardner, interview, 8 October 1992.

121 Peter Faris, in Neal, "Interviews: Some Founding Mothers and Fathers", 57.

122 Van Moorst, "Fitzroy Legal Service", 96-7.

123 The document is entitled "Suggested Area of Discussion" and was prepared for discussion at the General Meeting on 29 May 1973.


126 FLS Newsletter, June 1973, 3.


129 The statistics, rounded to the nearest integer, come from Van Moorst, "Fitzroy Legal Service", 70. See further Appendix A.


132 Current FLS Constitution, clauses 2(b) and 2(c).

133 This quotation is taken from the minutes of General Meeting, 1 May 1974.

134 Felicity Faris, interview, 6 April 1994.
Chapter Three
THE RISE OF LEGAL AID

FLS was one of a number of local Fitzroy organisations in the early 1970s which sought to apply community politics to the provision of a welfare service. But from the first day of operations there was tension at FLS between its existence as a local community organisation, and its broader significance as the first non-Aboriginal community legal centre in Australia. As the first free-to-all community legal centre, FLS was increasingly deferred to by politicians, lawyers and the media, as an advocate for the legal rights of poor people, regardless of whether or not those people lived in Fitzroy. In the years 1973 to 1976, FLS, somewhat remarkably, established itself as a player in the national debates carried out about access to justice. During the same period, the role and place of FLS within the legal world changed. FLS moved from being an outsider to the legal profession, of which it initially had been highly critical, to become a legitimate part of that profession.

These changes were astounding given FLS’s origins as a radical and fully voluntary organisation, and there are a number of factors which are relevant in explaining how these changes managed to come about in the space of only a few years. The election of the reformist Whitlam Labor Government in December 1972, and the selection of Lionel Murphy, in many ways a legal radical, as Attorney-General, saw to it that debates about access to justice were argued at the national level. The Whitlam Government gave legal aid an importance which it had never before received in Australia. Perhaps more importantly, the Government poured money into funding legal aid, giving the private legal profession the financial incentive to attract and work for clients who previously had been unable to afford private legal costs. Consequently, issues such
as access to the law became increasingly the concern of mainstream lawyers. More and more, it was in the financial interests of private lawyers to talk about access to the law.

Further to this, some of the legal aid money being distributed by the Federal Government was granted directly to FLS, enabling it to employ staff. In 1973, having received only small grants from local councils, FLS had been unable to employ anyone. But with federal funding, the number of staff increased to four by 1976, with Danny Spijier appointed in February 1974 as the Service's first employee. With employed staff, FLS was able to project itself as a stable and increasingly articulate commentator on, and advocate for, the legal rights of poor people. Instead of simply denouncing lawyers as the agents of middle-class oppression, as FLS volunteers once had done, FLS workers increasingly suggested viable ways of making the law more accessible.

The changes to FLS and the broader legal profession in the years 1973 to 1976 thus served to make each group more acceptable to the other. FLS's radical days were passing.

**Whitlam Reforms**

The changes to the availability of legal aid witnessed during the Whitlam years were unprecedented in Australian history. As has been seen in Chapter One, free legal assistance through State Government legal aid schemes was minimal prior to 1973. Only individuals charged with serious criminal offences could expect to be represented for free. Further, access to free legal advice, as opposed to representation, was rarely available.
The most significant federal legal aid initiative prior to 1973 occurred in 1942 when the Legal Service Bureau was formed to provide legal advice to servicemen, ex-servicemen and their dependants. The Bureau was the first federal salaried law office in Australia, employing at one stage 44 lawyers and 63 administrative staff. By 1973 the staff consisted of thirteen lawyers and eighteen administrative workers, and the Bureau had assisted 1.5 million clients, many on tenancy and pension matters.

Some federal legislation prior to 1973 had made nominal or limited provision for free legal assistance, such as the Judiciary Act, the Defence Act, the High Court Rules, the Conciliation and Arbitration Act and the Courts-Martial Appeal Regulations. But up until 1973 there had been no Federal Government attempt to make access to legal assistance a broadly defined right.

This changed with the election of the Whitlam Government. In March 1973 Whitlam broadened the scope of the Commission of Inquiry into Poverty, which had been announced by the McMahon Liberal Government in August 1972, by adding four more commissioners. Included among them was Professor Ronald Sackville, who was briefed to report on law and poverty. His research, not surprisingly, entailed an extensive inspection and assessment of legal aid. This inspection involved a series of communications with staff at FLS. In the preface to all of the Poverty Commission reports was the statement: "The elimination of poverty should be a vital national goal. For this goal to be realised, social change and the allocation of substantial sums from growth in national income to a comprehensive welfare program over the next decade will be essential."

The Whitlam Government's initiatives into legal aid were very much a result of the vision of the first Attorney-General in that Government,
Senator Lionel Murphy. Legal aid had not been an election issue, although it was clearly in keeping with the social agenda of the new Government. In its first month of office the Whitlam Government terminated national service, pardoned and released from prison draft defaulters, committed itself to the ratification of international conventions on nuclear arms and racism, and banned racially biased sports teams from visiting Australia. Over the next three years the Government introduced Medibank, childcare and the Australian Assistance Plan. All of these actions were consistent with a rationale of the State which held that all people should be able to participate fully in all areas of public life.

During 1973 Murphy, who had in January visited storefront law offices in Washington, made a number of important moves in the sphere of legal aid. On 30 April Murphy announced a grant of $2 million to supplement State legal aid schemes. In the same month his department formalised an Aboriginal Legal Services Program.

On one evening early in 1973, probably in late January, Murphy arrived unannounced at FLS's offices. According to John Finlayson, there were around eighty clients there that night:

It took [Murphy] ten minutes to get inside the door. He was stunned, he just couldn't believe it ... He said ... 'This is what I want to see created by the Federal Government. We've got to create a legal aid office ... this has convinced me ... the need's massive.'

For David Neal, this visit was remarkable "for the way in which [Murphy] so easily crossed the divide between Australia's principal legal officer and the then very marginal activities of some young, radical legal workers in a far-flung corner of the legal empire."

FLS had sought funding in May 1973 from the Federal Government, but this application had been ignored. When an application was made directly to Lionel Murphy, however, he responded, in June 1973, by
announcing an emergency grant of $2,000 to FLS, saying that FLS was
worthy of support as a pilot project in demonstrating "the unperceived
needs of poor people and in supplementing the various legal aid services
already existing in the States and Territories".\textsuperscript{12}

In July 1973 Murphy established the Australian Legal Aid Review
Committee (ALARC), which was charged with assessing the extent to which
Australians needed greater access to legal assistance. The committee was
also asked to recommend the means by which this need could be met.\textsuperscript{13} The
ALARC consisted of seven lawyers, and included a Judge and several high
ranking officers of State law societies.\textsuperscript{14} It also included Eilish
Cooke, an "FLS stalwart" according to one volunteer,\textsuperscript{15} who was co-opted
late on to the committee. Cooke's involvement with this committee, and
Murphy's visit and grant to FLS, were the first signs that FLS was
becoming a player in the national debates about legal aid.

The ALARC's first report, published in February 1974, recommended
the extension of legal service centres. It also recommended that pilot
studies be conducted through the establishment of community legal
centres in highly populated lower income areas.\textsuperscript{16}

Eilish Cooke believed that these recommendations, together with
Murphy's apparently favourable attitude towards free legal centres,
meant that all free legal centres had the opportunity of obtaining
Federal Government finance.\textsuperscript{17}

The Australian Legal Aid Office

On 25 July 1973 Murphy announced the establishment of the
organisation which he hoped would make legal advice and representation
considerably more accessible to poor people, the Australian Legal Aid
Office (ALAO). The Office was set up by a Ministerial directive on 6
September, according to which the Legal Service Bureau was to become the ALAO. The services to be provided by the ALAO included the provision of legal advice, which could include attempts at negotiating the settlement of problems, and the conduct of undefended divorce proceedings and minor litigation. According to the directive, everyone in need, and over whom a broad reading of the Constitution gave the Federal Government power, was eligible for the services of the ALAO. This meant, theoretically, that all poor people involved in cases arising under federal law were eligible for the services of the ALAO, as were certain groups of people involved in non-federal cases over whom the Federal Government had power to legislate, such as pensioners, Aboriginal people and immigrants. Susan Armstrong writes that these broad eligibility criteria were initially ignored, so that preliminary advice was provided to all who sought it. However, the restrictions did become more vigorously enforced against people who wanted more than advice. This was partly a result of the increasing workload of the ALAO. But it is also explicable by the fact that it soon became apparent that the States would engage in demarcation litigation to confine the Federal Government's initiatives to those areas under which the Constitution gave it power.

In a Ministerial statement on 13 December 1973, Murphy made his first comprehensive justification to parliament for the changes that he had set about implementing. He also revealed some of his vision.

The [ALAO] will be staffed by salaried lawyers who will work in close co-operation with community welfare organisations, established legal aid schemes, referral centres and the private legal profession. I hope that the young lawyer with a social conscience will be attracted to join the Office ...

I do not see the new Office operating merely in buildings in capital cities. I have been impressed by overseas developments ... that have discarded the traditional conservative approach to legal aid and have set up "storefront" offices in cities and country areas where
lawyers are few and problems are great. I see the role of the Australian Legal Aid Office as taking the law to the people who most need it. I want to see small unpretentious "storefront" offices opened in the suburbs of the cities and in country centres. I want them to be the kind of offices to which the ordinary man or woman faced with a legal problem will go as readily as he or she would go to the garage with an ailing motor car.21

Despite the fact that the ALAO did not live up to many people's expectations of it, Murphy's expressed hopes for the ALAO represented a marked difference to the way legal aid had previously been discussed by governments in Australia. Murphy was talking about more than providing money for legal aid: he was endorsing the role in society of storefront lawyers and lawyers "with a social conscience". He did not want to see lawyers like those at FLS remain on the periphery of the legal profession.

From September 1973 the ALAO began to operate in all States and Territories in the offices of the former Legal Service Bureau. The first new ALAO office was opened in Ipswich, Queensland, on 26 April 1974. Within the next twenty days new offices had been opened in all States, in Burnie, Sunshine, Fremantle, Elizabeth and Blacktown. By the end of June 1974 the ALAO employed 80 staff, of whom 44 were lawyers.22

At the opening of the Sunshine Office Murphy stated that:

The Government is determined to ensure that its laws are not meaningless and the "store-front" lawyers of the Australian Legal Aid Office are an important link in the chain of the Government's policies ...23

He also made a comment received favourably by FLS members who were seeking Federal Government finance. He said that: "There would seem to be scope for useful co-operation between a service conducted by the Australian Legal Aid Office in office hours and an after-hours service conducted by private practitioners."24

A further Victorian office of the ALAO was opened in Brunswick in July 1974, at the opening of which Murphy was quoted as saying that "We
all know that there are substantial areas of unmet need on the part of ordinary people for access to the law and legal process. To be denied such access is to be denied justice.25 By the end of 1974 staff at the ALAO consisted of 95 lawyers and 132 administrative workers.26

A Place for FLS?

The unprecedented attention given to legal aid by the Whitlam Government in the first eighteen months of its term found much support amongst FLS workers. In the following year, however, it became increasingly unclear whether FLS and other community legal centres had a role to play in the federal legal aid structure.

This was one clearly identifiable time in its history when FLS had to call into question its continued existence. FLS had been established when legal aid had been virtually non-existent. But now that there was a Federal Labor Government which was implementing an optimistic legal aid program, was there still a need for FLS to retain its independence? Or should its role be subsumed by the ALAO? What should happen when, as one FLS volunteer was told, "Murphy wanted to get Fitzroy Legal Service people into the ALAO"?27 Was there a need for FLS to continue to exist?

Julian Gardner recalls that: "There certainly was a time when we talked about ... that one of our objectives ought to be to self-destruct, on the grounds that we really ought to be the stimulus to set up a proper national system of neighbourhood law centres, government funded, that really we should put ourselves out of business."28 Meetings were held at FLS early in 1974 to discuss this issue.29

This dilemma, about whether FLS should ideally continue to exist or be replaced by a national system of neighbourhood law centres, was by no means unique to FLS. It is the sort of dilemma which has confronted
many reform-oriented movements in Australia, and indeed elsewhere. If an organisation is established at a time when its political objectives are opposed by, or are critical of, the State, then the need for that organisation to remain independent from governmental control is self-evident. But what happens when a government is supportive of the ideas generated by the organisation? Is independence from government valuable anymore?

The women's movement is probably the forum in which these questions have been most publicly debated in Australia. The election of the Whitlam Government was a turning point in the women's movement, when members of the previously independent movement began to be appointed to senior public positions. As I discussed in the Introduction, the women's movement was to some extent divided over whether its members ought to pursue a closer relationship with government. Suffice it to say, then, FLS workers were not alone in their dilemma.

The uncertainty about the role of FLS within the new legal aid structure was temporarily held over when the Whitlam Government was forced back to the polls on 18 May 1974. So strongly did most FLS members agree with the general thrust of the Whitlam Government's initiatives into legal aid, that letters were mailed to over 4,000 clients outlining the reasons for FLS's support of the Australian Labor Party. The letters stated that:

We point out that successive Liberal Governments prior to December 1972 have shown little interest in the field of free legal aid. It was not until the election of the Labor Government that a progressive policy of legal aid was established and community legal services of our kind were given any real encouragement. We emphasize that our service cannot continue to effectively function without Government backing and support.

We have canvassed the views of the various political parties and from the responses it is clear that the only party with a positive policy of community free legal aid is the Australian Labor Party.
The support for the Australian Labor Party generated some reservations and dissension amongst FLS members, particularly amongst Democratic Labor Party supporters. But the dissension was overridden.

A letter to the *Age* on 16 May, signed by nineteen lawyers who were either FLS volunteers or supporters, stated that:

The Labor Party has committed itself to the establishment of Suburban Legal Aid Offices, support of the free Legal Aid Centres and also to active financial support for the State organised schemes.

We consider that it would be a tragedy to the concept of Legal Aid should the recent initiatives motivated and assisted by the Labor Government be deprecated [sic] or retarded in any way by a change of Government in this election.31

Soon after the re-election of the Whitlam Government, the uncertainty returned about the role to be played by free legal centres in Murphy’s legal aid scheme. Indeed Danny Spijer and Remy Van de Wiel, two of the signatories to the letter to the *Age* in support of the Labor Government’s re-election, were reported in the same newspaper after the election as being highly critical of the way the legal aid scheme was being implemented. The article reported that:

The Fitzroy storefront lawyers are bitterly disappointed at the scope and nature of the Federal scheme. They believe sufficient research has not gone into setting up the scheme and integrating it with existing legal services.

Spijer was quoted as saying that: “Murphy does not seem to appreciate what legal aid is all about.” Van de Wiel was critical of the structure of the new bureaucracy, saying that: “The more unstructured it is the better off the scheme will be. For instance, it is ridiculous to run the office on a nine to five basis when the majority of people are shift workers.”32

Indeed the dilemma about whether FLS ought to self-destruct was not one entertained by FLS workers for long. Julian Gardner recalls that once it was realised that the ALAO could not achieve what it had
promised, FLS's continued existence began to be seen as important. John Finlayson was concerned that the ALAO denied community involvement. It was for the people, but not by the people and with the people. It was, therefore, an altogether different type of organisation to FLS.33

Thus, in around June 1974 one can sense that FLS members saw FLS to have an enduring and independent role. The times were passing when volunteers saw their role to be to remedy something which was truly the preserve of a socially enlightened government. The independent and small-scale operations of FLS, despite the Service's financial woes, appeared to be increasingly pragmatic compared to the massively bureaucratic and ever-expanding ALAO.

Bryan Keon-Cohen, editor of the *Legal Service Bulletin* (previously the *Fitzroy Legal Service Bulletin*), revealed his belief that FLS needed to retain its independence when he commented in June 1974 that "... to propose 'co-operation' of the type suggested by Senator Murphy - between initiative and bureaucratic red-tape is self-contradictory, doomed to failure, and represents in fact nothing less than ill-disguised takeover-talk."34

FLS workers were soon articulating why FLS was unique and why it needed to endure. In a letter to Murphy in July 1974, FLS workers welcomed the advent and expansion of the ALAO, but emphasised the unique role FLS could play in the delivery of legal services. The unique aspects of FLS were: its ability to conduct research into socio-legal community problems; the existence of the after-hours service; FLS's links to other local organisations; FLS's involvement in promoting legal education; and, perhaps most importantly to those allocating resources, FLS's utilisation of approximately eighty volunteers.35

At the same time that independence from the ALAO came to be seen as important, FLS was seeking financial support from Murphy. A problem,
then, was how FLS could maintain its independence while seeking to rely on government funds. This indeed is one of the lasting contradictions about FLS: that it prides itself on its independence from bodies upon which it is dependent for funds.

Finlayson was one of a number of people who thought that independence could be ensured by the Federal Government's establishment of a pool of money, to be administered by, and allotted to, community-based legal organisations. This, however, was never to eventuate.

It would be misleading to suggest that much energy was invested in contemplating whether the acceptance of government funds would compromise FLS's independence. That would be to impose too much order on what was manifest chaos. With a couple of exceptions, such as the personalities involved in establishing the breakaway Collingwood Legal Service (a split which I shall discuss later in this chapter), most members believed that government financial support was the only way the operations of FLS could continue. Phil Molan recalls that people were generally not against the government providing money.

Anyway, for a time it would have seemed that such weighty issues were purely hypothetical. For by the end of June 1974 FLS, despite submissions for funds, had only received $2,000 from the Federal Government. In contrast the ALAO had received $340,000 and was to receive over $3 million in the next financial year. Murphy had told Keon-Cohen at the opening of the Brunswick ALAO in July 1974 that he would endeavour to assist FLS, but no funds had arrived. The editorial of the *Legal Service Bulletin* consequently announced that "While the Fitzroy service writhes in its death-bed, the ALAO's birth-pangs show no signs of easing. Suburban 'store-front' offices continue to burst upon us, the latest being at Brunswick."
FLS members sought funds in letters sent in July 1974 to Murphy, Whitlam, and Joe Harkins, the Acting-Director of the ALAO. A letter to Murphy dated 24 July 1974, signed by Keon-Cohen and Remy Van de Wiel, stated that: "... the Service faces imminent financial collapse, and consequent total disruption of the services we are providing to the local community." 41

In September 1974 FLS's financial problems were solved, at least in the short term, by a federal grant of $20,000. Just prior to the grant, Phil Molan recalls receiving a telephone call from Barry Jones, who said he would soon be seeing Lionel Murphy and wanted to know how much FLS needed to keep going. Molan put his hand on the receiver, and quickly asked those around him how much they should ask for. 42 In his letter announcing the grant, Murphy said he was pleased to approve the grant to FLS "as a 'pilot' legal aid scheme". 43

According to a former Murphy staff member, the grant to FLS was a radical thing for Murphy to have done. Murphy gave the grant straight to FLS and did not channel the money through the legal profession. According to the former staff member, Murphy wanted to promote an innovative national scheme. 44 This interim grant was the beginning of the Federal Government's involvement in the operations of community legal centres. In 1974/5 $1.3 million out of a Federal legal aid budget of $13.7 million went to fund community legal centres and other existing legal aid services. 45

In Co-ordinating Committee meetings in September 1974, FLS members discussed the way the $20,000 should be spent. Some argued that two lawyers should be employed, while others suggested that secretarial staff were required. These discussions also provided the opportunity for members to debate FLS's future direction. One member went so far as to argue that the organisation should no longer see clients, so that it
could focus on its other objectives, such as, presumably, preventative law and law reform. Members rejected this idea, one person commenting that FLS needed its clients as "ammunition" for its other activities.\textsuperscript{46}

The discussion on how the grant should be spent continued at the General Meeting on 23 October 1974. After considerable discussion members decided to create another salaried position, in addition to the one occupied by Danny Spijer. Spijer would vacate his position, and applications would be sought to fill the two jobs. Members decided to title the jobs "administrator/co-ordinator" and "lawyer/initiator". An option put to the meeting had been to create a community worker or social worker position. But members viewed the lawyer/initiator position to be more important. In the absence of sufficient money to create a third salaried position, the employment of a community worker was deferred until some years later.\textsuperscript{47}

The \textit{Melbourne Times} reported that the two new positions would enable FLS to branch out, whilst at the same time maintain a commitment to the night service. The positions, it was reported, would go to people interested in the fields of preventative law, law reform, and legal education.\textsuperscript{48}

An acrimonious General Meeting on 13 March 1975 decided who would be FLS's two employees. Betty Oldis had been a volunteer and more recently a paid part-time worker at FLS, and she was appointed with little rancour as the administrator/co-ordinator. The acrimony concerned the second position. A vote of twenty-two to fifteen, which involved a last minute rally for votes necessitating the closure of the Service, saw Julian Gardner replace Danny Spijer as FLS's employed lawyer.\textsuperscript{49}
Julian Gardner

In the context of FLS's evolution from a hostile critic of the legal profession to a legitimate insider, Gardner's appointment was the single most important event to occur at FLS. An articulate lawyer with, he concedes, the trace of an English public school accent, Gardner presented differently to the stereotypical radical lawyer; all the more so when he put on his hound's tooth jacket, which he kept aside for visits to the Law Institute of Victoria. John Finlayson recalls Gardner being a stabilising influence on FLS. He lent the Service a certain credibility.50

Born in 1945 in England, Gardner immigrated to Australia at the age of twelve. He completed his secondary education at University High School, and then studied law at Melbourne University. When asked what motivated him to become involved with FLS, Gardner mentions three sources of influence. The first was the climate of change in Australia, with which he associates the names Whitlam and Murphy. Second, he was influenced by the growing international consumer awareness movement, articulated most publicly by Ralph Nader in the United States. The third source of influence was the increasingly popular concept of empowerment. Interestingly, Gardner here makes specific reference to Paolo Freire, the radical Brazilian educator, who, as I mentioned in Chapter One, was also a source of inspiration to John Finlayson.

Gardner had been heavily involved with FLS from the beginning, often volunteering two nights per week and seeing clients up until 11.30pm. During the day he had been an associate partner at a large city law firm. Occasionally Gardner would handle FLS matters during the day, slipping out of his city office in the afternoon to assist an FLS client.51 When Gardner had just applied for the job at FLS, Michael
O'Brien passed him in the street and commented to him that he would be really good for the position. Gardner's surprised reaction was explained later when he rang to tell O'Brien that he had been walking with a partner from his law firm when they had spoken.52

Gardner's decision to change direction and move from a corporate law firm to the humble FLS offices owes its origin to the thoughts he had while staying in a bedsit in London in the early 1970s. Gardner is conscious of the ease with which the reasons for such decisions can be reconstructed with time, but he does recall thinking that he wanted to do something useful. The workings of the law, as he had practised it, had simply not been creative.53

According to the statement Gardner submitted in support of his application for the lawyer/initiator position, he saw his role, if appointed, to be to act "as an agent of the FLS who nurtures and coordinates the talents, energies and ideas of the members of the FLS, the community at large and other lawyers."54 He suggests now that he was employed not as a caseworker but as a stirrer.55

Gardner's perspective was, unapologetically, that of a lawyer. In the discussions prior to his appointment about whether the second position should be one for a lawyer/initiator or for a community worker, Gardner was minuted as follows:

Julian said that discussion seemed to be revolving around whether we are to be a legal service or social welfare service. He felt he could not do any more. He said he was a lawyer not a social worker and could not understand what we were talking about when we say that we need people to go out into the pubs, schools, etc. The only way to get mileage out of that is to talk to them about the law ...56

He recalls harbouring queries in his own mind when people said they were doing outreach work at a pub. He wondered whether they were working or drinking.57
Although he was unapologetically a lawyer. Gardner did not propose to be a caseworker. He planned to work for law reform. Amongst other things, he proposed to seek the abolition of the offences of vagrancy, drunkenness and consorting, and he intended to produce readily understandable materials on legal issues. He was reported the Melbourne Times, an independent reform agent who was appointed because FLS's volunteers were tired of sticking band aids on a faulty legal system.58

One of Gardner's first moves was to arrange for FLS to have professional indemnity insurance. He also pursued the possibility of hiring a secretary under the Regional Employment Development Scheme, a Federal Government employment initiative which began in September 1974 and which at one stage employed around 30,000 people. Realising that the scheme was due to cease, Gardner moved quickly and successfully. Rosette Colaci was appointed as a secretary in May 1975, initially for six months, although her employment continued beyond that.59

It was not long after he was appointed that Gardner embarked upon the lobbying process that was to secure for FLS a central place in national debates about legal aid. These debates took place throughout 1975 and 1976, and continued up until the early 1980s. Fortunately, most of Gardner's liaison file, comprising around three hundred letters over a four year period, is extant. These letters are the fascinating archive of a law reformer.

In his first few months as lawyer/initiator, Gardner sought resolution of the confusion surrounding the availability of legal aid. He wrote to the Victorian Legal Aid Committee requesting a statement outlining the guidelines used to assess applications for assistance. He also sought clarification of the ALAO's funding guidelines when it was
rumoured that they had changed. In each instance a reply was sent within a week.60

The lobbying role that Gardner manufactured for himself at FLS covered a range of issues, from seeking continued and increased government funding for the Service, to dealing with the accessibility of the legal profession to poor people. An example of the former took place when Liberal Senator Alan Missen visited FLS in May 1975 and held long discussions with Gardner about the role of free legal services.61

Most of the lobbying, however, dealt with the latter issue, the accessibility of the legal profession to poor people. In an August 1975 letter to the Law Institute of Victoria, Gardner queried the appropriateness of a Professional Conduct and Practice Rule, which prohibited solicitors from holding themselves out as willing to perform work for a fee less than that fixed by the scale of costs. He argued that the existence of the rule was prejudicial to the ability of the profession to provide for the needs of poor people.62

In a quintessentially legal response, the Law Institute representative argued that the existence of the rule did not prevent solicitors in individual cases from charging reduced fees, or indeed no fees. The rule could only be breached if a solicitor let it be known beforehand that an amount less than the schedule fee would be charged. The length of the response from the Law Institute, a full-page letter, perhaps indicated the recognition which FLS had managed to elicit from Victoria's major law society, even if the content of the response revealed that there was much lobbying still to do. The letter closed with the comments: "I would be prepared to refer your letter to the Ethics Committee if you wished. However, unless the status quo is causing particular hardship it might be unwise to disturb it".63
Labor's Legal Aid Bill

The ALAO's continued operations were placed in jeopardy in 1975 by its lack of a legislative basis. Without a majority in the Senate, it had been in the Government's interests to establish the ALAO by Ministerial directive rather than by legislation. However, when the Australian Capital Territory Supreme Court ruled in March 1975 that salaried lawyers could not act as solicitors for legal aid clients, the entire operations of the ALAO were under threat. The Court, in deciding Re Bannister, held that the salaried lawyers of the ALAO could not act as solicitors under the Australian Capital Territory Legal Practitioners Ordinance because the only solicitors who could do so had to retain individual personal responsibility to their clients. As employees of the Commonwealth, ALAO solicitors did not have this individual responsibility. The case was ominous for the ALAO and, indeed, for all salaried law offices, including FLS. However, despite finding favour with a South Australian Supreme Court Judge, the decision was not followed by other courts, and in the Australian Capital Territory its effects were circumvented by regulation. Nonetheless, the case did highlight the precarious basis on which the ALAO existed.

Another threat to the ALAO came from lawyers' professional groups. On 20 February 1975, an Extraordinary General Meeting of the Law Institute of Victoria, the peak solicitors' body in Victoria, sought to gain support for a challenge to the legality of the ALAO. Amazingly, 800 lawyers attended the meeting at Dallas Brooks Hall. Eilish Cooke recalls that there were so many people at the meeting that it was difficult to get inside. Included in the proposed motions mailed to members were two particularly important ones. The first sought approval for the Council of the Institute to challenge the constitutionality of the ALAO.
The second proposed motion was that the Council be instructed to "... resist Governmental nationalisation of the profession at all costs, being destructive of an independent legal profession and as being likely to cause that profession to become no less than an arm of government".67

In an often fiery meeting, at which Phil Molan amongst other community legal centre workers spoke, both of these motions were lost, the first failing to gain the three-quarter majority required for it to be passed at the meeting.68 The wishes of the executive had temporarily been overruled by the Law Institute's general members. However, both motions were subsequently carried on a simple majority in a postal referendum.69 Ultimately, the challenges to the legality of the ALAO never proceeded to hearing, arguably because of the change in Government in November 1975.70

The Legal Aid Bill was introduced into the House of Representatives in June 1975. It sought to address many of the criticisms of the ALAO. But principally, it sought to give the Office legislative backing. With Murphy now a Judge on the High Court, the new Attorney-General, Kep Enderby, undertook the task of placating both sides in what was an increasingly hostile debate.

The bill, according to Enderby, used as its basis the two reports of the Australian Legal Aid Review Committee as well as a draft of Ronald Sackville's Legal Aid in Australia. In his second reading speech, Enderby began by stating that "Ready and equal access to the law and the legal process is the birthright of every Australian." He claimed the fulfilment of some of the intentions which Lionel Murphy had harboured in establishing the ALAO, in particular:

The hope that my predecessor expressed in his statement in the Senate that the lawyer with a social conscience would be attracted to join the Office has also been realised.
The Government's belief in the need to present a new image of the law and the lawyer has been more than justified in the success of the "shop-front" offices of the Australian Legal Aid Office that are taking the law to the people. They are attracting people who tend to be distrustful perhaps wrongly, of the law and of lawyers, who are inarticulate, who have language difficulties, who sometimes do not even recognise their problems are legal ones.71

The bill, while legislating for the existence of the ALAO, sought also to accommodate some of the more widespread criticisms that the Office had attracted. By providing for an independent commission to be established, the bill attempted to deal with the criticism that the ALAO was too close to government to be an effective safeguard of people's legal rights. This criticism had been widely held, and with good reason considering that the ALAO had so far been administered solely from within the Attorney-General's department. The proposed commission, however, was to have only advisory power. The general running of the ALAO was to go to a small board of management. As Susan Armstrong points out, in reality power was to remain with the National Director, who would determine contribution guidelines and appeal processes. The Attorney-General would retain power to override the board's decisions on matters of policy.72

The Law Council of Australia sought submissions from the State law societies and bar associations and produced a submission opposing the bill. The grounds of opposition to the bill were similar to the ones on which the Council based its opposition to the ALAO. The Council wanted responsibility for legal aid to be returned to the private legal profession, and argued that legal aid money should be spent funding private practitioners to handle the legal cases of those people unable to meet ordinary legal costs. The Law Council proposed that lawyers who were, or had been, in private practice should constitute a majority on the commission, and further proposed that the ALAO's role be limited
simply to giving legal advice. Ongoing matters, the Council argued, should be referred out to the private profession.\textsuperscript{73}

Armstrong argues that the Council's submission went far beyond the suggestions made by the State law societies.\textsuperscript{74} The \textit{National Times} commented that the Council "seems to have made a careful selection of all the most conservative elements in the State submissions". While the \textit{Australian} termed the Council's position "an arch-conservative's approach".\textsuperscript{75}

In the \textit{Australian}, John Lapsley, the legal affairs reporter, addressed what seemed to be the major concern of the Council. He argued that the ALAO's existence as a referral centre "could not threaten the profession by taking away customers. In fact, by giving financial assistance to people who might not otherwise hire lawyers, it would give the profession a very big financial boost."\textsuperscript{76}

Ronald Sackville also opposed the \textit{Legal Aid Bill}, but not always for the same reasons as those articulated by the Law Council. Sackville, the Commissioner for Law and Poverty, had recommended in his final report the establishment of an independent statutory commission to allocate federal funds to agencies providing legal aid services. It was important to Sackville, as it was to more conservative opponents of the bill, that legal aid services be provided by lawyers who were independent, both ostensibly and in practice, from government control.\textsuperscript{77}

A further advantage of an independent commission, according to Sackville, was that it would enable a variety of organisations to participate in legal aid policy formulation and administration. Here, Sackville took issue with practitioners' groups and argued that a broadly based salaried service was required to remedy the deficiencies of existing legal aid services. He argued that:
There is no sound basis for suggesting that professional organizations are the most suitable bodies to plan the expansion of legal aid services to achieve such objectives as community participation, effective coverage of disadvantaged groups, liaison with other social welfare agencies and active contribution to law reform. There would perhaps be force in the argument for professional control if legal aid were to be confined to the provision of representation in court proceedings for persons able to identify their problem as legal and with the initiative to seek out assistance from the appropriate source. However, it is clear that legal aid ought not to be so confined ...  

Sackville argued cogently for the inclusion of local legal centres in the proposed legal aid structure. He argued that their role, which included the provision of orthodox legal advice and litigation, should also properly be directed towards achieving reform of the law and those administrative practices which adversely affected disadvantaged groups and individuals. He further advocated that legal centres actively participate in community education.  

Despite the fact that most of the recommendations in Sackville's final report were incorporated into the Legal Aid Bill, a couple of significant ones were not. These included the recommendation that local legal service committees play an important role in providing community participation in legal aid decision-making, and the recommendation that the scheme be administered by an independent statutory commission. The bill did authorise the establishment of State and local consultative committees, with each committee to consist of a private practitioner, an ALAO staff member, and other appropriate people to be chosen by the Federal Attorney-General. But these committees were only advisory, and had no power beyond hearing appeals referred to them by ALAO staff, a function which Armstrong notes made the committees sound more legal than representative of communities.  

In an article published in the July 1975 edition of the Legal Service Bulletin, Sackville argued that the most fundamental defect in the
bill was its failure to give sufficient independence to the national legal aid service. According to the bill, any policy proposal had to be reported to the Attorney-General. Sackville was also critical of the limited advisory powers of the proposed Legal Aid Commission, arguing that it should have been entrusted with the general direction of the ALA0. Sackville suggested several amendments to the bill, including one that would give local committees greater policy-making and administrative functions.82

Other submissions on the Legal Aid Bill were made by members of the law department at the University of New South Wales, and by the Australian Council of Social Service.83

The Whitlam Labor Government was dismissed from office on 11 November 1975, before the bill reached the Senate. But the debates about legal aid were far from over. The policies pursued by the subsequent Fraser Liberal Government would see the debates about legal aid continue up until the early 1980s, when State legal aid commissions were established.

During the terms of the Whitlam Government, legal aid had been debated to an extent never before witnessed in Australia. And these debates revealed, amongst other things, that the legal profession had loud and powerful advocates within its professional organisations, for many of whom legal aid was a concept to be embraced only in so far as it referred to advice and litigation. These were services which private lawyers could be paid to engage in for poor people. At the same time, the debates did reveal the increasingly accepted place that notions like preventative law and community legal education had in definitions of what constituted legal aid.

The debates also revealed the new-found legitimacy with which legal centres like FLS were able to be political advocates. When FLS was
established, the legal profession had been sceptical of its political agenda and of its ability to provide a professional service. Consider, then, this press release issued in August 1975 by the President of the Law Council. Faced with the obvious criticism that the Council's objection to the ALAO and the Legal Aid Bill manifested little more than self interest, the release went as follows:

"It is easy to characterise the legal profession's views as self interested", said Mr O'Leary, "but that entirely overlooks the fact that the services being delivered are legal services in which the legal profession is the skilled body within the community." "Legal aid was not invented recently," he said. "Since 1966 the Law Council has been pressing successive Attorneys-General to expand legal aid services by making available federal funds. The multiplicity of voluntary legal aid services started and administered by members of the legal profession is adequate testimony to the public concern of the legal profession."

Not only were the actions of legal centre workers now acknowledged, but their initiatives were even acclaimed as the work of the profession at large. For the purposes of the press release, lawyers like those at FLS were now regarded as insiders, not as opponents of the legal profession.

Defending Legal Aid

With a political crisis set to occur in Federal Parliament towards the end of 1975, Gardner was eager to press the Liberal opposition for their position on legal aid. He stressed his concern, in a letter to the assistant editor of the Age in September, that Malcolm Fraser's reported proposal to dismantle the ALAO not pass without comment. In October he wrote to Fraser, urging him to reconsider his decision to dismantle the ALAO. Gardner wrote that: "We are concerned that the democratic society which we value is not undermined by being brought into disrepute through the unequal operation of the law." The date of
Fraser’s response, 11 November 1975, made Gardner’s concerns for democratic society seem somewhat prophetic, if not entirely for the reasons he would have envisaged. The response stated that the opposition planned a “rationalisation of the many legal aid services currently operating throughout Australia, and in the course of that rationalisation, we see no place for the Australian Legal Aid Office as it is presently constituted”. The preference was for State Governments and, even more so, the legal profession to organise legal aid and salaried legal services. Fraser wrote that: “A salaried service at particular times and in certain places may be, I am certain, a necessary adjunct in order to ensure that a comprehensive legal aid service is available.”

With the Whitlam Government’s dismissal from office on 11 November 1975 came outrage at FLS. After much discussion on the issue, a General Meeting on 1 December 1975 passed a motion: “That this General Meeting of the FLS commits itself positively towards working for the return of the [Labor] Government because we believe that this will best serve that section of the community we serve and particularly their needs for and rights to legal aid.” A second motion was then passed, that: “In view of the right to democracy opposed by the dismissal of the elected [Labor] Government by the Governor-General, the FLS undertakes to organise a rally to discuss the questions of legal aid, law reform and human rights, and further that representatives of the 2 major political parties should be invited to speak.” Julian Gardner and David Neal made their positions clear when they began a letter to the Age with: “Whilst we do not wish to divert attention from the central issue before the people at the present time, namely, the fate of responsible government in this country …”
As it had done during the 1974 election campaign, FLS made it known, through passing motions, that it aligned itself ideologically with the Australian Labor Party. The alignment was, however, objected to by some volunteers, who threatened to discontinue their involvement with FLS on the ground that the Service ought not to become aligned with any political party.90

With an election scheduled for 13 December, the caretaker Attorney-General, Ivor Greenwood, indicated that he would honour the former Government's commitment to FLS by allocating it $20,000. Gardner argued that this was inadequate and that the allocation did little to abate fears of long term instability.91 With the prospect of a Liberal Government dismantling the ALAO and handing responsibility for legal aid back to the States, which had a poor record in the provision of legal aid, fears were justifiably held at FLS of a return to the pre-1972 years.

John Cain, an early FLS member and later Victorian Labor Premier, wrote a letter to the Age three days before the election. He was strongly critical of the coalition for failing to articulate its policies on legal aid. After reflecting on the legal aid initiatives of the Whitlam Government as compared to previous Liberal Governments, he concluded that "it is difficult to accept that the Liberal Party really has its heart in legal aid at all".92

Upon election, the Fraser Liberal Government was less strident in its approach towards dismantling the ALAO than had been expected. One factor no doubt partly responsible for this was that the ALAO was popular, as revealed by an Australian National Opinion Poll published in July 1975 which found "an extraordinarily strong agreement with the argument that there is a need for the ALAO".93 Another relevant factor
was the selection of Robert Ellicott as Attorney-General instead of Greenwood, who had been a strong critic of the ALAO.

Severe cutbacks in legal aid funding were, nevertheless, immediately instituted, and the entire operations of the ALAO were reviewed in the first six months of the new Government's term. As had been the case with Labor's Legal Aid Bill, government lobbying became a considerable preoccupation at FLS. The difference this time was that FLS was defending a previous Government's initiatives, surely a first.

A "Legal Aid Defence Campaign" was initiated by a group calling itself the "Legal Aid Defenders". FLS and other organisations were invited to the group's inaugural meeting in March 1976, a meeting held ostensibly to address fears that Malcolm Fraser would carry out his threat to abolish the ALAO. The letter of invitation came from Tony Lawson, who was introduced to FLS members by Gardner at a General Meeting in March. Lawson was a law student who would later become an FLS employee.

One pamphlet put out by the Legal Aid Defenders criticised the Fraser Government for planning to abolish the ALAO. It continued:

On top of this, the legal profession is pushing to bring legal aid services within its control. Sort of keeping it in the family. In the past most lawyers have shown that they are only capable of acting in their own interests.

Is there a legal aid service in your shopping centre?

If legal services are to meet the needs of the community they must have close links with the neighbourhoods they are to serve.

WE NEED MORE NEIGHBOURHOOD LEGAL SERVICES. FRASER'S CUTS IN LEGAL AID AND OTHER SOCIAL SPENDING SHOULD BE RESISTED.

An article in the Age outlining new legal aid guidelines referred to the Legal Aid Defenders as representing twenty-seven voluntary legal aid bodies. Tony Lawson, it was reported, said the introduction of new guidelines was a way of both reducing demand for services and of
lessening the impact of further cutbacks. Julian Gardner was said to have already noticed an increase in the number of people at FLS asking for assistance since there had been cutbacks at the ALAO. These cutbacks, he was reported as saying, amounted to $2 million for that financial year.98

Other publicity against cutbacks to the ALAO included the appearance of John Cain, recently elected to the Victorian Parliament, on the current affairs television show "This Day Tonight". Cain commented on the staff shortages at the ALAO. Gardner was also interviewed on television, and later on radio. All this publicity, Gardner wrote in a letter to Susan Armstrong, seemed to ensure the short term future of the ALAO.99

The legal profession's organisations also took to lobbying. The Law Institute of Victoria and the Victorian Bar Council prepared a joint submission to the Victorian Liberal Attorney-General, Haddon Storey. Gardner was led to understand that this submission was deliberately intended to reflect the desires of the Federal Attorney-General, and so he wrote to the Law Institute saying that he would be vitally interested to receive a copy of the submission. He was formally refused access to the document while it was in draft form.100

The authors of the submission, which appeared in the *Law Institute Journal*, claimed the authority to discuss legal aid by stating that:

> The [legal] profession acknowledges freely and with gratitude the help and co-operation it received from the State of Victoria. But the initiative came in the first place from the two branches of the practising profession. The profession was prepared to make its services available to undertake legal aid work and to make financial sacrifices in doing so.101

This appears to be a reference to the operations of the Legal Aid Committee. But, as was pointed out in Chapter One, there would seem to
be little in the Legal Aid Committee's history over which the legal profession could take pride.

That point aside, the submission dealt squarely with the future of legal aid. It accepted the need for a salaried service, but wanted a combination of a salaried and referral service. The shortcomings of the ALAQ were said to centre around its limited constitutional scope for operation and its lack of independence from government. The submission proposed the establishment of an independent State commission together with a federal advisory and co-ordinating body. It suggested a rationalisation of legal aid services, with the Office of the Public Solicitor and the Legal Aid Committee being merged into the new structure.102

In June 1976 the Federal Liberal Government announced that all legal aid would be the sole responsibility of independent State commissions. The Federal Government would limit its role to the provision of a percentage of the commissions' funds. In addition, the Federal Government would establish a national advisory commission to allow for co-ordination of the State services.103

Concern was expressed by Gardner, at an FLS General Meeting in July 1976, that the Service needed to voice whatever criticisms it had of the proposed commissions. Motions were passed at that meeting criticising the Bar Council and Law Institute's submission on the basis that its proposals failed to adequately involve the views of people outside the legal profession. A workgroup was formed "to bring to the attention of the legal profession the need for community participation in the proposed Commission, and to engage itself in the preparation of an alternative submission".104

An FLS submission, however, was a long time in coming. One was eventually produced and published in the June 1977 issue of the Legal
Service Bulletin. Gardner, in the mean time, had made an extensive summary of his criticisms of the joint submission in a note of early July 1976. This was published in slightly revised form in the August 1976 Legal Service Bulletin under the title "Legal Aid at the Crossroads".105

Gardner criticised the joint submission on two bases: for adopting a narrow view of legal aid, and for failing to cater for the needs of clients. He pointed out that there was no apparent consideration of "the use of the legal process to attempt to change the political, economic and social status of the poor", a phrase used by Sackville as a partial definition of legal aid. Nor was there any acceptance that the legal needs of poor people could only properly be met by organisations which were accessible in location and hours of operation, and which could provide integration with other services such as counselling, medical care, and emergency accommodation. Gardner commented that: "To have a client present a problem to a lawyer and say 'You are paid to deal with this problem and therefore it is yours now not mine' is like treating cancer with analgesics."106

Gardner picked up Sackville's recommendation and argued that local legal centres should be assisted in their administration by committees, which should consist of elected representatives of the community in addition to members of staff. Sackville had recommended that the community representation constitute a majority on the local committees.107 Gardner wrote that the "inadequacies of the Victorian proposals may well have arisen because they have been drawn solely by lawyers who have paternalistically sought to determine what the needs of the community are. It is clear that the task should not be left to lawyers alone." Gardner submitted that the number of people on the new commission representing the legal profession and the Government should be balanced by people elected by combined local committees. Gardner was
also concerned that the Federal Government's divestment of control over legal aid would result in a reduction to its financial support for legal aid.  

In a letter to Susan Armstrong, Gardner pointed out that the approach of FLS to the joint submission was to emphasise the lack of consultation with people who were not lawyers, and to highlight the proposed composition of the State commission. Letters were sent by the Service to 270 community groups to gauge their opinions. Gardner considered the general response to be that the community should have been consulted and that non-lawyers ought to constitute the majority of commission members.

Interestingly, a second and more detailed submission on legal aid would be put together by the Law Institute of Victoria and the Victorian Bar Council in 1977. The fact that the second submission differed from the first was not surprising, given that one of the five Law Institute representatives who were charged with writing it, and the one who oversaw much of its drafting, was none other than Julian Gardner. Gardner's work in preparing this second submission was testimony to the increasing authority with which FLS was operating as an advocate for its clients, just as it was testimony to the increasing respect which FLS was commanding from the broader legal profession.

The crisis which the policies of the Fraser Liberal Government posed to legal aid clarified the symbiotic relationship that had developed between FLS and the Whitlam Labor Government. For a period of three years FLS had been independent from, yet linked by the receipt of financial support to, the Federal Labor Government. That link had been rationalised by most FLS members on the basis that it ensured the continued survival of the Service. It had also been
rationalised by the knowledge that, certainly initially, the Federal Labor Attorney-General had envisaged legal aid to involve more than casework. He had clearly believed that it should involve preventative law programs and community participation. This at least had meant that the objectives for which FLS stood were not compromised to too great an extent by the receipt of federal funding.

The proximity between government legal aid and FLS became closer when, at Gardner's instigation and perseverance, FLS agreed in December 1975 to employ a casework solicitor. The solicitor would bill the ALAO directly on individual cases for which legal aid had been granted, and so the position would be totally self-funded. This meant that FLS would now employ a solicitor who would raise funds by doing ALAO referral work. Gardner had reckoned that private practitioners spend about one-third of their earnings on overheads, and that if FLS employed a casework solicitor who did not have to pay for overheads, then that solicitor would be able to work for two-thirds of the time on casework, leaving one-third to devote to other FLS pursuits.

Charles Beckwith was appointed as a casework solicitor in March 1976. The casework solicitor position was later to cause considerable angst amongst other community legal centres. FLS was the only Victorian centre to choose to create a position which, essentially, would be filled by a private solicitor.

Re-thinking Philosophy

The Whitlam Government's legal aid initiatives saw ideas such as "access to the law" become almost mainstream. One can cynically suggest that this was because the funds poured into the ALAO made poor clients suddenly become attractive to private lawyers. Private lawyers had a
financial incentive to talk about access to the law. But it was a change nonetheless. And this was one change which was fundamental to FLS's transition into an accepted and legitimate part of the legal profession. For FLS workers gave emphasis to issues which were increasingly finding public favour and acceptance.

That this change came about in only a few years is also attributable to the developments at FLS during the terms of the Whitlam Government. Funding had been sought and received, and Julian Gardner had embarked upon a lobbying process that was to result in FLS being looked upon as an advocate of some standing.

For some within the Service, who had envisaged FLS adopting more radical practices than it did, the price of the changes at FLS was that it was becoming the type of bureaucracy about which it had traditionally been critical. It could not claim to speak for people whom it did not consult, and it was crossing the fine line between being an advocate for local people, and being a political organisation removed from the local community it purported to represent.

Remy van de Wiel was one member who believed that the search for funds institutionalised and bureaucratised the Service, so much so that he led a breakaway group to establish the Collingwood Legal Service. The Collingwood Legal Service opened as a branch office of FLS in late 1974 and was open two nights a week, Wednesdays and Thursdays, in the Collingwood Town Hall. The term "branch office" might, however, have overstated the relationship between the two organisations. Gardner recalls FLS staff being refused access to Collingwood files. A formal split between the Collingwood and Fitzroy legal services was announced in May 1976 by the Collingwood, Fitzroy, Carlton Courier. The reported reason for the split was an increase in the number of cases at Collingwood. However, it was clear that the completely voluntary nature
of the Collingwood Service was a significant attraction to those who staffed it, and was perhaps a significant ideological reason why it should choose to separate from FLS.

When the Liberal party returned to power federally in December 1975, FLS members began, almost immediately, to question the way the Service had changed. The period Gardner referred to as "legal aid at the crossroads" was also a time when many FLS members reconsidered the Service's reasons for existence. In March 1976 Betty Oldis resigned as Administrator, and her replacement was a lawyer, Susan Bothmann. FLS's employees now comprised three lawyers and one secretary. Bothmann was clearly committed to the ideals for which FLS stood. She had moved from Sydney to Melbourne some years prior to her appointment in order to be involved with the community legal centre movement, a movement which she recalls was non-existent at the time in New South Wales. She had started to work as a volunteer at FLS while she was a final year law student, and had then remained an FLS volunteer while she completed her articles of clerkship with the Victorian Aboriginal Legal Service.

But despite her clear enthusiasm for her new position, Bothmann was appointed at a time when there seemed to be a decrease in the level of activism within the Service. A Special Co-ordinators Meeting in June 1976 was told that FLS had lost its direction, and that it no longer adhered to any philosophy. Perceived problems included a lack of commitment and initiative amongst volunteers, and poor communication amongst members. But the broader philosophy of the Service was also called into question.

Whilst the issue of legal aid is not specifically mentioned in documentation dealing with the special meeting, it seems somewhat more than coincidental that issues of philosophy should be raised when what
had been a continued growth in legal aid funding since FLS had been established, suddenly turned to decline. The Federal Government, the catalyst to the increased attention which legal aid had been given, was now planning just to supply finances, and at a heavily reduced rate.

A "statement of philosophy" was drafted and adopted by a General Meeting the following month as FLS policy. At that meeting a further motion was carried requiring FLS to obtain feedback from its community on whether the statement of philosophy was commensurate with community needs and desires.121

The statement of philosophy emphasised the Service's role as an agent of social change, a role which could be fulfilled by educating people about their legal rights and about legal processes, and by looking at individual problems in terms of their wider social significance. So an attempt was made to return, at least theoretically, to the ideas with which the Service had been established. The problem was that the context in which those ideas had been thought up had now changed.

In this chapter I have discussed how FLS moved from being a hostile outsider to the legal profession to become a respected insider. Principally, this transition was evidenced by the increasingly central place that legal aid took in debates about the law. The speed of FLS's transition was, as I have argued, as much the result of the Whitlam Government's legal aid initiatives as it was the result of the work of individuals, like Julian Gardner, at FLS. Had Lionel Murphy not pursued his idea of establishing the ALAO, FLS would have remained an outsider to the legal profession for a lot longer than it ever was.

The changes in the years 1973 to 1976, both in the field of legal aid and in the operations of FLS, meant that FLS no longer posed the
radical threat to the legal profession that it once did. The State, in
the form of the Whitlam Government, had moved to accommodate FLS's most
fundamental criticisms of the legal system. That Government's decision
to fund FLS and other community legal centres, and its establishment of
the ALAO, changed forever the legal environment in Australia. FLS now
had paid employees, and its arguments about the necessity of legal aid
positioned it with the majority. FLS volunteers continued to see clients
at night at the rate of thousands each year, but the existence of the
ALAO and of other community legal centres diluted the revolutionary
ideology once able to be attached to the work of an FLS volunteer. This
loss of radicalism was, as I mentioned, too high a price for some FLS
members to pay. At the same time, however, other FLS members could see
that their work had directly assisted in generating long-term changes to
the availability of legal aid. They had helped to make the law more
accessible, and this was a very real achievement.

The challenge ahead was for FLS to now redefine itself in the
context of a Federal Government which intended to reduce the
availability of legal aid. FLS had been close, philosophically, to the
Federal Labor Government. Whilst differences obviously existed, Lionel
Murphy, in particular, came to be seen as something of a community legal
centre hero. Murphy had made an emergency grant and then a one-off grant
to FLS, which enabled it to employ staff. He had poured money into the
creation of a new legal aid system. He had even cited the *Legal Service
Bulletin* in a list of references to one of his High Court judgments!
Fittingly, an obituary for him appeared in the *Legal Service Bulletin* in
1986, in which numbers of former FLS volunteers praised his contribution
to Australian legal culture.122

The challenge for FLS in the years from 1976 was to establish just
how it could pursue its objectives in a markedly changed political
environment. FLS's life as Lionel Murphy's "pilot legal aid scheme" was over.
NOTES FOR CHAPTER THREE

1 The Bureau's role was given statutory backing by section 105(1) of the Re-establishment and Employment Act 1945 (Cth). Section 8 of the Interim Forces Benefits Act 1947 (Cth) slightly extended the operations of the Bureau. See also J.P. Harkins, "Federal Legal Aid in Australia" (unpublished paper presented at the International Colloquium on Legal Aid and Delivery of Legal Services, London, 1976). See also National Legal Aid Advisory Committee, Legal Aid for the Australian Community: Legal Aid Policy, Programs and Strategies (Canberra: AGPS, 1990), 24.

2 Harkins, "Federal Legal Aid in Australia", 3-4.

3 See section 69(3) Judiciary Act 1903 (Cth); section 96 Defence Act 1903 (Cth); in relation to the High Court, order IIA Commonwealth Statutory Rules 1910, No. 130, and order 16 Commonwealth Statutory Rules 1952, No. 23 (the High Court Rules), rules 26-43. From 1949 section 168 Conciliation and Arbitration Act 1904 (Cth) provided for limited legal aid for inquiries into union elections. Sections 141A and 141B were added in 1972 and extended slightly the availability of legal aid in the application of that Act. From 1957 regulation 11 of the Courts-Martial Appeals Regulations, Commonwealth Statutory Rules 1957, No. 20, provided for limited legal aid. See Harkins, "Federal Legal Aid in Australia", 1-2.

4 Letter from Hugh Selby, Research Officer for the Commonwealth Commission of Inquiry into Poverty, to Danny Spijier, 2 May 1974; letter from R. Baxt to FLS, 10 May 1974; letter from Danny Spijier to Hugh Selby, 19 June 1974.


8 Harkins, "Federal Legal Aid in Australia", 29.


12 Age, 30 June 1973, 3.


15 Letter from Phil Molan to me, 18 January 1993.

16 Recommendations 5 and 6, Australian Legal Aid Review Committee, Australian Legal Aid Review Committee Report, February 1974, 13.

18 Directive from Lionel Murphy, 6 September 1973, in Harkins, "Federal Legal Aid in Australia", 47.


20 Armstrong, "Labor's Legal Aid Scheme", 226.


22 Harkins, "Federal Legal Aid in Australia", 10.

23 "Address by the Attorney-General of Australia, Lionel Murphy, Q.C. at the opening of the Australian Legal Aid Office, Sunshine, Victoria, May 6th, 1974", in (1974) 1 *Fitzroy Legal Service Bulletin* [7], [10].

24 "Address by the Attorney-General of Australia, Lionel Murphy, Q.C. at the opening of the Australian Legal Aid Office, Sunshine, Victoria, May 6th, 1974", [9].

25 *Age*, 20 July 1974, 8.

26 Harkins, "Federal Legal Aid in Australia", 11.

27 Geoff Eames, quoted in Neal, "Lionel Murphy", 245.


29 Minutes of General Meeting, 28 February 1974.


31 *Age*, 16 May 1974, 8.

32 *Age*, 17 July 1974, 9.


35 Letter from FLS to Senator Lionel Murphy, 20 July 1974.


38 A submission for funds on 1 May 1974 sought an amount of $40,400 from the Federal Government; (1974) 1 *Fitzroy Legal Service Bulletin*, [21] and [82]. For information about the funding of the ALAO, see Armstrong, "Labor's Legal Aid Scheme", 237.


41 On 12 July 1974 letters were sent to Whitlam, Murphy and Harkins, and on 24 July a further letter was sent to Murphy. Copies of the letters were published in (1974) 1 Fitzroy Legal Service Bulletin, [80] and [82]; the quotation appears at [83].


43 It is unclear what the precise date of the letter was, but a copy of it was published in September 1974 in (1974) 1 Legal Service Bulletin, 110.

44 Laurence Maher, quoted in Neal, "Lionel Murphy", 245.

45 Harkins, "Federal Legal Aid in Australia", 11.

46 Minutes of Co-ordinating Committee Meetings, 12 and 19 September 1974.

47 Minutes of General Meeting, 23 October 1974.

48 Melbourne Times, 12 February 1975, 2.

49 Minutes of General Meeting, 13 March 1975.


54 A copy of the statement accompanied the minutes of General Meeting, 13 March 1975.


56 Minutes of General Meeting, 23 October 1974.

57 Gardner, interview, 8 October 1992.

58 Gardner's statement in support of his application accompanied the minutes of General Meeting, 13 March 1975; Melbourne Times, 21 May 1975, 6.

59 No new projects were financed under the REDS scheme after September 1975. See further, M.A. Jones, The Australian Welfare State: Growth, Crisis and Change (Sydney: George Allen & Unwin, 1983), 213. Colaci's appointment is recorded in the minutes of General Meeting, 22 May 1975.

60 Letter from Gardner to the Secretary, Legal Aid Committee, 14 May 1975; a reply was dated 16 May 1975. Letter from Gardner to D. Carty-Salmon, ALAO Melbourne, 1 August 1975; a reply was dated 7 August 1975.

61 Minutes of General Meeting, 22 May 1975.

62 Letter from Gardner to the Deputy Executive Director, Law Institute of Victoria, 22 August 1975. Rule 2(4) of the Solicitors' (Professional Conduct and Practice) Rules 1948 provided that: "A solicitor shall not hold himself out or allow himself to be held out directly or indirectly as being willing to perform work for a fee less than that fixed by the appropriate scale of costs for that work."
63 Letter from the Deputy Executive Director, Law Institute of Victoria, to Gardner, 26 August 1975.

64 Re Bannister and Legal Practitioners Ordinance 1970-1975; Ex parte Hartstein, (1975) 5 Australian Capital Territory Reports 100; Fox J. at 106-8, Blackburn J. at 112, Connor J. at 117. See further Julian Disney, "Salaried Legal Aid Lawyers and the Courts", in Ronald Sackville, Legal Aid in Australia: A Report by the Commissioner for Law and Poverty, Professor Ronald Sackville (Canberra: AGPS, 1975), 193-9.

65 Australian, 8 September 1975, 7; see also Armstrong, "Labor's Legal Aid Scheme", 223.


68 Julian Gardner to me, 9 June 1993; (1975) 49 Law Institute Journal, 63.

69 The margins of the votes were 1031:899 and 1396:548 respectively: (1975) 49 Law Institute Journal, 149-150.

70 See Armstrong, "Labor's Legal Aid Scheme", 234.

71 Commonwealth Parliamentary Debates, House of Representatives, 5 June 1975, 3472.

72 See Armstrong, "Labor's Legal Aid Scheme", 239.

73 Armstrong, "Labor's Legal Aid Scheme", 240.

74 Armstrong, "Labor's Legal Aid Scheme", 240.

75 National Times, 25-30 August 1975, 18; Australian, 8 September 1975, 7.


77 Sackville, Legal Aid in Australia, paragraphs 6.18-6.19, 170-1.

78 Sackville, Legal Aid in Australia, paragraph 6.20, 171-2 (his emphasis).

79 Sackville, Legal Aid in Australia, paragraphs 6.37a-6.38, 176-7.

80 See Armstrong, "Labor's Legal Aid Scheme", 239. The recommendations I refer to are in Sackville, Legal Aid in Australia, paragraphs 6.44-49 and 6.18-20, 178-80, 170-2.

81 Armstrong, "Labor's Legal Aid Scheme", 239.


83 Australian, 8 September 1975, 7.


85 Letter from Gardner to G. Barker, Assistant Editor of the Age, 11 September 1975.

86 Letter from Gardner to Fraser, 8 October 1975.
87 Letter from Fraser to Gardner, 11 November 1975.

88 Minutes of General Meeting, 1 December 1975.

89 *Age*, 24 November 1975, 8.

90 The motions of support are documented in the minutes of General Meeting, 1 December 1975. Letters of dissent were sent to FLs by at least two volunteers, one dated 25 November 1975, probably in response to the circulation of proposed motions for the 1 December General Meeting, and another undated but probably written in December.

91 Minutes of General Meeting, 1 December 1975.

92 *Age*, 10 December 1975, 8.


94 Armstrong, "Labor’s Legal Aid Scheme", 227.

95 Letter from Tony Lawson to community organisations, 26 February 1976.


97 Undated pamphlet put out by the Legal Aid Defenders, entitled "Defend Legal Aid".

98 *Age*, 26 March 1976, 5.


100 Letter from Gardner to the President, Law Institute of Victoria, 15 April 1976. Gardner’s belief that the submission deliberately reflected the desires of the Federal Attorney-General, and the refusal of the Law Institute to let him see a draft of the submission, are mentioned in Gardner’s letter to Susan Armstrong, 19 August 1976.


102 Law Institute of Victoria and Victorian Bar Council, "Legal Aid Submission", 180-1.

103 Armstrong, "Labor’s Legal Aid Scheme", 241.

104 Minutes of General Meeting, 20 July 1976.

105 Gardner’s note was dated 6 July 1976 and was published as "Legal Aid at the Crossroads", (1976) 2 *Legal Service Bulletin* 53.


108 Gardner, "Legal Aid at the Crossroads", 54.

The second submission by the Law Institute of Victoria and the Victorian Bar Council was published as "Legal Aid: Joint Submission No. 2 by Victorian Bar Council and Law Institute of Victoria", (1977) 51 Law Institute Journal 185.

Minutes of General Meeting, 16 December 1976.


Minutes of General Meeting, 29 March 1976.

See Neal, "Interviews", 57-8.


Collingwood, Fitzroy, Carlton Courier, 19 May 1976, 3.

Letter from Oldis to FLs members announcing her resignation, 4 March 1976. Bothmann's appointment is documented in the minutes of General Meeting, 22 June 1976.

Letter from Susan Bothmann Barlow to me, 22 March 1994.

Minutes of Special Co-ordinating Committee Meeting, 28 June 1976.


Neal, "Lionel Murphy".
Chapter Four

A MEDIUM OF CHANGE

According to the statement of philosophy adopted in July 1976, FLS was to operate "... as a medium of change by improving people's level of knowledge and their ability to cope, by changing laws and by raising the level of enforceability of rights."  

One of the enduring contradictions in FLS's history has been the co-existence of the aims to provide free legal assistance and to promote social change. Whether one can bring about social change by providing people with advice on their legal rights principally engages the debate about the relationship between the law and social change. The contribution which FLS has made to this debate became increasingly more significant in the late 1970s.

In the first two chapters I considered how FLS was initially an organisation in which the politics of the New Left were applied to the workings of the law. Just how FLS would operate as an agent of change was not something that received careful articulation in the early 1970s. The idea of a free legal service was novel and radical, and volunteers expressed their belief that the law was one of society's instruments of oppression. But beyond this, there was little articulation of the ways in which FLS could be involved in the search for social change. I discussed in the previous chapter how the organisation had been a central player in the activism which led to the creation of the Australian Legal Aid Office (ALAO). But FLS had been central because its mere existence had, to a certain extent, shamed many politicians and lawyers into supporting, albeit reluctantly, the creation of a viable legal aid system. With the exception of the work carried out by a small number of staff members,
like Julian Gardner. FLS's work in the early 1970s consisted almost entirely of volunteers giving advice to individual clients.

In the mid to late 1970s, this began to change. At this time FLS workers began to put an increasing amount of energy into thinking about how their organisation could exist as a medium of change.

The issue to be considered in this chapter is how FLS workers, in the five years leading up to the establishment of the Legal Aid Commission of Victoria in September 1981, attempted to do more than provide individual legal assistance. Faced with a Federal Government which was planning to restrict the availability of legal aid, these five years were the years in which FLS would create for itself an enduring place as an organisation in search of social change. The possibility, once touted, that FLS would be swallowed by a government instrumentality like the ALAO, quickly seemed to belong to the distant past.

In the five years under consideration, FLS workers pursued a range of disparate activities by which they sought to achieve social change. These included: test cases, many publications, community education, lobbying parliamentarians, printing slogans on T-shirts, addressing and regularly attending other community organisations, writing press releases, and more. Without doubt the most far-reaching FLS endeavour in this period, at least in terms of the Service's public visibility, was its continued role as an advocate in the debates about government funded legal aid, the availability of which was severely threatened by the election of the Fraser Government. Perhaps the only similarity among these various approaches was that each one manifested a desire to involve FLS in more than the provision of legal assistance to the individual clients who came to the Service during weekday evenings. Through a combination of
different approaches, workers were attempting to give effect to FLS’s objective of being a medium of change.

Test Cases

One method by which the law can be used to bring about social change is through a test case. A test case is an individual legal case that has ramifications for many more people than just those involved in the case. In the late 1970s, a former FLS volunteer was involved in a test case which went all the way to the High Court of Australia.

On 26 November 1976 Karen Green, a sixteen year old girl, finished fourth form in Hobart. The day before, she had visited a branch of the Commonwealth Employment Service in order to register that she was looking for work. Green was out of work throughout the summer, but it was not until school holidays ended, in February 1977, that she first received unemployment benefits.

This fairly unremarkable scenario gave rise to legal proceedings which ended in the High Court. Phil Molan was Green’s solicitor. The case was not strictly an FLS case, but it was through Molan’s connections with FLS that he was approached to act in the case.\(^2\)

The decision of the High Court was that the Department of Social Security’s refusal to grant Green unemployment benefits from December 1976, the time she received her school results, was not justified according to the relevant legislation.\(^3\) In essence, Green had been entitled to receive benefits from the time she left school. Not long after the case, the Federal Government amended the Social Security Act to ensure that it did not have to pay unemployment
benefits to people like Karen Green until the start of the next school year.\(^4\)

_Green v. Daniels_ is in many ways the quintessential test case. Karen Green did not pay for her legal costs, as the case had been the idea of a youth worker who knew that many school leavers were being deprived of unemployment benefits during the summer after they left school. Green was one person who could be a representative for all these people. So the motivation for bringing the case was the concern that young school leavers were wrongly being deprived of social security benefits. At the same time, the legal reasons why the case proceeded to the High Court were far removed from such moral concerns. The relevant legislation was somewhat ambiguous, and sufficiently cogent legal arguments were able to be put for both sides to the case. Had one side's argument been clearly superior, there would have been no need for the High Court to decide the issue.

While the legal results from this case are clear, if complex, the social results are not. Karen Green won her case and received back payment of unemployment benefits. But she had not initiated the case, rather she had been requested by others to be the plaintiff. The likelihood of someone in receipt of, or like Green not in receipt of, unemployment benefits taking a case to the High Court on his or her own initiative remained as unlikely after this case as it had been before. So this was a victory for Green, but only because she had been located by others as an appropriate plaintiff.

Green's victory could be registered as a victory of sorts for young people, something no doubt claimed by the people who had sought Molan's assistance in the case. At least one community legal centre wrote to FLS congratulating all those involved in the case.\(^5\) But young people had been the winners, arguably, not because they were
harshly treated by the system, but because a piece of legislation had
not been properly applied. That the legislation was later amended
against the interests of people in Green's situation, made the
victory all the more ambiguous.

What this case, and other test cases, reveal is the difficulty
involved in using the law to bring about social change. The aim of
social change was surely the motivation behind those people who
sought Molan's help, just as it was the motivation for Molan to act
as Green's solicitor in the case. But was social change achieved? And
if it was, why was it achieved? Because weight was given to the
considerations of morality and justice which presumably motivated the
supporters of the plaintiff, or because legislation had been
erroneously applied? Molan was certainly under no illusions about the
victory. He argues that it is debatable whether the case changed
anything.6

A different campaign which made use of test cases was initiated
by community legal centres in the 1970s against the Waltons chain of
department stores. The campaign, which was ultimately co-ordinated by
Broadmeadows Legal Service, sought to highlight Waltons' dubious
business practices. Waltons had adopted a number of coercive methods
in a bid both to sell goods and to generate interest payments from
people who had over-committed themselves. People would be convinced,
either by door-to-door sellers or by their use of Waltons' "store
currency", to purchase goods on credit from Waltons. They would then
receive bills with high interest charges.

Most Waltons customers were unable to afford to defend Waltons
debt actions, and few, in any case, thought they had any legal
defence. Danny Spijker, who had been involved in the campaign in 1974
during his time as FLS Day-Time Co-ordinator, successfully defended two Waltons debtors in March 1976. Waltons had sought to recover $220 from a married couple in a Magistrates' Court action, but the Magistrate held that the Waltons contracts with the couple contravened the Money Lenders Act. In relation to the credit contract governing the customers' use of store currency, the Magistrate held that the rate of interest charged was above the permissible level, and that the duration of the contract, three years, exceeded the period of twenty weeks permitted by the Act. Further, the Magistrate accepted Spijker's argument that the department store was in fact a "money lender" under the Money Lenders Act. Since it had not produced a money lender's licence in court, Waltons could not recover on its other contracts with the couple.

This was only one of many cases in which community legal centres defended debt-recovery actions initiated by Waltons. Nor was the community legal centre campaign confined to the courtroom. Community legal centre workers realised that the aim of the campaign was not simply to bring Waltons within the restrictions of the Money Lenders Act. Rather, the aim was to stop the department store from coercing people to get into debt. Legal centres created a Waltons "survival kit", and they attracted publicity as they drew people's attention to the spiralling costs associated with having a Waltons credit account.

As with the Waltons campaign, test cases were not the sole focus of FLS's reform activities in the years 1976 to 1981.
Publications

During 1977 FLS became involved in two quite different research projects, both of which evidenced some attempt to promote social change. One was the production of a legal rights book, which would become a best-seller, and the other was a study into whether a legal casework practice solely devoted to practising poverty law would be financially viable.

In 1976 Julian Gardner had been working part-time as a senior tutor in legal studies at La Trobe University, a position he took on so that FLS could spend less of its limited resources on his wages. The understanding was that Gardner would work half-time at both jobs so that FLS would only have to pay half his nominal wage. The arrangement was disastrous for Gardner, who ended up working half-time at La Trobe and full-time at FLS.\textsuperscript{10}

It was at this time that Gardner, David Neal and Peter Cashman set about producing what would become one of the highest selling legal books ever produced in Australia, the \textit{Legal Resources Book}. In their introduction to the first edition, the editors said they were motivated to produce the book by the dearth of knowledge in society about "poverty law". The editors wrote:

\[
... \text{the hard economic fact is that lawyers work for the people who can afford to pay them. The consequence is that most lawyers know little about poverty law and do not have the time to do the research or to develop the expertise in that area of law which they have developed in other areas. Thus those who have worked in legal services at nights have not had the reference material needed to resolve the problems with which they have been confronted.}\textsuperscript{11}
\]

As well as confronting this lack of knowledge, the editors sought to provide a legal resource for other professionals, such as social
workers, citizens advice bureaux workers, teachers, clergy and youth workers, all of whom had sought legal information from FLS in differing degrees. There was also a desire for the book to be a do-it-yourself guide, based on the editors' wish to put people "as far as possible in a position where they could solve their own problems".12

Upon visiting printers with the completed manuscript, the editors were confronted with the daunting prospect that 4,000 copies needed to be sold in order for the project to break even. The production costs were borne by FLS, although it was really Gardner who stood to lose if the book did not sell, since the money was taken from his budgeted salary costs. As Gardner recalls, it was a huge gamble.13 The Legal Resources Book was published in early 1977 and launched in May. It had chapters on a variety of legal issues, including Consumers, Children, Arrest and Injuries. The book contained 440 pages in its first edition, and was a loose-leaf service, which could easily be updated.

It took eight days to sell the necessary 4,000 copies. A combination of factors, most notably the quality of the book and the publicity it attracted, saw to it that FLS staff were overrun trying to fill orders. Positive reviews in newspapers, and even a nine minute television interview of Gardner by Peter Couchman on the popular "This Day Tonight", ensured the book a dream publicity campaign. Headlines about the book ranged from the modest "New Book Explains the Law" to "Legal Mysteries Laid Bare".14 Collins Book Depot ran a large advertisement in the Herald in May 1977 with the introduction "The very latest books. The best-sellers. The all-time favourites. We have them all," and then had blurbs about three books: Roots by Alex Haley, The Thorn Birds by Colleen McCullough and the
Legal Resources Book by Fitzroy Legal Service. Gardner recalls being told about the advertisement at a celebratory dinner. He borrowed the Herald from someone dining at the restaurant and found page six but he could not find the advertisement. He was looking for something small. The ad took up over one-third of the page.15

Gardner was stunned by the success of the book. Volunteers had to be co-opted during the day at FLS just to fill orders.16 A second print run of 4,000 was quickly sold, and a third run of 2,400 was ordered.17

Were it not for the profits generated by the Legal Resources Book, FLS would have been in dire financial trouble towards the end of 1977. At a General Meeting in November, Gardner said that FLS had effectively run out of money the previous month, and that the proceeds from the sale of the Legal Resources Book were keeping the Service running.18 Indeed, by late 1980 the book had contributed a staggering $80,000 to the running costs of FLS.19

Many people at FLS believed that the publication of the Legal Resources Book was one method of bringing about change in society. For here was, probably for the first time in Australia, a book that comprehensively set out the legal rights of people and explained the legal ramifications of everyday scenarios such as buying a used car and acting as someone's guarantor. If enough people could become aware of their legal rights, then real change would be possible. This change could simply be the marginalisation of shoddy business practices, but change could also occur on a less visible level, with the book going some way towards overcoming the perceived powerlessness of people on low incomes. People could receive legal advice simply by looking at the book. They would not have to rely on
professionals. The book was advertised by FLS as "A product of the free legal service at Fitzroy - bringing the law to the people."\textsuperscript{20}

Another FLS project in 1977 sought to engage the Service in more than the provision of individual legal assistance. Towards the end of the year several FLS members began work on a new project which would consider the viability of a legal practice solely devoted to "poverty law". This legal practice, its proponents envisaged, would be independent of direct government funding and would finance itself principally through legally aided work.

In essence the idea was an extension of the casework solicitor's position at FLS, ironically a position which was becoming increasingly more untenable with the Fraser Government's cutbacks to legal aid. The final report on the project contained some valuable and detailed analysis of statistical information about FLS clients, but for present purposes the research is particularly interesting for its illumination of the ways in which people at FLS saw legal assistance and social change as related concepts.

Tony Fitzgerald had been taken on part-time at FLS as an articled-clerk in late 1976, at the request of the Tenants' Union of Victoria.\textsuperscript{21} In September 1977 an FLS General Meeting appointed him convenor of a committee charged with investigating "the establishment of a poverty law 'practice' that would combine the traditional lawyer-client operation with research (and related activities) in poverty law".\textsuperscript{22} Fitzgerald's salary and other expenses related to the feasibility study would be met by the Brotherhood of St Laurence.\textsuperscript{23}

One of the Committee's aims in establishing a poverty law practice was to modify the attitude of the legal profession towards poverty law. A precis of the Committee's first draft report argued
that "if the legal profession can be shown that a poverty law practice is a viable alternative ... then some of its more disillusioned members may be encouraged to initiate further developments in the poverty law field." The relationship which would exist between the proposed poverty law practice and FLS, for instance whether the practice would include the FLS casework solicitor, was yet to be clarified.

A 57-page draft report was produced in early 1978. In May that year, the Poverty Law Committee addressed an FLS General Meeting. Amongst other things, the Committee recommended that a firm of solicitors be created which would be linked to FLS but which would be sufficiently separate to enable the firm to generate its own income. The General Meeting decided to make use of the remaining Brotherhood of St Laurence funds to re-draft and simplify the report.25

Robert Gordon, who had been a part-time book-keeper at FLS, and Susan Bothmann, the FLS Administrator, were appointed to complete the report on the Poverty Law Practice, which they did by September 1978.26 Ultimately the report was published with funds made available by the Victorian Law Foundation,27 and it is from the published report Practising Poverty Law that the following information is drawn.28

The first chapter of the book, titled "A Socio-legal Profile: the Poor and Poverty Law", confirmed that the authors saw the establishment of a poverty law practice to be something which would bridge the gap between the provision of accessible legal assistance and the instigation of social change. Although the authors wrote that law-based action alone could not substantially affect the problem of poverty, they also argued that the law could be "an effective and powerful weapon of social change".29 Bothmann and Gordon did not see
lawyers working in a vacuum, but argued that legal activists ought to complement the extensive work of others involved in "engineering social change to improve the lot of lower income groups".30

The central way in which the poverty law practice would play a part in altering society would be through its workers and clients becoming well-trained and practised in advocating the rights and viewpoints of poor people. Collective experience would be the strength of the poverty law practice. Whereas an individual's complaint to a corporation about its business practices could just be ignored, a collection of complaints would carry more weight. Similarly with litigation, where a number of people were affected by the same problem, the problem could be seen as a collective one. It could then be addressed through negotiation or through the litigation of a test case. These points were elaborated upon by the authors when they wrote that:

In brief, "poverty law" action should be designed to make the "have-nots" repeat players. Through this process they will develop sufficient clout to argue for change and also effectively confront other, opposing "repeat players" (e.g. a government bureaucracy, the police, commercial enterprises).31

Bothmann and Gordon advocated the involvement of local community members in the structure of the practice. With this involvement, and with the "ownership" of the practice vesting in local low-income earners, the stigma of charity would be avoided and the longer term problem of powerlessness could be tackled.32

The Practising Poverty Law proposals were never directly implemented at FLS. But two consequences came from the report. In January 1979 FLS agreed to appoint a second casework solicitor, and in May 1979 Susan Bothmann reported that a group in Footscray was attempting to implement the Practising Poverty Law proposals. After a
four year battle with local practitioners, the poverty law practice was established in 1983. It later became the Flemington/Kensington Community Legal Service.33

Both the *Legal Resources Book* and the study *Practising Poverty Law* represented significant attempts to move FLS beyond the provision of individual legal assistance. The authors hoped that the *Legal Resources Book* would educate a class of people who were traditionally unable or unlikely to enforce their rights. And the *Practising Poverty Law* project sought to create a specialist legal practice in the area of poverty law. It sought to create an organisation which would be involved daily in the enforcement, both inside and outside court, of the often overridden rights of people on low incomes. Theoretically, both projects could bring about social change by reducing the extent to which low-income earners' rights could be ignored.

Of course, both projects had limitations. Both projects sought social change through the increased enforcement of low-income earners' existing rights. Neither provided a means of achieving broad change. And on a more practical level, the first edition of the *Legal Resources Book* was priced at $10, making it an expensive book in 1977 even for someone on an average income. Moreover, its analysis of the law and people's rights required - as its most recent incarnation, the *Law Handbook*, does - a general level of legal knowledge before any legal problem could effectively be tackled. This is not to suggest that the book did not serve a purpose. As a best-seller it found its way onto the shelves of many professionals who had some dealing with the law, and the book no doubt would have dramatically improved the standard of advice given to clients by FLS volunteers.
But the limitations of both projects would in time encourage FLS workers to develop other ways of working towards social change.

Away from Community-Based Social Change

Both the *Legal Resources Book* and *Practising Poverty Law* constituted attempts by FLS workers to do more than provide legal assistance to individual clients. But these initiatives confirmed a shift in the thinking of FLS workers. For during the mid-1970s the once popular rhetoric about community involvement and community-based social change seemed to be receiving less and less emphasis at FLS. It would be inaccurate to point to the *Legal Resources Book* and *Practising Poverty Law* as representing FLS's only initiatives in the mid-1970s into what one might call "extra-legal" activity. Susan Bothmann, in her position as Administrator, delivered many talks about the law and legal process to schools and other organisations, including even hospitals. And Julian Gardner was highly sought as an educational speaker. But FLS was increasingly being seen as a Victorian, even Australian, organisation which spoke up for the legal rights of low-income earners. FLS would rarely have been described in the mid-1970s as an organisation that sought to mobilise its local community.

In the mid-1970s FLS staff spent much of their time on projects which extended beyond the municipality of Fitzroy. For example, as well as being involved in many groups specifically addressing legal aid issues, Julian Gardner was a member of the Law Institute of Victoria's Committee on the Underprivileged and the Law, he spoke at conferences like the Australian Legal Convention, and he wrote articles at the request of organisations such as the Law Foundation.
of Victoria. Numbers of citizens advice bureaux, for example the ones in Essendon, Moonee Ponds and Doveton, sought assistance from FLS in their establishment and operation of legal advice sections, as did numerous other organisations. All of this took up a considerable amount of Gardner's and Bothmann's time.

In addition, FLS was even gaining international renown. Requests came from overseas for copies of the Legal Resources Book, and for information about people's unmet legal needs. Late in 1976 Gardner attended a Colloquium on Legal Aid in London. He later encouraged the President of the Law Institute of Victoria to extend an invitation to Clinton Bamberger, a highly regarded American expert on legal services whom Gardner had met in London, to visit Melbourne in 1977.

Gardner's assistance was sought in the preparation of a questionnaire prior to a meeting of the International Legal Aid Association in Sydney in September 1978. Gardner attended the meeting and spoke about the low priority that governments had given legal aid. He contrasted the importance which Australian governments gave to health care with the low status accorded to legal aid. Susan Bothmann also attended the conference and met up with Earl Johnson Jr who, like Bamberger, was a highly regarded American expert on legal services. Johnson was forwarded, at his request, a copy of Practising Poverty Law.

One idea which Gardner brought back with him from his trip to London indicates, perhaps better than anything else, the national as opposed to local profile that FLS was fostering. The idea was for FLS to sell T-shirts emblazoned with sections of the then secretive Police Standing Orders. The shirt had the words "Fitzroy Legal Service" printed on top, followed by "If you are arrested by police
you are entitled...". With a statement of an individual's legal rights set out below. A commonplace concept now, Gardner recalls that at the time the idea was really quite radical. His sentiments were no doubt shared by the police officers who saw the shirt being sold outside King and Godfree's in Lygon Street, Carlton, and who drove by several times wondering what to do. The attention given to the T-shirts by the *Age* and *Herald* newspapers certainly testified to their novelty.

In all of these endeavours, FLS's profile and work extended beyond the municipality of Fitzroy. But, as had been the case during the Whitlam years, FLS's national profile in the late 1970s existed primarily as a result of the role FLS played in debates about legal aid. FLS had been a significant contributor in the debates on legal aid prior to the dismissal of the Whitlam Government. In the five or six years after the Fraser Government was elected, when legal aid was under serious threat, FLS's contribution to the debates about legal aid was even more significant. During this time, FLS was increasingly looked to as an advocate for the legal rights of low-income earners generally, not just the legal rights of Fitzroy residents.

**Legal Aid Debate**

From June 1976 it was clear that the Fraser Government's new federalism policy would see the ALAO dismantled and the responsibility for legal aid returned to the States and Territories. In time, the Federal Government's responsibility for legal aid would be limited to the provision of a proportion of funds, while a small Federal Government body would be set up to monitor the separate State and Territory commissions.
Gardner had been very vocal about the demise of the ALAO, and he would become even more central to the debate about the establishment of the Legal Aid Commission of Victoria (LACV), a fact evidenced by his appointment in 1980 as the LACV's first Director.

During 1976 Gardner led FLS's criticisms of the legal aid proposals put forward by the Law Institute of Victoria and the Victorian Bar Council. The lack of consultation with outside groups was Gardner's principal criticism of the Law Institute and Bar Council's first joint submission. On Sunday 10 October 1976 a conference on "The Future of Legal Aid" was hosted jointly by FLS and the La Trobe University Legal Studies Department at the Carlton Community Centre. The conference was in direct response to the Law Institute and Bar Council's joint submission on legal aid. Speakers and panelists at the conference included the Vice-Chairman of the Law Institute, David Jones, the Victorian Attorney-General, Haddon Storey, Senator Alan Missen and Julian Gardner.

It was following this meeting that the Law Institute and the Bar Council decided to reconsider their position and write a second submission on the future of legal aid. As I discussed in the previous chapter, Gardner was invited to be a member of the Law Institute committee convened to form policies on legal aid. He oversaw much of the writing of the second submission.

During 1977 the Federal Government decided that legal aid would be provided through independent statutory commissions in each State and Territory. A Commonwealth-State co-operative administrative structure was established by the Commonwealth Legal Aid Commission Act 1977. It was some years, however, before the commissions became operative. The Federal Government's plan was that independent commissions of the type suggested by Ronald Sackville, the
Commissioner for Law and Poverty in the Commission of Inquiry into Poverty, would be established. The only significant difference was that the commissions would be organised at State and Territory level, not federally as Sackville had recommended. Between 1977 and 1981 Legal Aid Commissions were established in most States and Territories, although it was not until April 1987 that most of the ALAO offices (all excluding those in Tasmania and the Northern Territory) were merged with the State and Territory legal aid commissions. Part of the co-operative arrangement was that legal aid matters involving federal law would be funded by the Federal Government. All other legal aid matters were to be funded by the States and Territories.

The need for intense lobbying by FLS became apparent when Victoria was slow to respond to the withdrawal of the Federal Government from the provision of legal aid. Legislation enabling a Victorian commission to be established, the Legal Aid Commission Act (Vic), was not passed until 1978, and the LACV did not begin operations until September 1981.

Before the States could establish their commissions, agreements needed to be reached with the Federal Government over how financial allocations would be made. No such agreement was needed in the Australian Capital Territory, and an ordinance was prepared there which would be a model for the States. The draft ordinance was keenly sought by many people, including Gardner. He wrote to the Attorney-General requesting a copy, which he received in March 1977, and it was used to assist in the preparation of an FLS submission about the re-organisation of legal aid.

In June 1977 FLS published its submission. Largely the work of Gardner, the submission proposed that a joint Commonwealth/State
commission be formed which would incorporate the functions of the Legal Aid Committee, the Public Solicitor and the ALAO. A nine member commission was proposed, with rights of nomination for the Federal and State Governments, the Law Institute of Victoria, the Victorian Bar Council and the Victorian Council of Social Service. One member, according to the FLS proposal, ought not to be a lawyer.\textsuperscript{53}

Remarkably, the proposal put forward by FLS was virtually a blueprint for the LACV. Even more stunning was that two of the commissioners on the nine member LACV, which was eventually constituted in 1980, were Susan Bothmann and Julian Gardner.\textsuperscript{54}

At least one note of caution had been sounded by another legal centre while FLS's submission was still in draft stage. Gardner had been instrumental in helping the Redfern Legal Service to establish itself in 1977, and he sent a copy of FLS's submission to John Basten at Redfern for his comments. Basten wondered how useful it was for legal centres to get involved in proposing new bureaucracies. He continued:

\begin{quote}
I doubt if life will be easier with more bureaucrats, whether lawyers or non-lawyers. Services such as ours and yours will merely become involved in manipulating those very bureaucracies and we shall be dependent on them for survival. If we also take part in their creation we shall give them an appearance of legitimacy which we may regret later.\textsuperscript{55}
\end{quote}

Basten's concerns focussed on the heavy responsibility which would be assumed by legal centres if they would now give support to the creation of a new arm of government. The danger was that if the new arm did not improve people's access to justice, then legal centres would be hamstrung in their ability to criticise the commissions by their initial support of them.
This of course is a recurring problem which had already been encountered by FLS members, and which has had to be addressed by many social movements. When Lionel Murphy's ALAO was in its infancy, FLS members were very supportive. FLS members even briefly toyed with the idea that their organisation ought to be subsumed by the ALAO. When FLS members decided that FLS had an enduring and independent role to play, the organisation's relationship with the Federal Government had to be re-assessed. Its ability to criticise the ALAO had, to some extent, been compromised by its initial support of it. Similarly, by actively promoting and supporting the creation of the LACV, FLS was now placing in jeopardy the legitimacy with which it would be able to criticise the LACV in future years.

To some extent, the concerns raised by Basten did materialise years later. Legal aid commissions were established with the support of legal centres and, when budgetary constraints did reduce the availability of legal aid, the tendency was for legal centres not to blame the commissions, which were seen as philosophically aligned to the aims of legal centres, but to blame the level of government funding received by the commissions. Thus, ironically, it would become difficult for legal centres to blame one arm of government for failing to provide adequate legal aid. Dissent would at least have to be re-directed, if not totally silenced.

Two funding concerns, which appeared at FLS during 1977, added to the Service's concerns about who was taking responsibility for the provision of legal aid. Charles Beckwith had been employed by FLS as a casework solicitor since March 1976. A substantial part of his salary was supposed to be raised through legal aid funded casework. Early in 1977 Beckwith was informed that he would not receive any
more Legal Aid Committee or ALAO referrals. The problem was not a shortage of funds, but a concern shared by the Legal Aid Committee and the ALAO about briefing salaried solicitors. Both organisations considered it their prerogative to choose the solicitor of a legally aided client, if the client did not express a preference. The concern was that FLS had a captive market; it could see people without fee at first instance and then take on their cases for money if they were legally aided. It was somewhat ironic that FLS, a non-profit organisation, was seen to have too great a share of legal aid work. The irony can only be explained by reference to the concerns of private legal practitioners that they have equal access to legal aid work and, more importantly, equal access to the legal aid dollar.

A cessation in referrals to the FLS casework solicitor from the Legal Aid Committee and the ALAO would have made the casework position untenable. Referrals from the Legal Aid Committee represented fourteen percent of Beckwith’s income, and from the ALAO, thirty to thirty-five percent of his income.

Ever since the casework position was created at FLS in 1976, the fact that FLS casework solicitors have sought to earn their wages through legally aided litigation has caused concern to funding bodies, private practitioners, and even to other legal centres. For some, the problem is that casework solicitors, who have to generate their own funds, are essentially private practitioners. There is the possibility that they will prefer to deal with clients whose cases are likely to attract legal aid, over those whose cases are not. This has been seen by members of some legal centres to be a possibility which ought not to exist at legal centres. For others, most notably the funding bodies and private practitioners, the primary concern
about FLS solicitors doing referral-back casework has been that FLS has had a captive market.

It took until the end of 1977 for the ALAO to be convinced to again refer matters to the FLS casework solicitor, by which time Beckwith had announced that he would be resigning. Despite the concerns about the financial viability of the casework position, the position was retained, and Pamela O'Connell began as a casework solicitor in March the following year. The problem over referrals from the Legal Aid Committee was never satisfactorily resolved.58

A second financial problem in 1977 concerned the direct funding of FLS. The problem was twofold: the organisation's annual grant had not yet arrived, and the promised amount, $25,000, was considered to be too small by $10,000. The Federal Government grant of $25,000 did eventually arrive, although it was received later than ever before. More significant was the Service's claim that the grant was too small: this was despite the fact that FLS's annual grant had steadily risen since 1974. Press coverage was highly supportive of the Service's plea for more funds, in particular of FLS's request that it receive State Government funding.

The Herald reported in December 1977, under the headline "Legal Aid - It's Losing Its Shirt", that FLS had to resort to selling T-shirts to raise funds. The $25,000 grant promised by the Federal Government would still leave the organisation with a shortfall of at least $10,000. It was reported that: "Although it began as an advice centre for the needy in 1972, the service has grown into a major community organisation." The article began with the story of how FLS had assisted an elderly woman in hospital with both legs amputated who had just learnt that her social security payments were about to cease.59
Two articles concerning FLS appeared in the *Age* within three days in December. The first reported that a Victorian Labor front bench spokesman, John Cain, was urging the Hamer Government to fund FLS rather than have it continue to rely on a "proverbial shoe-string". The second article pushed sympathetically, if unsuccessfully, the Service's request for a further $10,000 in funds.60

Further evidence of the widespread support which existed for FLS came in March 1978. The establishment of a Commonwealth Legal Aid Commission had been legislated for by the *Commonwealth Legal Aid Commission Act 1977*. Among other things, the Commission was to conduct research into the effectiveness of the proposed co-operative legal aid scheme, and it also had a general educative role.61 In March the Government announced who the eight members of the Commission would be. Julian Gardner was to be one of the Federal Attorney-General's two nominations to the Commission. The other Commission members consisted of a Judge, the former director of the ALAO, a professor of social work, the Director-General of the Law Department of South Australia, a Commissioner of the Legal Aid Commission of Western Australia, a vice-president of the Law Council of Australia, and a representative of the Australian Council of Social Service.62 The *Age* was a little over-zealous in announcing that: "The founder of the Fitzroy Legal Service, Mr. Ralph Gardner, is one of eight people appointed to the Federal Government's new Legal Aid Commission."63 Gardner has never claimed to be the founder of FLS, nor has he been known as Ralph.

For FLS to have an employee on the Commonwealth Legal Aid Commission only five years after the Service's creation was an amazing feat, even if the significance of this achievement must be
tempered a little by the acknowledgement that Gardner's nomination to the Commission was not strictly as a representative of FLS but as an individual selected by Senator Durack. Gardner's part-time appointment as a Commonwealth Legal Aid Commissioner even helped FLS financially, for Gardner agreed to take the payment for his work on the Commission in lieu of a pay-rise.64

From the time of his appointment to the Commonwealth Legal Aid Commission, Julian Gardner's - and vicariously FLS's - function as an advocate for the legal rights of low-income earners became further entrenched. It was not uncommon for Gardner to be contacted by parliamentarians for his advice on some legislative initiative. For instance, the Victorian Liberal Attorney-General wanted to meet with him to discuss the creation of a small debts jurisdiction within the Magistrates' Court system. The Attorney-General also, perhaps tellingly, indicated that he wanted to discuss the draft LACV bill with Gardner when it became available.65

Federal parliamentarians also constantly contacted Gardner for information about the operations and inadequacies of legal aid. Senator Alan Missen, the chairperson of the Standing Committee on Constitutional and Legal Affairs, was in regular contact. And Senator Gareth Evans, who in a few years would become Attorney-General in the Hawke Labor Government, sought and received information from Gardner on which to challenge the then Attorney-General, Senator Durack, about the state of legal aid.66

Meanwhile, international legal aid dignitaries continued to come into contact with FLS workers. Michael Hardie Boys, the chairman of the New Zealand Legal Aid Board, specifically asked to visit FLS when the Melbourne leg of his trip to Australia was being organised by the New Zealand Law Society and the Law Institute of Victoria.67
Julian Gardner's employment at FLS ceased in July 1980, when he left to become Director of the new Legal Aid Commission of Victoria. During his five years as Lawyer-Initiator and (when he changed the position's title) Legal Co-ordinator, Gardner was responsible for the continued rise of FLS's public profile. As he stated in a lengthy interview with the *Melbourne Times*, he considered it important for there to be "an 'advocate' for legal aid, someone who could argue the case for changes in the law to the government." Elsewhere, in a letter to Peter Hanks, who had been commissioned by the Commonwealth Legal Aid Commission to prepare a paper on "Measuring the effectiveness of legal aid services", Gardner wrote:

In summary the FLS believes that the object of legal aid should go beyond the representation of individuals. Our clients rarely have advocates of their interests as a class. This is in contrast to groups such as insurance lobbies, banking lobbies, police lobbies and so on. It is therefore in our opinion necessary to seek to redress this balance. It is our belief that the advocacy situation which underpins the legal system should be extended on a broader scale into society so that conflicting interests in society have an equal chance to put their cases.

Again advocacy was stressed. For Gardner, FLS was the legal advocate for those people who, for a variety of reasons, rarely had their views sought or expressed. FLS sought to be the advocate for people such as the 40-year-old Greek woman who, in May 1978, was caught shoplifting goods to the value of $6.45. The woman, with ten of her thirteen children dependant on her deserted wife's pension, was unrepresented at court. Although she had no prior convictions, she was ordered to pay a fine of $300. She also had to pay $30 for the interpreter arranged by police. Had this woman been represented, she would almost certainly have received a bond.
Gardner considered it important that debates about legal aid included the perspectives of people like this woman. To this end he was responsible for encouraging a broader understanding of what was meant by the term "legal aid", so that educational programs about the law, in addition to the funding of cases, would be seen as the responsibility of those charged with the provision of legal aid.

Like most other people involved with FLS, Gardner considered community education to be a significant part of FLS's work, just as he considered it to be FLS's role to demystify the operations of the law and lawyers. But it would be fair to say that Gardner favoured FLS's role as an advocate for people on low incomes over its role as a nurturer of local community involvement and action. For Gardner, the search to improve the accessibility of legal assistance, through advocacy on behalf of people on low incomes, took precedence over the search to overturn client powerlessness. Two comments, made in a report to a General Meeting late in 1979, summed up Gardner's approach and priorities. He reported, with regret, that he had not been able to do as many talks to schools and other groups as in the past. However, on the positive side, when legal aid had been refused by the ALAQ in Victoria for people charged with possession of cannabis, "we were able to get this decision reversed through contacts in Canberra".71

Shortly before he left FLS, Gardner reflected that he now did very little community work, save for advising local organisations on incorporation and on drafting constitutions. He noted that he had reluctantly assumed the mantle of Director of FLS, and that too little direction had been given to him by members. He would prefer, he said, that the alternative nature of FLS be reflected within its
own internal organisation. And he felt it necessary for FLS members to consider from time to time:

... whether the FLS is still an alternative or radical organization or whether it has become establishment. I have some doubts about whether we are really doing what we claim to do in terms of providing sympathetic care, extra expertise, a broader approach to people's problems and so on.72

Gardner was not alone with these concerns.

Back to the Community

Sentiments such as those expressed by Gardner were shared by John Finlayson upon his return to an active association with FLS. After his heavy involvement in the establishment of FLS, Finlayson spent several years working in Frankston with housing commission tenants as Director of the Pines Forest Community Centre. During 1978 he attended some FLS General Meetings. and was soon expressing concern that FLS was not being active enough within the local community.

In May 1978 Finlayson told a General Meeting that FLS was not sufficiently involved locally and that it should be engaged in community advocacy and not just service delivery. People in Fitzroy, he continued, were not reached by FLS unless they were in crisis: "Women with kids need contacting; groups in the community need consulting; we must go beyond case-work into prevention and development." Finlayson floated the idea that half the time of the FLS Administrator should be spent out of the office, and that only a quarter of the Administrator's time should be spent on internal administration.73
Finlayson's criticisms were accepted, but there would be difficulty in implementing them. Most of the volunteers' and salaried workers' time was spent with individual clients. With an average of nine new clients each night,\textsuperscript{74} who came from virtually all over Melbourne, workers were inundated with casework and were left with very little time and energy to undertake the somewhat less tangible community work. This problem of how to prioritise and divide time between client work and community work, is one of the enduring dilemmas that FLS has faced throughout its history.

For Susan Bothmann, the Administrator since April 1976, this was a dilemma she faced more than others because she was primarily responsible for FLS's community work. Bothmann had certainly been involved in community work: among other activities she had borne the responsibility for assembling a highly sought-after directory of local social services.\textsuperscript{75} But, since she was a lawyer, it was perhaps inevitable that she would spend a considerable amount of time using her legal skills to review files from the night service. Combined with the monstrous task of co-ordinating around 70 volunteers and overseeing administration, the type of outreach work suggested by Finlayson, in which half the Administrator's time would be spent out of the office, was difficult enough to imagine, much less implement.\textsuperscript{76}

Nevertheless, attempts were made towards the end of 1978 to re-organise the Service's workload so as to enable more community-oriented work to be done. Bothmann told a General Meeting that many of FLS's aims were not being fulfilled because of the number of clients being seen. She suggested that in order to provide a service of quality, not quantity, and in the hope of fostering "a community spirit among clients and workers", only clients from inner Melbourne
caught to be seen. Catchment areas had been introduced in previous years, but the lines of communication between General Meetings and night volunteers were not always clear. And even if they were, not all volunteers saw it as appropriate for them to inform individual clients that they could not be seen because they lived too far away. The result of Bothmann's comments was that a catchment area was re-introduced. Only clients who lived or worked in Fitzroy, Carlton, Collingwood, Northcote or Brunswick would be seen.

The recurring tension raised by these developments concerned competing understandings of the role of FLS. Was FLS an organisation which could and should speak on behalf of low-income earners generally about the inaccessibility of the law? Or was FLS a local community organisation whose responsibility was to motivate the involvement of local people in the organisation and, when necessary, advocate on behalf of that community?

Outreach work was immediately planned following the re-introduction of a catchment area. A poster was drawn up to be placed in pubs, launderettes, housing commission buildings, schools, churches, factories and milk bars in the local area in a bid to attract more local low-income earners to use FLS.

The re-introduction of a catchment area, and the renewed efforts to attract local people to the Service, coincided with a concerted effort to re-locate the Service in new premises. FLS members agreed in November 1978 that the Service needed to be moved from the typically overcrowded rooms under the Fitzroy Town Hall. The shop at 181 Brunswick Street was vacant, and it was agreed that FLS should seek to lease it. The *Melbourne Times* supported the desire of FLS members to move, reporting that:
Fitzroy Legal Service is suffering serious overcrowding problems. Legal staff are crammed into cubicles where it is impossible to hold private client interviews or give a fully efficient service. Up to 30 people at a time crowd into the small corridor, officially dubbed the waiting room, at the FLS centre in the basement of the Fitzroy Town Hall.81

Use of the Fitzroy Town Hall had never cost FLS any money in rent, so it was a financially adventurous decision to move, even if overcrowding made that decision imperative.

FLS's application to lease the property at 181 Brunswick Street was successful. An official opening of the eight room premises was held in March 1979, at which the Federal Attorney-General, Senator Durack, praised the voluntary work of FLS' lawyers. Gardner was quoted in the *Northcote Leader* as saying that: "Our shop-front location will increase our visibility and accessibility to those who might otherwise not seek help for their problems."82 And, indeed, the shopfront window was immediately used to inform passers by about legal issues.

The attempts to redirect FLS's attention to its local community saw a special edition of the Service's year old newsletter, *Briefs*, come out in April 1979. The edition was titled "Community Legal Education", and it opened by drawing members' attention to those objectives in the Constitution other than the ones which required provision of legal assistance: particularly the objectives to involve local citizens in the solution of their own legal and related problems, and to participate in and provide legal education in the community. This special edition of *Briefs* detailed many of the community education projects in which FLS workers had been involved. The production of pamphlets and other printed materials, such as the *Legal Resources Book*, were mentioned, as were the many seminars given to schools and citizens advice bureaux.83
Just one month after this edition of *Briefs*, Susan Bothmann, the worker upon whom the responsibility for community work largely fell, resigned from FLS as Administrator. The questions of who would replace her, and perhaps more importantly whether, like Bothmann, the incumbent would be a lawyer, immediately confronted FLS. Somewhat acrimonious debate on the second question revealed the importance which its resolution would have for the future of community work at FLS, and the debate no doubt resembled many of the "non-lawyer/lawyer" debates of earlier years. Attempts to require Bothmann's replacement to have social work skills (a requirement which almost certainly would have excluded lawyers from holding the job) failed, although it was accepted that the person did not need to have legal qualifications.84

John Finlayson was successful from a field of 25 applicants, and was appointed Administrator in August 1979.85 During the course of the next year he substantially re-organised the way FLS involved itself in community-based issues. Finlayson strongly believed in outreach work. For him it was important that FLS workers get out of the office and visit places frequented by people for whom the law was inaccessible. This meant regularly stationing volunteers and staff at different points within FLS's catchment area, with the hope that they would engage people in discussions about both legal and non-legal issues. In this way, a sense of community could be fostered.

Finlayson's attention would primarily be given to young people and immigrants. In the space of a few months, he had planned or begun outreach stations at the Northcote Unemployed Resource Group, the Ramsay-Maylor Community Youth Centre in Brunswick, a youth drop-in centre in Sydney Road Brunswick, and the shared premises of the
Brunswick Community Health Centre and the Melville Clinic, where a Turkish interpreter was on hand.  

Outreach law was one of the components of Finlayson’s “community development” work. “Community development” was to become a popular phrase in the 1980s, much as “empowerment” had been during the 1970s, and it was soon in vogue at FLS. In a report to a General Meeting five months after his appointment, Finlayson spelt out his ideas regarding what community development work involved. Under the heading “Community Development”, Finlayson wrote the following:

Outreach law, community involvement, social action, community organization and other programmes of this nature are generic terms used that are still fairly new to the legal profession. It is in this whole area that I intend to spend much of my time. What it will mean in practical terms is that I will go out into a selected area and make contact with social agencies, places where people congregate more naturally as in hotels, restaurants, pin ball parlours etc. reaching places of education, developing relationships with local government and where possible even going into the homes of some people and talking over a cup of tea. It is essential that we reach not just the professionals in these areas, but also the local community itself which includes the mums and dads and teenagers.

Finlayson hoped to attract members of the local community to become volunteers at FLS so that the work of the Service would be relevant to the people it was designed to assist.

Finlayson also gave strong emphasis to internal re-organisation. He believed that too much of the Administrator’s time had been spent with administration, and he argued that one of the secretarial positions ought to be made into the new position of Assistant Administrator. This would make more of the Administrator’s time available for community development work. A series of important meetings discussed this and other issues when the Service held a weekend camp in Torquay in November 1979.
Albert Van Moorst was the guest speaker at one of the camp's sessions, and he addressed the topic "Community Involvement". One strong theme in his talk was that middle-class people, in which category he included all lawyers regardless of background, thought they knew what was best for working-class people. Van Moorst drew attention to community involvement in the protests against the F19 freeway, an issue in the 1970s which had engaged more Fitzroy residents than perhaps any other. The protests in 1977 had involved large numbers of people objecting to the plan for the freeway to come through the streets of Fitzroy. Primarily driven by people who faced the possibility of their houses being compulsorily acquired, the protests did not involve the working class of Fitzroy, according to Van Moorst, because working-class people were not against the freeway. So while the freeway protests were ostensibly the quintessential example of the disenfranchised members of the community getting involved in a local issue, this was misleading. The challenge was "to get the point of view of people who never get the chance to give a point of view".88

During the weekend members decided to adopt Finlayson's proposal and create the position of Assistant Administrator. In addition, a new part-time legal typist position was created.89 Robyn Marven, who had been employed by FLS as a typist since September 1979 and who prior to that had worked with the Victorian Department of Youth Affairs, became the new Assistant Administrator from January 1980. Her position would require her to act as Administrator when Finlayson was out, to be responsible for the front office, to be a minute secretary, to publish Briefs, and to be responsible for other administrative duties.90 These internal changes meant that the organisation effectively created another part-time position. This
decision was made despite the fact that FLS's annual Commonwealth grant would fall slightly in 1980, from $45,000 the previous year to $42,500.\textsuperscript{91}

By February 1980 the re-organisation of positions at FLS enabled Finlayson to be involved in outreach programs in youth centres in Carlton, Fitzroy and Collingwood. He also regularly attended unemployment groups in Northcote and Brunswick, not to mention a Turkish restaurant in Brunswick and the Rainbow Hotel in Fitzroy.\textsuperscript{92} By May 1980 Finlayson was involving twelve volunteers in his outreach program, which typically involved each volunteer spending three hours on a set day each week at one of seven outreach locations.\textsuperscript{93}

The emphasis Finlayson gave to community development work soon spread to become an entrenched part of the Service's operations. Indeed in November 1980 a further restructuring of staff job descriptions saw three new positions created: Community Development Officer, Legal Projects Officer, and Front Office Manager. Finlayson, naturally, became the Community Development Officer. Tony Lawson, who had been employed as an articled-clerk at FLS from March 1978 and who had become the Service's second caseworker a year later, took on the Legal Projects Officer position. Lawson's new position was in effect Julian Gardner's old position without the administrative responsibilities. Robyn Marven became Administrator, and Belinda Pribil moved from a typing position to become the Front Office Manager, making her the first point of contact for clients and the on average, 15,000 telephone callers each year.\textsuperscript{94} Meanwhile Dominica Whelan, a former law tutor and Judge's Associate, and Ian Polak, who was not long out of law school, had joined FLS as casework solicitors
in July and October 1980 respectively. They had taken the positions vacated by Pam O'Connor, who left to work with the ALAO,95 and Tony Lawson.

The creation of the Legal Projects Officer and Community Development Officer positions ensured that FLS's objective of providing more than individual legal assistance would be addressed. Most of Lawson's time was spent on community legal education. He gave talks to schools and community groups, he prepared legal education posters and videos, and he appeared on several of the Service's four regular radio time-slots. Lawson's radio commitments in 1981 saw him and Tim McCoy, of Nunawading Legal Service, offer legal advice once a week to up to 50,000 3DB listeners. Lawson also reached a wide audience when he was involved in a legal education series on Channel Ten news in 1980, which played segments on topics including children and the law, family law, and neighbours and the law (not a soap opera).96

Law reform, in such areas as hire-purchase law and police complaints, also took up Lawson's time, as did what he termed "issue advocacy", which saw him assist local community groups in often one-off campaigns on a variety of matters. One example of Lawson's "issue advocacy" saw him assist the City of Fitzroy Social Planning Office enter into a lease with the Housing Commission of Victoria in order to keep Erskine House open as a hostel for single people.97

Lawson's work as a caseworker had given him the motivation and energy to be effective as the Legal Projects Officer. His considerations on casework provide an interesting perspective on the contradictions between the provision of individual legal assistance and the search for social change.
For Lawson, the rewards of casework were that he had learnt a lot about the law and had been able to make a difference to the lives of some individuals. But there were difficulties in being a caseworker, in providing services largely "to a group of people who are absolutely on the margins of society. who are undervalued by everybody else, who undervalue themselves, and whose lives are very difficult indeed". According to Lawson, one thing which forces social reformers to become dissatisfied with casework is that "you evaluate at the end of a year or two or five or whatever, how much you have helped people, and how much you have really propped up the system by your participation in it".98 The position of Legal Projects Officer enabled Lawson to adopt a more robust approach to the search for social change than he had been permitted as a caseworker.

By the middle of 1981, Finlayson's energies as Community Development Officer continued to be concentrated on outreach work, with six regular outreach stations occupying much of his time.99

It was around this time that FLS engaged in, perhaps, the most important community work ever to be carried out by the organisation. This project was the result not so much of the endeavour of FLS workers, but the behaviour of the Northcote police.

**Police Brutality**

Pam O'Connor, then FLS's casework solicitor, told a General Meeting in late 1978 that a number of her clients had recently claimed to have been assaulted by police.100 In early 1979 FLS workers became concerned at the number of allegations of police brutality linked to the Northcote Police Station. After delivering a lecture at the Thornbury Attendance Centre in January 1979, Tony
Lawson was approached by four men who complained that they had been assaulted at the Northcote Police Station. They had not taken action as they were concerned for their safety.\textsuperscript{101}

Over the course of the next year, 21 incidents of police brutality at Northcote Police Station, involving 28 people, were reported to FLS. FLS compiled a report of all the allegations under the title "Report Concerning Northcote Police Station". The allegations ranged from assaults and extractions of forced confessions through to beatings and one shooting. Particularly gruesome were the allegations of one man who claimed a cigarette lighter had been held under his testicles in order to force him to sign a record of interview.\textsuperscript{102}

Around half of the people who contacted FLS about the Northcote police made formal complaints.\textsuperscript{103} This figure was, perhaps, surprisingly high given that the bureau which investigated complaints about police was B\textsuperscript{11}, the police internal complaints bureau. The fear of reprisals would explain why many people did not formally complain.

Media attention soon focussed on the allegations. The Northcote Leader ran articles in July 1979, requesting people with complaints about Northcote police to contact FLS. The Truth newspaper, in typically sensational manner, reported the most shocking allegations.\textsuperscript{104}

The most serious of the allegations concerned the shooting of a fifteen year-old boy in September 1979. Finlayson recalls that the boy had been with two other boys looking at a recently stolen and dumped safe. When two plain-clothes police, who had been waiting at the scene, yelled at the boys to remain still, the boys fled, not realising it was police yelling at them. The police then shot at the
boys, and a bullet bounced off one boy’s rib-cage and took off the top part of his thumb. It was not until he was in a police car on the way to the Northcote Police Station that he realised he had been shot.105

In January 1980 the Northcote City Council called for a State inquiry into the operations of the Northcote Police.106 This call was repeated by the Council in March after Lawson and Finlayson attended a Northcote City Council meeting to present FLS’s report. The Police and Emergency Services Minister, Lindsay Thompson, was asked to initiate a public inquiry.107 Several Northcote policemen attended the Council meeting at which Finlayson and Lawson presented FLS’s report. Finlayson recalls their intimidatory manner. One policeman stood on Lawson’s feet as he walked past him, while another gently kneed Finlayson.108 Public meetings took place soon after in Northcote and Collingwood, at which the issue of police behaviour was canvassed, and the Melbourne Times gave front-page attention to Northcote Council’s repeated call for a government inquiry. The call, it was reported, “followed continuing allegations of Northcote police brutality from the Fitzroy Legal Service”.109 Towards the end of 1980 the allegations concerning Northcote police began to receive attention in mainstream media. Police complaints procedures also received critical attention.110

The campaign against the Northcote police produced no change in police complaints procedures. But the campaign did, arguably, result in significant changes at FLS. According to some at FLS, it was the police campaign which explained the fire at the Service on the Australia Day weekend in 1981. All rooms were damaged and the internal staircase was destroyed when a deliberately lit fire spread through the building. The fire would have caused more damage had it
not been noticed early by the son of a neighbouring milk bar owner. Seventy dollars in petty cash was stolen, and kerosene had been spread around several rooms. The fire obviously involved more than robbery. Some files were destroyed, and FLS had to relocate over the road, at 180 Brunswick Street, until the damage was repaired. Seven months prior to the fire it had been suggested in a General Meeting that the Service ought to buy another fire extinguisher.

The theory that the fire was related to the police brutality campaign centred on the belief of some FLS workers that the objective of the arsonist was to destroy files detailing police assaults. Indeed, the seriousness of the campaign was revealed by the numerous death threats that were received at FLS by Lawson and Finlayson. As it turned out, the files relevant to the police campaign were considered too valuable to be left at FLS. They were in the safe keeping of a barrister's chambers in the city. FLS re-opened at 181 Brunswick Street in late May 1981.

Legal Aid Commission of Victoria

The Northcote Police campaign was in many ways the quintessential example of community development work. FLS had been able to act as a focus for the local community's complaints against the police, and it had been able, through compilation of a report and attendance at Northcote Council meetings, to publicise and seek to resolve an issue of local community concern.

However, to suggest that the campaign against the Northcote police was the result of community action, and to suggest that FLS had simply facilitated the process, would be misleading. FLS invited people with complaints to come forward, and it compiled and made
public a report on all the allegations. This involved more than facilitation. And yet the rhetoric of community development did generate the interpretation that FLS was merely a facilitator. Rather than instigating and running the campaign, FLS workers considered themselves to have responded to community concerns. This, of course, added legitimacy to their actions. And this interpretation of the Northcote police campaign confirmed for many FLS workers the importance of community-based involvement and action.

So, when on 1 September 1981 the Legal Aid Commission of Victoria finally opened its first office, FLS workers did not have the same enthusiasm as they had had when the ALAO opened. The LACV was a new bureaucracy which was established at a time when FLS was re-establishing itself as a community organisation. Compared to the euphoria associated with the rise of the ALAO during the Whitlam years, the establishment of the LACV was a sober affair. ¹¹⁷

Indeed, although Gardner and Bothmann were both Commissioners of the LACV, and although Gardner was the LACV’s first Director, FLS workers were more sceptical of the role to be played by this new bureaucracy than they had been of the ALAO. And whilst over time there would be a drift of FLS workers to the LACV, many at FLS saw an important place for the Service outside the LACV’s influence. In particular, those involved in community development work saw an enduring place for FLS as an independent community organisation. The incorporation of FLS in 1981 is perhaps testimony to this. ¹¹⁸

In the years 1976 to 1981 FLS responded to the challenge posed by a conservative Federal Government which sought to reduce the availability of legal aid. This response saw FLS, mainly through the work of Julian Gardner, firmly establish itself as a national
advocate for the legal rights of low-income earners. Further, FLS workers were instrumental in the creation of the new LACV. At the same time, FLS members saw that their organisation needed to endure as an independent agent of social change. The activities carried out by FLS in this five year period, which included research, publications, lobbying and community education, kept alive FLS's objective of being a medium of change.

Taken together, these methods of effecting change comprise FLS's contribution to the debate concerning the relationship between the law and social change. FLS workers ensured that the organisation never placed too much faith in the ability of legal cases to bring about social change. Rather, a variety of projects, which made use of education, the lobbying of those in power, and the politicisation of local community members, amounted to FLS's attempt to achieve change. FLS members had no blueprint to follow in the search for change. They simply had the energy to pursue some quite disparate forms of action.

For those people at FLS who had been involved in the creation of the LACV, it was the notion that FLS ought to be a medium of change which drove and legitimised their actions. Ironically, it was this same belief in FLS's role as a medium of change which now informed others that FLS ought to maintain a strongly separate and local identity.
NOTES FOR CHAPTER FOUR

1 Minutes of General Meeting, 20 July 1976.


3 The Court, however, did not order back payment of unemployment benefits because this would have been to usurp the discretionary powers conferred on the Director-General by the Social Services Act 1947 (Cth). The case, Green v. Daniels, is reported in (1977) 51 Australian Law Journal Reports 463. See further Peter Hanks, "School Leavers, Government Policy and the High Court", (1977) 2 Legal Service Bulletin 251.


5 Letter from Redfern Legal Centre to FLS, 19 April 1977.

6 Molan, in Neal, "Interviews", 64.

7 Letter from Danny Spijer to John Willis, 6 November 1974.

8 Undated summary of the Magistrates' Court case, Walton v. Hardstaff, heard on 4 March 1976; FLS Information Sheet, No. 6, 10 May 1976.

9 John Finlayson, interview, 19 August 1992. See also Lynda Blundell, in Neal, "Interviews", 54-5.


12 Gardner and others, Legal Resources Book, vii.


14 Melbourne Times, 18 May 1977, 4; Age, 9 July 1977, 23.


16 Minutes of General Meeting, 26 April 1977.

17 Minutes of General Meeting, 10 August 1977.

18 Minutes of General Meeting, 9 November 1977.

19 Minutes of Special General Meeting, 28-30 November 1980.

20 Age, 17 December 1977, 25.

21 Minutes of General Meeting, 9 December 1976. Fitzgerald had been articled to Gardner and originally spent two days per week at FLS and three days at the Tenants' Union. FLS agreed to pay one-third of his salary, which would come from the income of the practice solicitor.


25 Minutes of General Meeting, 22 May 1978.

26 Minutes of General Meeting, 19 September 1978.


29 Bothmann and Gordon, Practising Poverty Law, 1-2.

30 Bothmann and Gordon, Practising Poverty Law, 1.

31 Bothmann and Gordon, Practising Poverty Law, 5.

32 Bothmann and Gordon, Practising Poverty Law, 7.

33 Minutes of General Meeting, 31 January 1979; minutes of Co-ordinating Committee Meeting, 28 May 1979. A blueprint for the operations of the poverty law practice was contained in Kevin Bell's article, "Poverty Law Practice: Breaking the Funding Nexus", (1983) 8 Legal Service Bulletin 20.

34 Letter from the Law Institute of Victoria to Gardner, 21 December 1976.


36 Letter from Gardner to the Victoria Law Foundation, 22 July 1977; Gardner had an article published in the Age, 12 July 1977, 15.


40 Letter from Gardner to Clinton Bamberger, 1 September 1977; letter from the University of Melbourne Law School to Clinton Bamberger, 4 October 1977.

41 Letter from John Richards to Gardner, 13 October 1977; Sydney Morning Herald, 15 September 1978, 2. The meeting of the International Legal Aid Association was held on one day of an International Bar Association Conference.


46 Minutes of General Meeting, 20 July 1976.

47 Pamphlet entitled "Conference on the Future of Legal Aid, Sunday, 10 October, 1976".

48 The second submission by the Law Institute and the Bar Council was published as "Legal Aid: Joint Submission No. 2 by Victorian Bar Council and Law Institute of Victoria", (1977) 51 *Law Institute Journal* 185.

49 National Legal Aid Advisory Committee, *Legal Aid for the Australian Community: Legal Aid Policy, Programs and Strategies* (Canberra: AGPS, 1990), 28.


51 Armstrong, "Labor's Legal Aid Scheme", 243.

52 Letter from the Australian Attorney-General's Department to Gardner, 8 March 1977.


54 Legal Aid Commission of Victoria, *Legal Aid Handbook* (Melbourne: Legal Aid Commission of Victoria, 1981), 2-1; the section of the *Legal Aid Commission Act* appointing the Commission was proclaimed in February 1980.

55 Letter from John Basten, Redfern Legal Centre, to Gardner, 19 April 1977.

56 Letter from the Deputy Director, Australian Legal Aid Office, to Gardner, 4 April 1977; minutes of Co-ordinating Committee Meeting, 16 June 1977; minutes of General Meeting, 4 July 1977.

57 Minutes of Co-ordinating Committee Meeting, 16 June 1977.

58 Letter from Gardner to the Director, Australian Legal Aid Office, 1 December 1977; letter from the Australian Legal Aid Office to Gardner, 9 December 1977; agenda for General Meeting, 15 December 1977; letter from the Legal Aid Committee to Springvale Legal Service, 26 June 1978.


60 *Age*, 29 December 1977, 4; *Age*, 31 December 1977, 4.

61 The Commonwealth Legal Aid Commission ceased operations in 1981, a victim of one of the Fraser Government's "razor gangs". It was replaced by the Commonwealth Legal Aid Council, a body with more of a review role than its predecessor. The Council was unable to monitor expenditure in the Commonwealth legal aid program, and due to its general impotence it ceased operations in 1985.

63 *Age*, 3 April 1978, 5.

64 Minutes of General Meeting, 13 July 1978.

65 Letter from the Victorian Attorney-General's Department to Gardner, 4 July 1978.


67 Letter from the New Zealand Law Society to the Law Institute of Victoria, 23 May 1979.


69 Letter from Gardner to P.J.Hanks, 18 May 1979.


73 Minutes of General Meeting, 22 May 1978.

74 The figure of nine new clients each night is based on the figure of 187 new clients per month as detailed in David Neal, "Delivery of Legal Services - The Innovative Approach of the Fitzroy Legal Service", (1978) 11 *Melbourne University Law Review* 427, 431.

75 The directory was first produced in 1975.

76 The number of volunteers is taken from Neal, "Delivery of Legal Services", 429.

77 Minutes of General Meeting, 19 September 1978.

78 Minutes of General Meeting, 19 September 1978.

79 Internal document entitled "Geographical Limitations - Plan of Action: Some Proposals", distributed at Co-ordinating Committee Meeting, 19 October 1978.

80 Minutes of Special General Meeting, 1 November 1978.

81 *Melbourne Times*, 8 November 1978, 1.

82 *Northcote Leader*, 6 March 1979, 14.


84 Minutes of General Meeting, 14 June 1979.

85 Minutes of General Meeting, 13 November 1979.


91 For details of the funding of FLS, see Appendix B.


95 Briefs, July 1980, 1.


98 Tony Lawson, interview, 29 October 1993.

99 Community Development Officer's Report, July 1981.

100 Minutes of General Meeting, 19 September 1978.


102 "Report Concerning Northcote Police Station", 3.

103 "Report Concerning Northcote Police Station".

104 Northcote Leader, 10 July 1979, 1, and 17 July 1979, 1; Truth (weekend edition), 27 October 1979, 1-2.


107 Briefs, March 1980, 9-12; Age, 4 March 1980, 4; Northcote Leader, 5 March 1980, 1.


110 A series of articles was published in the Age during 1980 on police complaints procedures, for example on 7 November 1980, 1, and 10 November 1980, 13. Specific allegations about the conduct of Northcote police were reported in the Age, 8 November 1980, 3.


113 Minutes of General Meeting, 27 May 1980.


117 The LACV amalgamated the Legal Aid Committee, the Office of the Public Solicitor and the ALAO into one body, with funding to come equally from State and Federal Governments: Victorian *Parliamentary Debates*, Legislative Assembly, 21 October 1981, 1892.

118 Minutes of General Meeting, 12 February 1981.
Chapter Five
KEEPING WATCH

If there has ever been a period of financial security for FLS, it was during the decade following the establishment of the Legal Aid Commission of Victoria. State Government funding of FLS began in 1981, and with the 1982 election into office in Victoria of the Australian Labor Party under John Cain - a former FLS volunteer - it was likely that FLS would attract increased State funding. As it happened, the level of combined State and Federal Government funding increased yearly by $20,000 between 1981 and 1985, rising from $60,000 to almost $150,000 a year. Further yearly increases after this saw the organisation's 1990 grant reach $216,000.¹

In addition to being a period of relative financial security, this was also a time when the dichotomy in the types of work being conducted at FLS became entrenched. Just as the aims of the Service could be divided into two - to provide accessible legal assistance and to be a medium of change - so could the types of work carried out at FLS. The night volunteers and casework solicitors continued to see individual clients for free, while other workers concentrated on broader projects, ranging from preparation of legal publications to advocacy about police violence. Occasionally test cases did arise, allowing casework solicitors to effect changes beyond the situations of individual clients. But, generally, the individualism of casework remained decidedly separate from the collective nature of projects.

Some of FLS's projects in the 1980s became quite controversial, leading several groups, most notably police and conservative politicians, to question the funding of FLS. Such criticism served to emphasise the limitations incumbent upon government-funded
organisations that seek roles as social critics. Interestingly, it was the casework function of FLS that provided a ready defence against criticism of the organisation's funding. FLS's casework provided it with a greater than usual licence, for a government-funded organisation, to be involved in controversy.

FLS's casework made it an attractive institution to governments, for FLS's extensive use of volunteers ensured that the service provided would far outweigh the value of FLS's yearly grant. At the same time, the various projects carried out by FLS confirmed the Service's role as a significant critic of several government and semi-government organisations. In the 1980s FLS showed how it could tread the thin line between providing a politically favourable service to individuals, while also mounting critiques of a number of instruments of power.

Casework Practice

By the end of 1982 over 25,000 clients had received assistance at FLS. Most of these clients were assisted by volunteers working at FLS on weekday evenings. But many clients with ongoing legal problems were referred to the business hours Casework Practice, which FLS had operated since 1976. While the casework solicitors often acted for clients whose cases were not legally aided, it was through acting for clients whose cases did attract legal aid that their salaries were able to be met.

Not for the first time, there were concerns raised in 1982 that the Practice was too remote from other aspects of FLS. Although the casework solicitors, Dominica Whelan and Ian Polak, kept the Practice financially healthy, there were concerns that more definition needed
to be given to the relationship between FLS and the Practice. The recently formed Policy Advice and Development Group was given the task of investigating the relationship in April 1982.

Central to the concerns about the Practice was the question of how a quasi-private practice, which required the generation of fees for its survival, could remain part of a free legal centre. Of course, the fact that fees were not sought from clients but rather from the Legal Aid Commission of Victoria (LACV) made an enormous difference. And as long as it was a simple task for caseworkers to generate sufficient fees to cover their salaries, the caseworkers theoretically would have time to act for clients who did not receive legal aid. In this way, the Practice could further the organisation's aims and be a legitimate part of FLS.

But the Practice was never so financially secure as to completely allay FLS members' concerns about its place within the organisation. A constant struggle to meet salary costs inevitably meant that some people with worthy but unaided cases could not be assisted by the caseworkers. Such people could still be helped by the night volunteers, but this generally meant that court cases, or difficult negotiations, could not be conducted on their behalf. The Casework Practice, in short, sometimes seemed to be in conflict with FLS's philosophical objectives.

These issues were raised in October 1982 in the lengthy Practice Report of the two newly appointed casework solicitors, David Allen and Domenic Calabro. Prior to becoming FLS caseworkers, Allen had worked with the Victorian Government Solicitor, and Calabro, after completing his articles of clerkship at FLS, had briefly worked as the organisation's Front Office Manager. In their report, Allen and Calabro wanted to know why the Practice was acting in a family
law matter for a farmer in New South Wales with assets of over $100,000, and why it was assisting a well-paid union official in a transfer of land. They argued that it was time for the work of the casework solicitors to be "critically assessed by reference to the basic philosophical aims of the FLS".\(^5\)

In their report, Calabro and Allen pointed out that their job descriptions required them to prosecute or defend in test cases, and where possible to pursue areas of law particularly affecting the interests of that group of people from which most FLS clients came. These objectives, they argued, were currently only observed in the breach, and they sought to redress this by outlining guidelines to cover the referral of matters to them from the night service. They listed thirteen areas in which the casework solicitors should be involved, and requested those who referred matters to the Casework Practice to critically examine the cases in terms of their "broader implications" before referring them. In conclusion, they wrote that: "One of the endemic and justified criticisms of the FLS is that we do no more than apply the legal band-aid."\(^6\)

This was clearly an attempt to call into question the distinction which had developed between the Casework Practice and other aspects of FLS. The caseworkers were trying to bring the Practice into closer alignment with the philosophical objectives of FLS.

Within the space of a year, however, things had become markedly worse. Calabro announced that he would be resigning from August 1983, and Allen had applied for a job elsewhere. This presented FLS with the opportunity to review the continued operation of the Practice. An Extraordinary General Meeting was called for 4 August 1983 to discuss the Practice's future.
A committee, which had been formed to review the Practice, had the difficult task of attempting to resolve the financial and ideological difficulties which the Practice presented to FLS. On the financial side, the Committee reported to the Extraordinary General Meeting that while the Practice was roughly breaking even, it was unlikely ever to do better than this. The fear, shared by many at the meeting, was that the Practice would more than likely have to be subsidised by the Service if it continued in its present form. The ideological questions about the Practice's future, though not specifically referred to in documents from the meeting, were doubtless the same as those that had existed since the Practice began. Was it appropriate that many clients would only have their cases taken on if they attracted legal aid? Was the requirement that caseworkers generate sufficient fees to cover their salaries detrimental to the level of service provided to clients? By having a private practice, was the organisation operating any differently from a private firm of solicitors?

In its report, the Committee outlined a series of options for members to consider. The preferred option of the Extraordinary General Meeting was that FLS seek direct funding for its casework solicitors from the LACV, or elsewhere. This would mean that the caseworkers could select cases on which to act without consideration of the need to generate fees. After four hours of discussion, members were unable to decide on an alternative plan in the event that direct funding could not be attracted. The Extraordinary General Meeting was adjourned for a week.

When the Meeting reconvened, a motion was put that the Practice cease to operate from the end of 1983. After considerable debate the motion was lost, by the margin of one vote. However, it was decided
that the Practice would cease to take on new cases. Three weeks later, members decided to begin campaigning for direct funding for two casework solicitors, during which time the Practice would be wound down. Letters outlining these decisions were sent to the LACV and to the Federal Attorney-General, Senator Gareth Evans.

This crisis with the Practice obviously involved considerably more than concern about its financial viability. A paper prepared around this time by Bebe Loff called into question the whole place of individual casework within a supposedly progressive organisation. Loff, who had been a founding member of the Feminist Lawyers group at Monash University, was FLS's Legal Projects Officer. In the paper, entitled "Fitzroy Legal Service: Innovative Advocate or Conservative Law Practice", Loff argued that the Service needed to do more than concentrate on the delivery of traditional casework services to individuals. She wrote:

How can we develop structures where our resources and experience can be utilized to benefit groups as well as individuals? If we choose not to deal with this question we cannot honestly say that we are doing work very different from the traditional casework model.

Loff wrote of her experience with night volunteers, amongst whom she had had difficulty generating interest in anything other than individual casework. While believing that FLS had the potential to change its focus, she believed that such change was unlikely to occur because members would not commit themselves to an idea which, unlike casework, was neither immediate nor tangible. A plan for the future needed to be developed: "Otherwise we should openly acknowledge that we are a casework agency that does a bit of community legal education work on the side and end other pursuits." Loff concluded by writing that she believed that "legal casework of itself does more to
reinforce and tacitly approve of the status quo than does any other branch of social welfare work".13

The outcome of FLS's submission for direct funding for its casework solicitors was initially promising, with Senator Gareth Evans offering the Service a "full advance" of the usual salaries of two casework solicitors. This would amount to a yearly figure of around $42,000.14 Negotiations then needed to be conducted with the person whose original idea it had been to employ a casework solicitor at FLS, the Director of the LACV, Julian Gardner. But just when an agreement seemed to have been reached, negotiations fell through.15 David Allen remained alone in the Practice in 1984, seeking to cover the cost of his salary through legal aid referrals.16 The financial implications of this were lessened severely, however, by a loan from the Service to the Practice, and by the fact that from March 1984 FLS operated with one funded position vacant.17 At this time Christine Coombes, the Administrator, resigned and Loff, the Legal Projects Officer, took over her duties. In effect, the Legal Projects Officer position had become vacant.

It remained technically vacant after Jon Faine joined FLS in October 1984. Allen had resigned the month before and, in one sense, Faine was his successor. Faine was appointed as a "Full Time Solicitor", and in his reports he referred to himself as a caseworker. But in effect Faine was in a funded position, and any of the numerous legal aid cases he ran meant money to FLS beyond and above his salary. Faine's job description required him to work part time as the Legal Projects Officer. Only in 1986 did Faine begin regularly to be referred to as the projects lawyer.18 These complex staffing arrangements, for which FLS came under great criticism from the LACV in ensuing years,19 meant that the Practice for several
months did not need to earn its keep. It was not until May 1985 that a salary once more needed to be made through legal aid referral casework. At that time, Mandy Glaister, formerly a lawyer with an Aboriginal Legal Service in Queensland, was taken on as a caseworker.

By the time Glaister was employed at FLS, Faine had shown that a practice based on legal aid referral work was not only financially viable, but even lucrative. Faine had worked as a commercial litigator at the law firms Barker Harty and Holding Redlich in the early 1980s, before joining FLS. He brought to FLS what he terms the "discipline of private practice", the administrative and technical skills which could facilitate the orderly management of a high volume of casework. Faine quickly showed what level of income the FLS Practice was capable of attracting.

There were, however, the occasional moments when Faine's corporate background did not assist him. Soon after beginning at FLS, he went over to the Fitzroy Magistrates' Court and asked if anyone wanted representation. He had never appeared in a Magistrates' Court before, and soon found himself representing an alleged shoplifter. The Magistrate asked Faine if he wanted a Section Thirteen. Faine began to ask "section thirteen of what Act?" Fortunately Domenic Calabro, now working for the Aboriginal Legal Service, was in Court. He told Faine to shut up and say yes.20

Despite its increasingly healthy financial state, the Casework Practice continued to attract criticisms throughout the 1980s similar to the ones presented by Bebe Loff. And the various casework solicitors during this time have offered their own defences of casework, ranging from the philosophical to the pragmatic. Tony Lawson, who had been a casework solicitor in the late 1970s before becoming the first Legal Projects Officer, comments that casework
enables a person to be of real assistance to an individual. In the context of a legal centre, that assistance would often be to someone on the margins of society. But, as I mentioned in the last chapter, Lawson remains wary of giving unqualified praise to the role of casework, adding that there is always an extent to which casework serves to prop up the system.\textsuperscript{21}

Beyond the benefits of providing individual assistance, the most common defence of casework is that it provides grass roots knowledge of what laws need reforming. Jon Faine argues that one should never underestimate the power of the anecdote. The ability to recount what happened yesterday in the Magistrates' Court is a powerful weapon when lobbying politicians for change.\textsuperscript{22} In 1985 Faine argued that: "Only by doing casework - at least part time - can one develop and retain the understanding of the issues needed to explain to others what change is required. To know an apple, one must eat it, as Mao said." He even went so far as to argue that the Legal Projects Officer position, vacant after Bebe Loff left it in 1984, should remain vacant. He argued: "I do not think the Legal Service should be represented at policy and practice level by someone removed from the casework."\textsuperscript{23}

Elisa Whittaker, a long-serving day and night volunteer at FLS who worked as one of the organisation's casework solicitors from 1986 to 1989, agrees that casework provides the basis for knowing what law reform issues need to be addressed.\textsuperscript{24}

Jeff Giddings, who was appointed in 1986 to a new position as "Advocate", shares this view. Giddings had previously worked as a volunteer at Springvale Legal Service and had completed his articles of clerkship with a small Fitzroy law firm. As the title of Giddings' new position indicated, his job would largely involve court
appearances. Giddings' appointment raised the number of FLS self-funding solicitors to two. His salary, like Whittaker's, was to be generated through legal aid referral work. Giddings, who worked one day a week as a Legal Aid Commissioner for some of his time at FLS, suggests that an involvement in casework is crucial to the credibility of the advocate of reform. He remembers arranging to meet Labor Senator Barney Cooney one night at FLS, before going off with him to discuss legal aid on a national scale over dinner. The fact that there were fifteen people waiting to be seen at FLS when Cooney arrived sent a very clear message. Giddings also offers a third, pragmatic, defence of casework, stating that if legal centres wish to retain their funding from Federal and State Governments, they will have to continue to provide casework services. He argues: "there is no doubt that it is the casework service delivery of centres which is attractive to our funders."\(^{25}\)

Casework has thus remained an important part of FLS's operations. And when controversy arose over some FLS projects in the 1980s, it was FLS's casework which gave credibility to the objectives behind the projects and at the same time provided a defence against calls for FLS's funding to be withdrawn.

Another perspective from which to defend FLS's casework operations comes from the Service's clients. Tony Street, who I introduced in Chapter One, came to Fitzroy in 1984. Since then he has sought legal assistance from FLS several times over charges laid against him for trafficking and cultivating marijuana. Street has dealt with lawyers in three States and regards FLS workers to be more in tune than most about what happens on the streets. Most people, he comments, do not have any idea about what police get up to.\(^{26}\)
John Morgan is another person to have been an FLS client on more than one occasion. He has sought advice from FLS on three matters. On one occasion he was taken to court for allegedly collecting payments from a training scheme after withdrawing from a training course. The second matter concerned a traffic infringement.

Born in Fitzroy, Morgan remembers FLS in the 1970s. His perceptions of the organisation are that it is full of young people who operate on an informal basis. There are no bureaucrats to be found. His experiences with FLS have not all been as a client. In 1981, after the fire at the Service, he put grills on several of the back windows. Nor have his experiences at FLS all been positive. On his third visit as a client, Morgan accompanied his aunt to FLS after having suggested that she make a will and sign a power of attorney in his favour. Morgan helped with the day-to-day care of his aunt, who lived in a geriatric hospital and who suffered from short-term memory loss. At the FLS counter Morgan's aunt was asked what her address was, and she said she did not know. Morgan walked up and began to tell the volunteer the address, whereupon the volunteer said "I'm not talking to you, I'm talking to her." After instructions were taken, the power of attorney and will were never drawn up. It seems the lawyer decided that Morgan was unduly influencing his aunt, although this was never communicated to him or her. Morgan was to have been the sole beneficiary of his aunt's estate. He was left in a mess when she died. On one of his earlier visits, Morgan recalls feeling that the volunteer who assisted him had an air of "shit, another one of these bloody charity cases". 27

Bill Roach, on the other hand, is overflowing in his praise about the assistance he has received as a client of FLS. Roach has sought advice on several occasions about the legalities of social
campaigns in which he has been involved. He also received assistance following a car accident. He enjoys the political atmosphere at FLS, commenting that one can just smell radicalism in the FLS offices.\textsuperscript{28}

Each of these clients, while not sharing solely positive experiences of FLS, clearly considers FLS's provision of casework services to be valuable. Their experiences are testimonies in favour of FLS's casework orientation.

Test Cases

As well as assisting individuals, there have also been the occasions when casework has prompted some social change. Several test cases were run by FLS in the 1980s, the most important of which was the High Court case \textit{Harris v. Director-General of Social Security}.

Amelia Harris began receiving an aged pension in 1976. Between 1977 and 1979 Harris worked casually as a nursing aide, and she also received some income through investments. She did not notify the Department of Social Security about her earnings. When Harris honestly answered questions during an entitlement review in 1979, the Department of Social Security discovered that she had been paid her pension at a higher than appropriate rate. The Director-General of Social Security determined that Harris had been overpaid by up to $1,300.

Harris did not dispute that she had been overpaid, but she did dispute the overpayment figure reached by the Department. The case was particularly complex because the \textit{Social Services Act} was vague on the question of how to assess the annual rate of income of people like Harris. The Department fought the case because it was estimated that a favourable decision to Harris could cost the Federal
Government up to $45 million, given that there were almost 2 million aged, invalid and widowed pensioners in Harris' position.29

Harris was unsuccessful in her hearing before the Social Security Appeals Tribunal, but she then successfully appealed to the Administrative Appeals Tribunal. An official with the Department of Social Security told the Administrative Appeals Tribunal that the Department had examined seven possible ways of calculating Harris' annual rate of income.30 The Director-General then successfully appealed to the Federal Court. In August 1983 leave was granted for an appeal to the High Court. Ultimately, Harris' appeal was upheld, and the Federal Court's decision was overturned. The High Court ordered that the amount of Harris' overpayment be determined, once again, by the Administrative Appeals Tribunal, this time in accordance with the reasoning of the High Court.

It is debatable whether this was, in fact, a test case. The main reason why this case went to the High Court lay in the complexity of the Social Services Act. The question which the Court had to answer was how the amount of the overpayment to Harris should be calculated. In the words of one of the High Court Judges: "The history of the proceedings reveals a bewildering array of conflicting theories as to how that question is to be answered, all of them claiming support from the provisions of the Act."31 It is not immediately obvious that FLS sought to defend any broad social principle by defending Harris. The Service seemed merely to be acting for a client in a complex legal case.

But in a press release following the High Court's decision, FLS sought to link the case to a broader principle. The press release stated that many of the provisions in the Social Services Act relevant to Harris' case had changed. It continued:
However, the significant point of Amelia Harris' Appeal remains. It lies not in the specific resolution of her dispute with the Department of Social Security, it lies in the complexity of the provisions governing this vital area of concern for all pensioners. The mere history of her struggle to get a clear resolution of her entitlement, and consequent overpayment, announces the need for clear guidelines to be issued by the Department.32

Thus the case was seen by FLS workers as a test case. The case was fought over the specifics of complex legislation, but it also engaged, for FLS workers, the broader issue of the responsibility of governments to make laws understandable.

Another social security case in the 1980s saw FLS act for a man in a gay relationship who was denied a carer's pension. The man's partner was dying of AIDS and he had sought the pension to support himself while he cared for his partner. The Department of Social Security rejected the man's application for the pension. The case made front page news on two occasions in the Age newspaper, with a spokesperson for the Minister for Social Security reported as saying that, under the relevant legislation, heterosexuals in de facto relationships could receive the carer's pension, but people in homosexual relationships could not. One person was sufficiently moved by the case to send a letter and cheque for $50 to the couple to enable them to enjoy what time they had left together.33 An appeal to the Social Security Appeals Tribunal against the Department's decision was unsuccessful. The partner of the FLS client died before an Administrative Appeals Tribunal hearing could take place.34

Two other FLS cases in the 1980s warrant mention. The Service successfully represented a woman before the Equal Opportunity Tribunal who had been prevented from visiting her husband in Pentridge Prison for a year.35 And, in another case, FLS acted for a woman who discovered that her future burial site at Melbourne...
Cemetery was to be used for other burials. Mrs Quattrocchi sought advice from the night service in 1983, after asking workers at the Melbourne General Cemetery why the marker on her future burial plot, which indicated that it had been sold, had been removed. Her enquiry and FLS's subsequent involvement discovered something of a scandal concerning the validity of contracts for the sale of future burial sites. FLS issued proceedings in the Supreme Court of Victoria alleging, amongst other things, breach of contract and breach of trustees' duties. The Age newspaper, under the heading “No Resting Place”, gave significant attention to Mrs Quattrocchi's predicament. The State Government later decided to legislate around the problem, thus securing the legal positions of Mrs Quattrocchi and around 500 others with burial rights at the Melbourne General Cemetery.36

Casework and Projects

Aside from the occasional test case, FLS's casework and project work generally remained quite distinct pursuits. Many individual workers at FLS, however, were heavily involved in both. Jon Faine, for example, campaigned strongly, if unsuccessfully, against the closure of the Fitzroy Magistrates' Court in 1985. FLS had operated a duty lawyer scheme at the Court since 1980 and, according to Faine, the Court had been relatively intimate and accessible. Moreover, locals had been able to get help from the considerable poor box.37 Faine attracted publicity during a campaign on another project, which drew attention to the legal rights of passive smokers.38 He also presented radio shows on legal issues (thus acquiring the training for a successful radio career later), and he participated in numerous reform groups on matters such as police violence and prison
conditions. Nor was Faine the only caseworker to be involved in non-casework activities. As I shall argue later, caseworkers were often of crucial importance to significant FLS projects in the 1980s.

Even so, the casework operations of FLS existed as one quite separate way for FLS to seek to achieve its objectives. Casework satisfied the funders of the organisation, it provided real assistance to individuals, it informed workers of the areas requiring law reform advocacy, and it gave such advocacy a sense of authority. Further, casework gave legitimacy to the ostensibly more progressive side of FLS, its involvement in projects.

Up until 1981 the major project at FLS, aside from the production of the *Legal Resources Book*, had been outreach law. Outreach law, however, ceased to receive the attention and zeal in the 1980s that it once had attracted. The priorities of FLS staff members, such as Robin Inglis, who took over from John Finlayson as Community Development Officer in 1984, favoured other projects. Inglis' first contact with FLS had come in 1980, when, as a social work student, he and his class had been addressed by Finlayson. Inglis had later completed a social work student placement at FLS. But despite Finlayson's clear influence on Inglis, Inglis' work at FLS would differ from his predecessor's. The number of outreach stations was cut back from eight in 1981 to only a couple in 1987. One outreach station even began to operate independently of FLS in 1988, as Northcote Legal Service.

In place of an emphasis on outreach law, FLS's project base in the 1980s was extraordinarily disparate. Projects included the reorganisation of the Service's internal structure, the publication of legal information books, the establishment of a 24 hour legal service for young people in trouble with police, and the production
of a music video. The Service even put on a legal education "Punch and Judy" puppet routine at the Royal Melbourne Show. Two issues, to be looked at later, particularly attracted FLS's attention: police violence and the imprisonment of women.

Internal Operations

In the ten years from its formation in 1972, FLS had eschewed any formal management structure. In theory, FLS relied on the collective forum of the General Meeting to direct its operations. The Central Committee had been established in 1973, and it was as close as the organisation was willing to come in its early days to having a management committee. But the unspecified nature of the Central Committee's responsibilities seems to have triggered its demise late in 1973. In its place, the Co-ordinating Committee, which had been established primarily to give continuity to the night service, increasingly, if unwillingly, became referred to as FLS's management committee. But the Co-ordinating Committee was in no real sense the management of FLS, for while it perhaps could be said to have managed the night service, it played an extremely limited role in deciding what projects FLS should take on, and it did not have the authority to hire or fire staff. At a General Meeting in 1982 it was minuted that the Co-ordinating Committee during the 1970s became "... a Management Committee but with no real executive power. This proved very frustrating for committee members." So toothless was it that the Co-ordinating Committee simply ceased to meet after the fire at FLS in 1981.

The extent to which this lack of management structure facilitated participatory democracy at FLS became the subject of
increasing debate in the 1980s. According to one view, the General Meeting was the appropriate forum in which the organisation should make significant decisions, since General Meetings were open to everyone and since any FLS member who had been to at least one General Meeting could vote on any issue. But on another view, the lack of a formal management structure belied and even served a de facto hierarchy that had evolved. On this view, the likelihood of something being approved at a General Meeting depended less on the merit of the proposal than it did on the amount of lobbying carried out beforehand.

Perhaps the ugliest scene in the Service's history occurred in 1986 at a General Meeting when Jean Melzer, the Front Office Manager since 1982, was voted out of her position. Reminiscent of the 1975 General Meeting in which Julian Gardner was elected to replace Danny Spijer. Melzer's sacking was even more debilitating for FLS. Jeff Giddings, who was employed nine months after the sacking, recalls that when he arrived the event was still having a major effect on FLS.44 The reason for Melzer's dismissal was not an inability to do her job, but a personality conflict. Melzer claimed that the meeting, which voted 57 to 20 to sack her, had been stacked.45

A committee had been set up to try to resolve the dispute, but it only had limited powers to make recommendations to the Service. And since management decisions were vested in the collective General Meeting, all members were given the opportunity to decide the issue. The choice they were given was to dismiss either Melzer or three other workers. While one could certainly not criticise the Service for making the decision behind closed doors, the existence of a more workable management structure might at the very least have lent the affair some much needed dignity. Such a structure may even have seen
the dispute resolved in its early stages. When Melzer took her case for unfair dismissal to the Commercial Clerks' Conciliation and Arbitration Board, the Board's Chairperson said that FLS's method of operation concerned him. Someone had to take ultimate responsibility.46

While there have been no significant moves to alter the position of the General Meeting as the ultimate decision-making forum for the organisation, members agreed in 1982 that there were problems in the way the organisation discussed and decided upon its direction. In February of that year a Policy Advice and Development Group was formed. Its role was to assist workgroups in the development of policies for the Service.47

The Policy Advice and Development Group took on some of the functions of a management committee, overseeing various disparate parts of the Service. In its first three meetings the Group sought to receive reports from all workgroups, and spent considerable time discussing the place of the casework and night services within FLS.48 When it became apparent that its role was decidedly unclear, the Group was given the task of facilitating discussion on the revision of FLS's constitution and structure.49

When these issues were discussed at FLS's annual "weekend away" in November 1982, one member suggested that it was the salaried workers at FLS who exercised power in the organisation. These workers consistently attended General Meetings, and were inevitably better informed than other members. Another member commented that while the Policy Advice and Development Group had worked hard, it really had no power. The organisation had become casework-oriented and lacked a sense of possible new directions.50
In its annual report, the Policy Advice and Development Group outlined the confusion which existed about its role, and highlighted the frustration felt by members of the Group over its impotence. The Group had provided a successful forum for the consideration of ideas, and had generated numerous papers for discussion. However, it had been powerless to implement proposals, so much so that reports presented to the Group had often needed also to be presented to General Meetings in order for decisions to be made.51

In response to these issues, the Policy Advice and Development Group proposed the adoption of a new constitution which, among other things, would create an "Implementation Group". As its name suggested, the Implementation Group, which would meet monthly, would implement decisions made at General Meetings. In a bid to check the influence of salaried workers on the organisation, it was proposed that no more than two of the nine members of the Implementation Group be salaried workers. In addition, the members of the Implementation Group would need to display a balance between men and women, and between lawyers and "non-lawyers". In April 1983 the Policy Advice and Development Group's draft constitution, with some alterations, was adopted by FLS, and the first Implementation Group was elected.52

The decision to create the Implementation Group, rather than a management committee or board of directors, ensured that FLS would maintain its version of participatory democracy. The General Meeting would remain the forum in which the organisation made important decisions. But members hoped that by creating the Implementation Group, General Meetings would become more functional. This would occur in part because General Meetings would be freed of administrative detail, and in part because there would be an increased number of non-salaried workers - namely the members of the
Implementation Group - who could lead discussion on the direction of the organisation.

Yet the creation of the Implementation Group did not solve as many of the problems as had been hoped. The role of the Group was manifestly unclear, even to its members, as evidenced by this comment in one of the Group's reports:

In practice the Implementation Group is the management committee you have when you are not having a management committee. Being a member of the I.G. is like driving a car blind-folded, you depend on what people tell you to make decisions about where to go and sometimes people forget to tell you until it is a bit late.53

Three-and-a-half years after its formation not much had changed. Members of the Group were still asking to what degree the Group was a management committee.54 Dissatisfaction with the role of the Group continued throughout the 1980s, with a concerted but unsuccessful attempt made in 1989 to replace it with a Management Committee.55

Rather than viewing the creation of the Implementation Group as a bold new step for the organisation, it was in many ways an endorsement of the basic principles on which the Service had always functioned. The Implementation Group's role was not to override General Meetings, but to help them operate more effectively. Indeed, one of the Implementation Group's first tasks was to create a document detailing all the decisions of previous General Meetings that might be considered FLS "policy" decisions. Thus, rather than being formed to confront new challenges, the Implementation Group was imbued with a keen sense of the past. Such was the weight of history that the document, when it was eventually prepared, ran to thirteen pages.56
At the very least, the creation of the Implementation Group signalled that FLS was seeking to be more efficient. Another decision around this time, to provide training for volunteers, was also a move towards greater efficiency. Bebe Loff was reported as saying that previously the priority at FLS had been to find enough volunteers and to survive financially. She continued: "We want to take greater care to see that volunteers are suitable." Half-jokingly she added: "We want to get away from our volunteers experimenting on people."

Training sessions began in June 1983. 57

Legal Resources Book

Another area in which FLS became more streamlined during the 1980s was in the production of its Legal Resources Book. In the seven years since its inception in 1977, the book had sold 35,000 copies and contributed around $100,000 to FLS. 58

Second and third editions of the book, still in looseleaf format, were released in mid-1981 and then late in 1982, and initially sold well. 59 However, a slump in sales late in 1983 left almost one-quarter of the 4,000-run third edition unsold. This meant that, for the first time, the book was in danger of becoming a financial burden to FLS. 60

This crisis was resolved in March 1984 when Julian Gardner, one of the book's creators, announced that the LACV had approved a one-off grant of $20,000 to FLS, on the proviso that an external auditor determine whether the book was a viable project. Gardner made it clear that such assistance would never again be forthcoming from the LACV. 61 The grant, plus an interest free loan of $24,000 from the
Victoria Law Foundation, ensured that the book could continue to be published.62 But the next crisis was only months away.

Two related issues constantly confronted the Service during this period of uncertainty. One was whether the book was a financially viable exercise for the Service, the other was whether the book was achieving all of the aims that FLS members hoped it would achieve. The aims behind producing the book, as listed by Lorri Buttner, the book’s marketer, were threefold: to provide a legal education service, to be profitable, and to maintain credibility for the Service. But Buttner accepted that if the aim of producing the book was to provide legal information for FLS’s clients, then it had failed. She accepted that there was little chance of producing the book in such a form as to be read widely by FLS clients. She continued:

In accepting that it is a middle class market that buys the book we should steer the book more to their requirements and raise the price considerably, thereby enabling the middle class market to subsidize a smaller much cheaper publication to suit the market we have always attempted to reach.63

The two issues of financial viability and target audience became major concerns towards the end of 1984, when it was estimated that 2,000 issues of the current edition would remain unsold. At this rate it was unlikely that profits would be recorded, let alone that FLS would be able to repay the Law Foundation loan. A suggestion by two people that the book be wound up was rejected, but it was feared that FLS could no longer afford to publish the book. One possibility, which received heated discussion, was that the book, or a derivative from it, be geared towards business interests and be prepared in conjunction with the Age newspaper.64
Heavy marketing and a drop in price did improve the situation, and by early 1985 the book was generating income roughly equivalent to its expenses. But even the question of how the financial viability of the book should be judged was a vexed one. For had the book been considered a separate entity from FLS, then its liquidity problem might not have been solved. Administrative costs incurred in producing the book, such as rent and typing, were usually borne by FLS and did not typically make it onto the book's profit and loss sheet.

Although selling at a reasonable rate during 1985, it was becoming increasingly more difficult to sell a book that needed both 1984 and 1985 updates. In late 1985, even though 40,000 copies of the book had now been sold, FLS members decided to appoint a consultant with a view towards creating a new book.

In May 1986 members decided that the book should be bound and produced yearly. Later, an agreement was reached between FLS and a publisher, Nelsons, whereby Nelsons would publish the book while FLS would receive ten percent of royalties. Chapters would continue to be provided for free, and it was hoped that authors would understand the financial imperatives driving the new agreement. The new Law Handbook 1987 was launched in May. It sold around 3,000 copies, generating sufficient profits to easily carry losses on the next two editions. In 1990 the book was once again published by the Service.

Since the drama of the mid-1980s the only significant concern raised by the book's finances has been that its profits potentially place FLS's yearly State and Federal Government grant in jeopardy. It has been a constant question on the mind of FLS's funders whether
they ought to take into account the profits generated by the book in deciding upon the amount of FLS's grant.

Notwithstanding the financial concerns of the mid-1980s, the *Legal Resources Book* and then the *Law Handbook* were publications which always brought credit to FLS. Even if their audiences were comprised of middle-class professionals, the books continued to be the cause of much favourable press for the organisation. The 1983 edition of the book was launched by Victorian Premier John Cain, and the 1989 edition by Deputy Chief Magistrate - later Chief Magistrate and then Family Court Judge - Sally Brown. The only embarrassment ever caused by the book occurred when the 1987 edition, in a misguided attempt to display gender neutrality, referred to a hypothetical rapist as "she".

*Users' Guide*

Another of FLS's popular and uncontroversial projects was the production of a self-help book for drug users. The *Drug and Alcohol Users' Guide* was published in July 1988 and contained 159 pages of information for users of drugs. As well as providing legal information, the book contained an extensive annotated list of self-help and information services. Funded by the Drug Rehabilitation and Research Fund, which distributed money collected through fines and seizures associated with drug trafficking, the book was launched by Hazel Hawke, wife of the then Prime Minister, Bob Hawke.

According to FLS's initial submission for funds in 1986, the drug book was to be targeted specifically towards drug users, and aimed to provide comprehensive information on the social and medical services available to them. The book, edited by Sue Bruce, was free
to users and cost $10 for professionals. Jeff Giddings, a contributor to the book and member of the committee overseeing its publication, considers the production of the book to have been the highlight of his four years at FLS.

Extraordinarily popular, 5,000 copies of the book were sold or distributed within one month of publication. An evaluation of the book carried out in 1990 established that, while it was difficult to determine the extent to which the book actually went into the hands of users, over 90 percent of drug and alcohol agencies surveyed had a copy. Funding for a second edition was received, and it was published in late 1989.

Equally popular, but significantly more controversial, was another FLS publication of the 1980s, the youth rights booklet *Where You Stand*.

*Where You Stand*

In September 1985 the booklet *Where You Stand* was launched at FLS, the culmination of three years' planning and preparation. The booklet was a guide to the legal rights of young people, and had emblazoned on the front the words "<R> Not Available To People Over 18". The booklet was produced by the FLS Youth Rights Publications group, which consisted of Robin Inglis, the Community Development Officer at FLS from 1984 to 1989, together with a number of professionals and young people. The booklet was largely funded by the Victorian Youth Affairs Bureau, although financial assistance also came from FLS and from an International Youth Year grant.

In similar vein to the "Streetwise" comics, which had been developed by New South Wales community legal centres and brought to
Victoria by Victorian centres in 1985. Where You Stand sought to provide legal information in a form accessible to young people. The 52-page booklet was free to young people, and contained advice about children's rights in the home, on the streets, and in dealings with police. It contained information on child abuse, and told readers at what age children could marry and have sex. Most controversial was the booklet's provocative advice about squatting, which began: "The first step to squatting is finding a vacant house and then finding out who owns it. Next you have to break in and change the locks." Inglis argued that there was no other publication which contained the legal information in Where You Stand, except for the Legal Resources Book, which was considered too complicated for young people. The first mass distribution of the booklet was performed by young people travelling in a double-decker bus. After just one month nearly all of the first edition - 7,000 booklets - had been distributed.

It was only a matter of weeks before the booklet became the centre of public controversy. Favourable reports on the booklet were published in a number of local newspapers. However, Michael Barnard, a conservative columnist for the Age, devoted an entire article to the publication, and titled it "How to Alienate Our Youth". Barnard criticised the booklet on a number of grounds, accusing the authors of social engineering and of producing "just one more tedious but dangerous variant from a succession of child and youth right [sic] books inviting indifference to or contempt of authority in the home, school, street or workplace".

Barnard expressed concern about the advice given on how old a child had to be to have sex. He also criticised the booklet for informing young people that lesbian and gay relationships were legal, and for the advice on how to squat. His major concern about the
booklet was that it stereotyped police and authority in general as never willing to help young people: he made particular reference to a cartoon in the booklet showing a policeman with a revolver for a head, and to another in which police were beating a young detainee. He argued that: "No youngster could deduce from its pages that the police force is an essential component of society, serving society, and merely enforcing the rules that society itself has decreed."\textsuperscript{89}

In his reply to Barnard's article, Robin Inglis argued that rather than alienating young people, the booklet served to help "lift the veil of mystery with which the law is too often cloaked". He argued that Barnard was more concerned about the image of 900 police than he was about the ignorance of 100,000 young people.\textsuperscript{90}

Barnard was by no means alone in his criticism of Where You Stand. Indeed, the Police Association of Victoria sent a letter to Premier Cain requesting that the booklet be "withdrawn from publication", enclosing with the letter a copy of Barnard's article. The Association argued that it was inappropriate for the Government to fund programs which sought to obstruct the investigation of offences and which incited people not to co-operate with police.\textsuperscript{91} Kel Glare, an Assistant Commissioner of Police and later Chief Commissioner, bought into the debate, arguing that the publication was irresponsible.\textsuperscript{92}

One of the many conservative politicians who had concerns about the booklet was Ron Wells, the Legislative Assembly Member for Dromana. He felt that the material in Where You Stand would be better dealt with in a stable family circle, although he did acknowledge that the booklet could be of value to people without such support.\textsuperscript{93}

It is debatable whether the controversy over Where You Stand was caused by the particular information given in the booklet, such
as the advice on how to squat, or whether it was caused by the fact that children were actively being told what their rights were. Numerous people, including youth workers, legal centre workers and even the Moderator of the Uniting Church in Victoria, defended the publication on the basis that it was a fact that not every young person had an ideal childhood. A young person's ignorance of the law was of no benefit to anyone.  

Many critiques of Where You Stand referred to the fact that it had been produced at taxpayers' expense. There were even calls for a re-evaluation of FLS's funding. Some people, for instance, wanted the Premier to issue firmer guidelines to FLS so that: "The government could then be seen to be directing a grass-roots community service along a course more in keeping with the accepted standards of the general community ..."  

Under the heading "Kennett Criticises 'Misuse' of Money", the then State Opposition leader and later Premier, Jeff Kennett, argued that FLS had used public funds to print and distribute anti-social advice to young Victorians. His two concerns were that the booklet was produced at taxpayers' expense, and that it detailed ways in which young people could avoid cooperating with police. Like others, he sought withdrawal of the publication.  

More than a year after the first edition had been published, debate over the booklet still continued. In November 1986, by which time all of the first two editions - over 15,000 booklets - had been distributed, the National Party leader in the Victorian Legislative Council, Bernie Dunn, criticised the booklet in parliament. Dunn told parliament that the booklet was extremely destructive, and made particular reference to several pieces of advice given in the booklet: on how to squat, on when it was legal for people over ten to
have sex, on how to leave parents, and on how girls under sixteen
could arrange for abortions. In his question to Caroline Hogg, the
Minister for Community Services, Dunn asked:

Is the Minister aware that Commonwealth and State
Governments' funding to the Fitzroy Legal Service
amounted to $157,300 in this financial year and that some
of the money was used to produce this document which is
finding its way into schools throughout Victoria?98

Dunn's comments were picked up by several newspapers, and the
Wimmera Mail-Times was by far the least subtle in its report.
Referring to the booklet as "seedy", the editorial on 14 November
1986 reported that the investigations carried out by Wimmera
parliamentarians Bernie Dunn and Bill McGrath into "trendy
organisations and suspect causes" had "disclosed that Fitzroy Legal
Service with a staff of five shared hefty Commonwealth and State
handouts during the past two years to finance its literary quest".
The editorial's final paragraph read:

The use of public money on a program to tell one section
of society why another is wrong, to pit young against
old, child against parent and youth against authority,
amounts to gross misappropriation.99

The concerns about the booklet being government funded reveal
the precarious position which government-funded organisations are in
when they engage in projects which do not meet with universal
approval. For, regardless of FLS workers' beliefs about whether
government funding jeopardises independence, the fact of government
funding gives powerful ammunition to critics.

More than that, criticisms regarding the misuse of government
funds usually require responses. And FLS's defence, provided by Robin
Inglis to the Wimmera Mail-Times' criticisms, was telling. In a
letter to the newspaper, Inglis wrote that FLS provided free legal
assistance five nights a week, and he pointed out that the
organisation had assisted over 4,600 people in 1985. Projects of FLS were also referred to, such as publication of the *Legal Resources Book*, but it was the casework carried out by FLS, the least controversial of its roles, which provided the most ready defence of the organisation.\(^{100}\) This is telling because it shows that while casework was not of crucial importance to people like Inglis, the Community Development Officer, its existence was relied upon to justify FLS's receipt of government funds and to help defend one of the Service's more controversial projects. Inglis believed that FLS had given too much emphasis to its delivery of casework services, but he also acknowledged that it was the casework carried out by FLS which legitimated the organisation's other activities.\(^{101}\)

Constant criticism of *Where You Stand* finally made some impact in 1987. A third edition was delayed when the Victorian Youth Affairs Minister, Steve Crabb, refused to provide funds unless changes were made to the publication. In particular, Crabb objected to two cartoons: the one which depicted a policeman's head as a revolver, and one which showed a naked woman and man at various stages of arousal, accompanied by the dialogue "Where's the condom? I Forgot! Well you can forget about it!!!"\(^{102}\)

A stand-off occurred when the young editors of the booklet refused to re-publish it without the cartoons, and an auction of original cartoons was held in November 1987 in a bid to raise sufficient funds to publish the third edition.\(^{103}\) Over $5,000 was raised at the auction, with the condom cartoon fetching $800. This meant that, with FLS's assistance, the $18,000 publication and distribution costs could be met.\(^{104}\) The original of the condom cartoon was retained by FLS and soon passed into folklore, hanging on
one of the Service's walls. The third edition of Where You Stand was launched by comedian Wendy Harmer in 1988.\textsuperscript{105}

Later editions of the booklet, as well as a Where You Stand for Parents booklet and a teachers' kit, were prepared by FLS with government assistance. The condom cartoon was left out.

The Where You Stand booklet was only one FLS project in the 1980s which sparked calls for reconsideration of FLS's funding. Questions regarding the appropriateness of taxpayers' money being used to fund FLS became even more widespread, especially amongst police, in relation to another FLS project: Alphaline.

Alphaline

Alphaline, a 24-hour legal advice service for young people, was launched in August 1985, less than a month before Where You Stand. Operated through FLS during the day, and by volunteer barristers and solicitors at night, Alphaline was established with the assistance of an International Youth Year grant, and later was funded by the Victorian Youth Affairs Bureau.\textsuperscript{106} Alphaline gave young people a telephone number to call in the event that they found themselves in trouble with police. At the very least, Alphaline gave young people access to telephone legal advice. Occasionally it provided more than this, with volunteer lawyers attending police stations in the middle of the night to sit-in on interviews or to arrange bail.

Controversy soon surrounded this new service when the wording on the small Alphaline "business" card came under scrutiny. The card, 5,000 copies of which were distributed in six months,\textsuperscript{107} read: "Don't Blab. Use Alphaline if you are picked up. Don't put yourself in.
Don't put your friends in. Get legal advice.\textsuperscript{108} In defence of the card, it seems that the approach of actively telling people not to make admissions to police was taken in recognition of the inherent power imbalance between young people and police. A young person's lack of power upon arrest, it was believed, often led to false admissions, abusive language and resistance to arrest. None of these things would happen if young people were confident about their right not to incriminate themselves.\textsuperscript{109} As it read on the back of the Alphaline card: "Remember: it's up to the police to convict you. It's not your duty to confess."

Police saw the issue quite differently, questioning the morality of the advice on the Alphaline card, and arguing that people had a duty to tell police what they knew about a crime.\textsuperscript{110} The debate between police and supporters of Alphaline was bitter and public. But to understand it, one must first consider the nature of the often-strained relationship between FLS and the Victoria Police.

The allegations about police violence in Northcote in 1980 and 1981, and the role played by FLS in publicising the issue, have been considered in Chapter Four. FLS was again heavily involved in police issues in 1983, following the publication in the \textit{Age} newspaper of a series of articles by journalist Michael Gawenda. The articles highlighted the racist and belligerent attitudes of many Fitzroy police. One Constable told Gawenda that:

\begin{quote}
The kids who come to Fitzroy straight out of the academy are 18 or 19. They've seen nothing. They know nothing about the inner suburbs - hardly any coppers from Fitzroy have ever lived in an inner suburb - and they don't understand the community.

There's a fair bit of racial prejudice at the station, you've seen it yourself ...\textsuperscript{111}
\end{quote}
Later, after questioning an aggressive man he had arrested, the same Constable said:

That bloke knows the rules. He actually wanted me to hit him so that later he could say I forced him to sign a statement.

This is what the public and the lawyers don't know. Some of these people are just scum.112

FLS was represented at the public meeting held to discuss the issues raised in Gawenda's articles, and FLS was involved in the Community-Policing Liaison Committee that was established as a result. At that time, all allegations regarding police misconduct were investigated internally, by police. Among other objectives, the Committee sought the establishment of an alternative complaints process.

Any hopes that the Committee would achieve its goals were lost when the District Inspector of Police and the Senior Sergeant at Fitzroy, in whom members of the Committee had some confidence, were replaced. Their replacements were not interested in the Committee's proposals. Nor was the then Internal Investigation's Deputy Chief Inspector, Kel Glare. FLS subsequently withdrew from the Committee, and soon after this the Committee dissolved.113

During 1984 a group called the Alpha Task Force was formed after a number of complaints were made regarding police harassment of young people in Brunswick. Later that year, following a police Christmas party, a number of young people were assaulted in Fitzroy in the grounds of the Atherton Gardens Housing Commission flats.114 Four police were subsequently charged with assault, and an after-hours telephone service for young people was set up almost immediately. In 1985 this became Alphaline.115
Even prior to the existence of Alphaline, FLS's relationship with the Victoria Police was strained. FLS workers were often highly vocal critics of police operations.116 Indeed, an indication of the state of relations between FLS and police came in Jon Faine's comments following the Christmas party assaults. In response to allegations that off-duty Fitzroy police had provoked the fight by calling the youths names, chasing them across the Atherton Estate grounds, then assaulting them, Faine said: "We are not surprised at the allegations - we are frequently told of similar incidents on a lesser scale involving policemen in the course of their duties." He said FLS received five to ten complaints of police maltreatment every week, but few were taken any further because of fear of reprisals.117 A press release, issued in March 1985 to celebrate FLS's 30,000th client, gave prominence to the organisation's calls for reform of police powers and for the independent investigation of complaints against police.118

Given the relations between FLS and police, the hostility which greeted the Alphaline card was not altogether surprising. Robin Inglis' comments that Alphaline should help to improve relations between young people and police must be seen to have been made more in hope than belief.119

The police response to the Alphaline card was swift. In the same letter to Premier Cain in which it objected to the Where You Stand booklet, the Police Association of Victoria objected to the Alphaline card, particularly to the advice on it not to "blab". The Association had no objection to FLS "providing proper legal advice to people who are in need of it but we do object to inciting people not to co-operate with Police as this project appears to do". The
Association also objected "quite strongly to the State Government specifically funding this type of programme". Elsewhere, Kel Glare called the FLS campaign "misguided", and the Police Association's Executive objected to community funds being used "to advise people not to cooperate with the police".

Further criticism of the card came when a Carlton Justice of the Peace and publican told the *Sun* newspaper that three youths had refused to leave his hotel, stating that the Alphaline service would protect them.

In defence of the program, Robin Inglis argued that Police Standing Orders, which among other things required an adult to accompany any person under seventeen years old being interviewed by police, were often not followed. Alphaline, which was receiving approximately ten calls a week, could go some way towards redressing this.

Evidence of the increased tension between FLS and police was provided in a *Melbourne Times* article about police brutality in March 1986. The article reported that tensions between police and teenagers in inner Melbourne had erupted into open confrontation following a number of incidents in and around Collingwood, and it recorded allegations of bashings by police. Kel Glare argued that it would be of benefit if people supported their local police instead of trying to find ways to create antagonism. On the other hand, Mandy Glaister and Robin Inglis said FLS received around one complaint each week about Collingwood police, few of which were ever proven due to lack of evidence or fear of reprisals. Bashings at police stations, they said, constituted one of the most common complaints. The Alphaline program's effect on relations between FLS, young people and police
was summed up in the penultimate paragraph of the *Melbourne Times* article:

While poor relations between police and youths in the inner city has been an ongoing theme in recent years, the situation has been highlighted of late by the introduction of a new legal advice service for young people, Alphaline.124

In the following week, police denied accusations of brutality and, according to the *Melbourne Times*, "blamed much of the present tension on what they have called scaremongering by the [Fitzroy] Legal Service and the introduction of a new 24 hour legal hotline for young people, called Alphaline".125

A rally was held outside the Melbourne Magistrates' Court in April 1986 to coincide with the trial of the four police charged over the Christmas party bashings. Placards reading "Police Should Not Police Police" and "Make Police Standing Orders Law" were waved.126

Soon after, the Chief Commissioner of Police, Mick Miller, entered the debate about police brutality in Fitzroy and Collingwood, claiming that the allegations were part of a malicious and misguided campaign by local youth workers and legal workers to discredit police at the two stations. Miller, it was reported, directed much of his attack at FLS, which had been pushing for an independent complaints authority. At the same time, Kel Glare went further than defending police, claiming that children had complained to local police that they had been asked to make up stories and take part in the demonstration outside the Melbourne Magistrates' Court. He claimed that in many cases Alphaline solicitors insisted on seeing youths who had told police that they did not want Alphaline, and he claimed that solicitors were arriving at police stations with doctors to check youths who denied that they had been bashed.127
In their defence, five youth workers and legal workers argued that their campaign was not to destroy police credibility but to seek an independent tribunal to investigate allegations against police. Amongst the five workers were one former, one current, and one future FLS employee - John Finlayson, Robin Inglis and Greg Connellan.\textsuperscript{128} The campaign for the establishment of an independent complaints authority ultimately did have some success, when a Police Complaints Authority, established by legislation late in 1985, was convened in 1986.\textsuperscript{129} The Police Complaints Authority later became a division of the Office of the Ombudsman, with the appointment of a Deputy Ombudsman (Police Complaints).

Despite the controversy surrounding it, Alphaline continued to attract government funding throughout the 1980s and beyond,\textsuperscript{130} and Alphaline continued to be popular with young people. After operating for eight months, an average of one call each night was being recorded, with over eighty percent of callers under 21-years-old.\textsuperscript{131} The controversial Alphaline card, which at least one local council's social workers were banned from distributing, was given less controversial wording in December 1986, following discussions with young people and police.\textsuperscript{132}

Alphaline was perhaps one program which saw the casework and project functions of FLS come together. The establishment of the Alphaline service was as much an attempt to check police powers as it was an effort to provide assistance to individuals in trouble. Equally important, however, is what the Alphaline debate shows about the interdependency of casework and projects at FLS. For the casework role of Alphaline, and indeed of FLS, inevitably provided the defence when FLS's "misguided" campaign was attacked. Calls for inquiries
into police violence had been made by FLS in conjunction with the establishment of Alphaline. But when these calls came under attack by police, the casework side of Alphaline remained sufficiently neutral for government funding of the program to continue. No one, not even police, publicly criticised the provision of legal assistance to young people in police detention.133

Similarly, when FLS itself came under attack for, in Kel Glare's words, "... misusing government funds to drive a wedge between police and the community ...",134 the casework side of the Service quickly limited such criticisms. As with the Where You Stand debate, FLS's casework function provided the basis for its defence. It cannot be doubted that the Where You Stand and Alphaline controversies reveal some of the limitations faced by government-funded organisations which seek change. In both cases, FLS's funding came under direct attack following the organisation's criticisms of police. And it would be naive to suggest that the fear of reduced funding did not in some way affect the organisation's propensity to criticise.

But, at the same time, the Where You Stand and Alphaline projects show that FLS, despite its receipt of government funding, was able to operate as a vigorous social and political critic. Both projects reveal the unusual license that FLS was able to attract for itself in this capacity. FLS's casework function gave it the licence to be a vigorous advocate on issues not necessarily popular with its funders. Were it not for FLS's casework services, the wishes of many police that the organisation's funding be withdrawn may have been met. In a way, casework continued to justify the Service's existence, while projects enabled it to be a progressive social critic.
Alphaline's success continued to be a priority at FLS throughout the 1980s, as did the broader issue of police powers. Meanwhile, police slowly became more receptive to Alphaline lawyers, although some Alphaline volunteers were occasionally refused permission to speak to clients, and one was even forcibly removed from a police station.135

No Comment

Another project, with a similar message to the Alphaline "Don't Blab" card, was FLS's foray into the world of popular music. A rock song, "No Comment", and accompanying video were released in December 1987 after four years of planning. The Victoria Law Foundation and the LACV provided funds of over $20,000 for the project.136

Obviously directed at young people, the song was launched at FLS's fifteenth birthday celebrations by Wendy Harmer and actor Jason Donovan, the latter telling listeners about his own brushes with the law.137 The song told of a young man walking down the street with a "ghetto blaster" who is taken in by police. At the police station, the song continues:

You don't have to take my photo
Don't put ink on my hand
No Comment Sir. No Comment Ma'am,
I don't have to join the line-up
I know who I am.138

Amanda George, the newly appointed Legal Projects Officer at FLS, explained that in producing the song FLS wanted to adopt a medium accessible to the intended audience.139

In his telegram congratulating FLS on turning fifteen, Prime Minister Bob Hawke wished the Service luck with the song and video.140 Needless to say, similar sentiments were not forthcoming
from the Victoria Police, who were calling for the song's withdrawal less than a month after its release. Police Association spokesperson Phil Edge was reported in the *Sun* as saying:

I don't know how the Government can justify spending money on this area, particularly when it is so concerned about law and order.

If it was an isolated incident we would laugh it off, but it seems to us that the Fitzroy Legal Service goes out of its way to ridicule the police and portray us as bashers of youth, when all we are trying to do is a professional job.

Edge argued that:

... to create a confrontation situation where young people say, "rare off copper. I don't have to tell you anything," naturally raises the hackles of the members concerned.

Amanda George argued to the contrary, saying that the video told kids to be polite and to keep their cool, and to only insist on the legal rights afforded to them by the justice system. FLSP's position was that it was not confrontational for a young person to refuse to answer police questions. If confrontation did stem from this, then that was the fault of police.

Debate over this project quickly abated, after it became clear that the song would have only limited success. Mainstream radio stations declined to play it, saying that it was too State specific and too educational.

As the *Where You Stand*, Alphaline and No Comment projects have shown, police issues were a high priority for FLS throughout the 1980s. And it was not only through these projects that FLS sought to highlight and check the power of police. Indeed, when police sought increased powers, FLS and other community legal centres objected. One example was when police sought abolition of the rule requiring them
to charge or release suspects after six hours of detention.\(^{144}\) The rule had been in force since June 1984, and in 1986 Tim McCoy, a future FLS worker, claimed on behalf of the Federation of Community Legal Centres that police had not shown one case where they had failed to get a conviction because of the rule. In a press release (issued the same day as the report of the "Coldrey Committee" into the issue), the Federation said it was concerned that police were trying to erode an accused's right to silence by seeking to hold suspects for as long as possible. Legal centres questioned how increased police powers would diminish the crime rate.\(^{145}\) On a separate but related topic, when police claimed that there was a shortage of members in the force, FLS workers disagreed.\(^{146}\)

Prior to the 1988 State election, the Labor Government, confronted by an Opposition in favour of increased police powers, made some concessions to police. Legislation was passed abolishing the six hour rule, following which police were able to detain suspects for "a reasonable time". Involuntary fingerprinting could now also be carried out by police, but only on order of a Magistrate. Not all police hopes were fulfilled by the legislation. The right of an accused to silence was confirmed. In addition, a new rule came into effect requiring tape recordings of police interviews to be made in order for admissions or confessions of suspects to be admissible in court.\(^{147}\)

Police continued to seek increased powers during the 1988 Victorian election campaign, and FLS continued to oppose them.\(^{148}\) FLS even requested the electoral office to examine a police pamphlet distributed during the campaign. The police campaign in sixteen marginal seats was critical of the State Labor Government's record on law and order.\(^{149}\) Typical of the police campaign was one pamphlet put
out by the Police Association in 1987. It showed a bank security photo of an armed robbery in progress, the caption reading that police did not even have the power to compel the robbers to give their names and addresses. But changes of this magnitude to the Crimes Act were still some years away.

The 1980s saw FLS become confirmed in its self-appointed role as police watchdog. This role even received tacit legitimation from police when, in 1988, FLS agreed to have a worker regularly address trainee police.

**Women in Prison**

FLS's concentration on police issues throughout the 1980s came at a price, according to two FLS employees. Elisa Whittaker, casework solicitor from 1986 to 1989, and Amanda George, Legal Projects Officer from 1987 to 1988, argue that the attention given to police matters diverted attention from legal issues concerning women. The first review of Alphaline showed that only seven percent of calls had come from young women. Concentration on police issues had inevitably meant concentration on predominantly male suspects.

Whittaker and George attempted to shift the Service's attention in the late 1980s, spending considerable time and energy highlighting one issue they considered important to women: women in prison. One particularly successful rally, organised by George and other women at FLS, saw 700 people lock arms around Fairlea women's prison.

FLS had been no stranger to prison issues throughout the 1980s. FLS lawyers regularly visited prisons and were involved in many cases which sought improved conditions for prisoners. One such case, in 1984, concerned a male prisoner who, despite having been a model
prisoner for five years, was being held in the maximum security Jika Jika section of Pentridge. He was moved to a lesser security section after FLS threatened legal action. In 1987 Jon Faine served a mock writ on the Victorian Governor, via the Attorney-General, after conducting research on the Governor's powers under Section 500 of the Crimes Act to grant Petitions of Mercy.

Another of FLS's involvements in prison issues concerned young people. Bebe Loff and a volunteer, Ross Brown, wrote an article for the Legal Service Bulletin in 1984, entitled "From Frying Pan to Fire". The article discussed the transfer of young people from youth training centres to prisons. Similarly, in 1987 Robin Inglis appeared in the press arguing that the suicides of two boys in Pentridge had been caused by their removal from youth training centres. Jail. Inglis argued, was no place for a young offender.

Nor were the specific issues concerning the imprisonment of women completely ignored by FLS prior to the campaign of the late 1980s. Mandy Glaister, casework solicitor in the years 1985 to 1986, had visited Fairlea once a week. Moreover, in 1982 FLS funded a Victorian Council of Social Service report into the imprisonment of women. The report, entitled Prisoner and Female: The Double Negative, was edited by Linda Hancock. It maintained that women were imprisoned too readily for typically non-violent offences, and that they were unfairly discriminated against in terms of their prison conditions.

FLS members considered prison issues to be of sufficient importance that they asked the selection committee, which appointed Amanda George as Legal Projects Officer, to consider prisons as a potential project area.
Prior to her appointment as Legal Projects Officer, George had been involved in the establishment of the Women's Legal Resource Group, a community legal centre devoted to protecting and furthering the legal rights of women, and she had worked for four years as a solicitor in a criminal law practice in Northcote. Her boss, she recalls, employed her because he thought that it might be profitable to employ a feminist.161

Upon hearing that an enquiry into "community violence" was being undertaken by the Victorian Government's Social Development Committee, George, as Legal Projects Officer, thought that she ought to make a submission about prison violence. George initially expected to prepare a three-page submission. But she and Jude McCulloch ended up writing a 43-page booklet. Women and Imprisonment was launched in May 1988.162 Realising that the submission probably went beyond the Social Development Committee's scope, George nevertheless saw the need for the report:

> The prison system has been shown for a long time to be a cauldron of physical and non-physical violence. The rigid and oppressive institutionalization of women (who generally are not sentenced for violence) leads to acts of violence between themselves, with warders, against the system and against themselves.163

The report covered a number of issues, ranging from the sentencing of women, to violence within prisons. It found that women were almost twice as likely to be jailed for fraud as men, and 40 times more likely than men to be jailed for defaulting on a fine. The report pointed out that only ten percent of women prisoners were in jail for violent crimes, as against the male figure of 28 percent, while 57 percent of women convicted of offences were jailed, compared with only 38 percent of men. The report also found that there had been a 446 percent increase in the number of women jailed in the past
decade. Most women prisoners were not dangerous, the report argued, and were imprisoned for offences against property, usually committed because of the women’s socio-economic situations. It was recommended that there be a moratorium on the creation of any more bed space for women prisoners.

With only limited criticism meeting the report, an extensive media campaign was gathering momentum. George and Whittaker regularly featured in the press. They highlighted claims of violence against women in Fairlea. They opposed the movement of women to the Jika Jika section of Pentridge. They opposed the concept of home prisons, which George argued was simply a ruse to create a greater number of jails, the cost of which – both financial and emotional – would be borne by the prisoner and family. And they regularly argued that simply too many women were being jailed in Victoria.

As George argued:

The women in our jails are not a threat to the community. They are generally working class women denied opportunities and options in a racist and sexist system. The vast majority are addicts and incest survivors. Jail only further brutalises and alienates them and sets in motion the roller coaster of institutionalization of their children. The $33,000 a year spent on keeping each prisoner in jail should be spent addressing unemployment and poverty. This is crime prevention.

The culmination of the campaign about women's imprisonment came on 26 June 1988 when 500 women and 200 men linked hands around Fairlea prison in the "Wring Out Fairlea" demonstration. George addressed the demonstration, arguing that women were being imprisoned like battery hens for offences committed because they were poor. Several demands were made at the rally: that K division (formerly Jika Jika) at Pentridge be closed, that a doctor be at Fairlea 24 hours a day, that access to visitors be considered a right, and that
free child-care be provided for offenders on community-based orders.\textsuperscript{174}

George did not expect these demands to be met. But, as she said later, it was not the specific demands that were important to her. What was important was the hope that people would be given sufficient information by the campaign to be able to form opinions on the whole issue of women's imprisonment.\textsuperscript{175} So, like many of FLS's projects, the goal was education.

Given George's involvement in this project, a project informed by a strongly reformist feminism, it is interesting to hear her views about casework. I would not have been at all surprised if she had told me that casework is simply a conservative practice which serves to reinforce the status quo. But these are not her thoughts. Conceding that, with the exception of test cases, casework does little to achieve social change. George nevertheless sees casework as important. Casework, she argues, gets people into legal centres. It gives workers a continuing sense of what is happening in the legal system, and of what people's experiences are of the law. It thus gives workers a keen sense of what reform is needed.

\textquote{Casework} informs you in a whole lot of ways. It gives you information. It gives you case studies. It gives you anger and passion.\textsuperscript{178}

While accepting that projects and casework are inevitably separate pursuits, George is another former FLS worker who considers both to be important to the existence of a practical and progressive legal centre.

The equal development of these two sides of FLS is the predominant theme of the 1980s. FLS's heavy involvement in casework in the 1980s gave legitimacy to the organisation in the eyes of its
funders and even its critics, while lending legitimacy to workers' calls for reform. At the same time, the various projects engaged in by FLS during the 1980s confirmed the organisation's place as a formidable social critic.

FLS's mixture of casework and project work in the 1980s further developed the organisation's ongoing commentary on the relationship between the law and social change. FLS workers were reluctant to rely on casework in their efforts to bring about social change. They sought to use a variety of methods, from publications to the production of a music video, to effect change. At the same time, the organisation was able to point to its casework record in order to endure the criticisms which some of its projects attracted. The casework carried out by FLS staff and volunteers, while giving needed assistance to thousands of clients, served to secure the organisation's funding.

To some left wing theorists this trade-off would not be justified. Such theorists would argue that the enormous amount of casework carried out by FLS has served to prop up an unjust system. FLS projects, on this analysis, can only be seen to have tinkered at the edges of an unfair system. a system which the organisation has otherwise supported.177

But to make such sweeping conclusions in condemnation of the people who have worked at FLS would be to operate too much at the level of theory. That is not to suggest that the contradiction between casework and social change has not been apparent to workers. On the contrary, this is a contradiction with which most FLS workers have had to grapple, and it is one which will continue to confront those who seek change through legal processes.
Indeed, it has been the very practical engagement of FLS workers with the constant tension between casework and projects that has enabled FLS's existence to contribute something to the debate about the relationship between law and social change. FLS's history supports the theoretical position that casework is of little direct value to the pursuit of social change. But more than this, FLS's history shows how individuals at a small organisation have engaged that debate, in a very practical way, to positive effect.

Equally, FLS's history shows how workers have managed to transcend the terms of that theoretical debate. One person who embodied FLS's ability to provide sound legal assistance, and at the same time operate as an effective social critic, was Tim McCoy. Tragically, McCoy died of an asthma attack on 9 November 1987. He had been the Legal Projects Officer at FLS for only three months, but had been involved with many community legal centres beforehand. According to Jeff Giddings, McCoy had been one of the few people in the legal aid movement able to persuade large groups of self-concerned people to work together. Robin Inglis said he was no revolutionary. Rather than wanting to force people to change, he hoped people would want change themselves.¹⁷⁸

One of McCoy's most important campaigns was the one he fought against the proposed Australia card legislation, under which all Australians were to be issued with identification cards. His ultimately successful work on this, which FLS strongly supported,¹⁷⁹ won him praise in parliament from a number of Senators after his death. The Senators also praised McCoy for his general contribution to community legal centres.¹⁸⁰

Such had been McCoy's style that the Chief Commissioner of Police, Mick Miller, once attended Springvale Legal Service after
McCoy invited him to come and try some of his home-cooked chocolate eclairs. While there, the two discussed police powers and the weapons carried by police. McCoy had once addressed trainee police in his trademark bright yellow overalls with watermelon earring, advising the trainees about the sort of people they might meet in the inner city.181

One anecdote regarding McCoy typified his ability to press for reform and at the same time retain the respect of politicians and police. Not long before his death, McCoy had been the preferred nomination of community legal centres to a new federal committee, the National Legal Aid Advisory Committee. According to Jon Faine, McCoy had been told that the likelihood of a community legal centre nominee being appointed to the Committee would be enhanced if he dropped his heavy involvement in the Australia card campaign. In response, McCoy increased his involvement in the campaign and returned the message that the two issues had nothing to do with each other. He was subsequently appointed to the Committee.182

McCoy, like FLS during the 1980s, was no radical. He had the respect of many powerful people and he did not seek revolutionary change. But at the same time he, like FLS, was a formidable social critic. On Melbourne Cup day, just a week before he died, McCoy went out to Pentridge prison at the request of several survivors of a fire in the Jika Jika section. He took a number of statements regarding the fire, which had killed five inmates, and noted: "No official investigation whatsoever as far as the survivors are concerned. Why not?"183
NOTES FOR CHAPTER FIVE


3 Minutes of Annual General Meeting, 19 February 1982; Staff Report to Annual General Meeting, 19 February 1982.

4 Minutes of General Meeting, 21 April 1982.

5 Practice Report to General Meeting, 28 October 1982.


7 Minutes of Extraordinary General Meeting, 4 August 1983.

8 Minutes of Extraordinary General Meeting, 4 August 1983.

9 Minutes of Continuation of General Meeting, 11 August 1983.

10 Minutes of General Meeting, 31 August 1983.

11 Briefs, August 1983, 1.

12 Bebe Loff, "Fitzroy Legal Service: Innovative Advocate or Conservative Law Practice", internal document, n.d. (believed to have been presented to General Meeting, 31 August 1983). This paper, with minor changes, appeared in Briefs, August 1983, 10.

13 Bebe Loff, "Fitzroy Legal Service: Innovative Advocate or Conservative Law Practice".

14 Minutes of Extraordinary General Meeting, 8 December 1983.

15 Minutes of Continuation of Extraordinary General Meeting, 19 December 1983.

16 Casework Practice Report to Annual General Meeting, 12 April 1984.

17 Minutes of Annual General Meeting, 12 April 1984.

18 Document entitled "Job Description - Full Time Solicitor", n.d., but believed to have been prepared in August 1984; Jon Faine, interview, 15 February 1994.

19 Jeff Giddings, interview, 10 January 1994.

20 Faine, interview, 15 February 1994.

21 Tony Lawson, interview, 29 October 1993.


24 Elisa Whittaker, interview, 12 November 1993.

26 Tony Street (not his real name), interview, 19 May 1994.

27 John Morgan (not his real name), interview, 17 March 1994.

28 Bill Roach (not his real name), interview, 9 May 1994.

29 Age, 13 July 1982, 6.

30 Age, 13 July 1982, 6.


33 Age, 6 February 1987, 1; Age, 11 February 1987, 1; Briefs, February 1987, 12.

34 Elisa Whittaker to me, 3 January 1995.


36 Briefs, August-September 1985, 1; Faine, interview, 15 February 1994; Age "Saturday Extra", 31 August 1985, 1 and 2; Age, 10 September 1985, 19.

37 Age, 21 January 1985, 4; Age, 22 March 1985, 10; FLS Annual Report 1985, 2.

38 Faine, interview, 15 February 1994.


41 Minutes of General Meeting, 26 August 1987.

42 Briefs, August 1983, 9.


44 Giddings, interview, 10 January 1994.

45 Minutes of Adjourned Extraordinary General Meeting, 30 January 1986; Sun, 1 February 1986, 4.

46 Sun, 12 February 1986, 21.

47 Minutes of General Meeting, 19 February 1982.


49 Minutes of General Meeting, 1 July 1982; minutes of General Meeting, 1 September 1982.

51 Policy Advice and Development Group Annual Report, n.d. (believed to have been produced in February 1983).

52 Policy Advice and Development Group, "Draft Constitution for the Fitzroy Legal Service", n.d. (believed to have been produced in February 1983); minutes of Annual General Meeting, 7 April 1983.

53 Implementation Group Report to Annual General Meeting, 12 April 1984 (quoting a previous Implementation Group Report).


57 Brunswick Sentinel, 5 April 1983, 2; minutes of General Meeting, 26 May 1983.


60 Legal Resources Book Report to General Meeting, 12 April 1984; minutes of Extraordinary General Meeting, 19 December 1983.

61 Minutes of Special General Meeting, 7 March 1983.

62 Minutes of Special General Meeting, 7 March 1983.


64 Minutes of General Meeting, 17-18 November 1984.


66 FLS Annual Report 1985, 6; Legal Resources Book Staff Report to General Meeting, 16-17 November 1985.


68 Minutes of General Meeting, 21-22 November 1986.


70 Minutes of General Meeting, 26 May 1988. Details about the losses on the next two editions are recorded in the minutes of General Meetings, 23 February 1989 and 25 November 1989.

71 The Law Handbook Charter, according to which self-publishing was a goal, was adopted in August 1988; minutes of General Meeting, 26 August 1988.

72 Melbourne Times, 21 December 1982, 6; Sun, 28 November 1988, 29.


75 Herald, 7 July 1988, 5; Sun, 8 July 1988, 17; Age, 8 July 1988, 19.


77 Briefs, October 1988, 1.

78 Jeff Giddings, interview, 10 January 1994.


81 Briefs, May 1989, 2; Melbourne Times, 6 December 1989, 7.

82 FLS Youth Rights Publications, Where You Stand (Fitzroy: FLS, 1985); minutes of General Meeting, 29 August 1985.

83 FLS, Where You Stand, preface.

84 Minutes of General Meeting, 29 August 1985; Age, 27 August 1985, 10; Age, 8 September 1986, 17.

85 FLS, Where You Stand, 14.

86 Coburg Courier, 25 September 1985, 3.


89 Michael Barnard, "How To Alienate Our Youth", Age, 1 October 1985, 13.

90 Letter from Robin Inglis to the Age, 4 October 1985, 12.

91 Letter from Police Association of Victoria to Premier John Cain, 22 October 1985.

92 Age, 14 March 1986, 4.

93 Articles in the FLS newspaper collection, annotated as "Sun (Southerly edition), 17 December 1986" and "Southern Peninsula Gazette, 10 December 1986", but unable to be verified.

94 Coburg Courier, 9 April 1986, 4; letter from P. Hogan to the Nunawading Gazette, 26 March 1986, 12; letter from Rev. Allan Thompson to the Wimmera Mail-Times, 19 November 1986, 4.

95 Nunawading Gazette, 5 March 1986, 4 (editorial).

96 Nunawading Gazette, 26 March 1986, 4.

97 Letter from Robin Inglis to the Wimmera Mail-Times, 26 November 1986, 6.

98 Victorian Parliamentary Debates, Legislative Council, 11 November 1986, 847; reported in the Sun, 12 November 1986, 3.

100 Letter from Robin Inglis to the *Wimmera Mail-Times*, 26 November 1986, 6.


102 *Briefs*, October 1987, 1.


107 A copy of the card is in "Alphaline Review", 2.


110 *Age*, 18 October 1983, 1.

111 *Age*, 18 October 1983, 1 and 17. Michael Gawenda's articles appeared in the *Age* on 15 October 1983, 1 and 5, 17 October 1983, 3 and 4, 18 October 1983, 1 and 17, and 19 October 1983, 1 and 15.


114 "Alphaline Review", appendix a.

115 For example, letter from Robin Inglis to the *Age*, 14 January 1985, 12; letter from Jon Faine to the *Age*, 5 June 1985, 12.

116 *Age*, 21 December 1984, 5.


120 *Age*, 14 March 1986, 4.

121 *Sun*, 27 February 1986, 7.

122 *Sun*, 27 February 1986, 7.
124 Melbourne Times, 26 March 1986, 1 and 5.
125 Melbourne Times, 2 April 1986, 1 and 5.
126 Melbourne Times, 9 April 1986, 1.
127 Melbourne Times, 9 April 1986, 1 and 4.
129 Victorian Parliamentary Debates, Legislative Assembly, 8 April 1986, 795.
130 "Alphaline Review", 1; Briefs, October 1988, 2.
131 "Alphaline Review", 3.
132 Brunswick Sentinel, 16 September 1986, 1; Age, 22 September 1986, 15; Brunswick Sentinel, 23 December 1986, 3.

133 For example, despite the controversy about Alphaline, an unemotive article on the casework side of Alphaline was published in the Age, 2 July 1986, 5.

135 Briefs, January 1988, 3.
137 Truth, 26 December 1987, 13; Briefs, January 1988, 12.
140 Telegram from the Prime Minister, Bob Hawke, to FLS, 17 December 1987.
141 Sun, 16 January 1988, 8.
142 Sun, 16 January 1988, 8.
143 Briefs, January 1988, 14.

144 The rule was contained in section 460 of the Crimes Act 1958 (Vic), as amended by the Crimes (Criminal Investigations) Act 1984 (Vic).

145 Community Legal Centres Press Release, 10 April 1986; see also letter from Robin Inglis to the Herald, 9 April 1986, 6.

146 For example, a report on Jon Faine's comments on this issue was contained in the Age, 5 November 1986, 19; letter from Robin Inglis to the Age, 15 July 1987, 12.

147 These amendments to the Crimes Act were contained in the Crimes (Custody and Investigation) Act 1988 (Vic) and the Crimes (Fingerprinting) Act 1988 (Vic).

149 Age, 30 September 1988, 9; Briefs, October 1988, 2.


152 Elisa Whittaker, interview, 12 November 1993; Amanda George, interview, 18 January 1994.


157 A copy of the article is reproduced in Briefs, February 1987, 12.


162 Amanda George and Jude McCulloch, Women and Imprisonment: Submission to the Social Development Committee into Community Violence (Fitzroy: FLS, 1988); George, interview, 18 January 1994.

163 George and McCulloch, Women and Imprisonment, 1.

164 George and McCulloch, Women and Imprisonment, 7, 9, 4.

165 George and McCulloch, Women and Imprisonment, 37-8.

166 For example, Peter Ross-Edwards, leader of the Federal National Party, argued that most criminals will say they committed their offence for a particular reason, but that does not excuse them; Sun, 21 June 1988, 19.

167 Age, 9 April 1988, 22.


169 Sun, 8 June 1988, 22; Sun, 29 August 1988, 48; Age, 27 August 1988, 6; Age, 29 August 1988, 15; Amanda George, "Locking Mum and Dad Up Too", Herald, 6 September 1988, 12. Steve Crabb, the Minister for Corrections, responded to George’s article in "Another Great Way to Jail Criminals", Herald, 8 September 1988, 10.

170 Age, 20 June 1988, 16; Sun, 20 June 1988, 41; letters from Whittaker to the Age, 4 July 1988, 12, and 30 September 1988, 12.
175 Amanda George, interview, 18 January 1994.
176 George, interview, 18 January 1994.
178 *Sun*, 11 November 1987, 7.
181 *Age*, 11 November 1987, 2.
183 *Sun*, 11 November 1987, 7. A trust fund was set up in McCoy’s name soon after his death.
Chapter Six

INTO THE NINETIES

In the years 1990 to 1994, FLS continued to balance its provision of free legal assistance with an involvement in broader debates about the justice system in Victoria and Australia. But, in several respects, the period following the October 1992 election of Jeffrey Kennett as Victorian Premier - the first Liberal Party Premier in Victoria in ten years - marked a turning point in the life of FLS. Soon after Kennett's election, his Government set about implementing some quite significant reforms, many of which were strongly opposed by FLS and numerous other community and legal groups. FLS's opposition to these changes, which I shall describe shortly, saw the organisation make some unlikely allies in a time when it was, uncharacteristically, a voice against change.

In this short chapter, then, I shall consider how various developments at FLS in the period 1990 to 1994 are consistent with, and differ from, the history that I have so far described.

The Kennett Government, through Attorney-General Jan Wade, introduced a number of changes to Victoria's legal environment in the space of only a couple of years. Less than one month into its term, the Kennett Government announced the abolition of the Victorian Law Reform Commission and the Accident Compensation Tribunal. The latter action involved the effective sacking of most of the Accident Compensation Tribunal Judges, some of whom were considered to be the equivalent of County Court Judges in judicial rank. These were the first in a series of reforms to the legal system.¹ In October the following year the Government announced that the Victorian Equal
Opportunity Commissioner would be replaced by a five-member Commission of Equal Opportunity. The Commissioner, Moira Rayner, would no longer have a job.² Two months later a draft bill threatened to substantially alter the office of the Victorian Director of Public Prosecutions. The bill proposed the appointment of a "Deputy Director", answerable to the Attorney-General, who would have the power to veto some of the Director's decisions on prosecutions.³

Several other actions by the Kennett Government in its first two years of office added to concerns that the independence of the justice system was under threat. The Government legislated to restrict people's access to the courts in the event that their property was damaged by works carried out in preparation for the controversial Albert Park Grand Prix.⁴ And the Government insisted on appealing several Court and Equal Opportunity Board rulings that had ordered it to reopen the Northland Secondary College. Prior to its closure by the Government, the school had educated a high percentage of Koori students and had displayed a commitment to the teaching of Aboriginal history and culture.⁵

Taken together, these actions were viewed by many in the legal profession, FLS workers included, to constitute a substantial threat to the existence of an independent justice system. Each of these changes was open to the interpretation that the Kennett Government sought to exercise too great an influence over people in positions of responsibility in the justice system. Commentators argued that the separation of powers doctrine, and that even the rule of law, was in some jeopardy in Victoria.⁶

FLS positioned itself in opposition to the Kennett Government's changes. FLS welcomed Moira Rayner as a member and Wednesday night volunteer around the time of her redundancy. In March 1994 Bernard
Bongiorno, the Director of Public Prosecutions, addressed an FLS dinner. Given FLS's record as a critic of police, it was no small irony that the State's chief prosecutor should be asked to address an FLS function. However, the threat to the independence of Bongiorno's office was of sufficient concern for the irony to be suffered. Bongiorno had responsibility for the prosecution of instruments of the State, such as police, just as he had responsibility for the prosecution of ordinary citizens. It was this dual responsibility that made his independence from government control something which FLS strongly supported.

On a number of occasions around the time of the Kennett Government's election, FLS took steps to encourage its many supporters within the legal profession to take a more active involvement in the organisation. In March 1992 the organisation created a new category of FLS membership, which was given the name Associate Membership. A $200 donation entitled a person to become an FLS Associate Member, and the scheme was designed to create a capacity in which influential former FLS workers and supporters could be involved in the operations of the Service. Funds raised through the scheme were to be used by FLS on a number of activities: the pursuit of law reform, legal research, legal education, volunteer recruitment and training, support of the organisation's casework services and, in the event of the organisation's funding being cut, the survival of the organisation. By March 1993 there were 28 Associate Members, one of whom was former Victorian Premier John Cain.

In December 1992, FLS held a celebration to mark its twentieth anniversary. The guest speaker was the Governor of Victoria, the former Supreme Court Judge Richard McGarvie, who only months
previously had accepted an invitation to become the Service's patron. 9 Eighteen months later, in July 1994, FLS moved premises. After sixteen years at 181 Brunswick Street, the organisation moved to 124 Johnston Street, Fitzroy. The new premises were officially opened in August 1994 by the Chief Justice of the Victorian Supreme Court, John Phillips, who spoke about the importance of organisations like FLS.

These occasions, at which FLS surrounded itself with influential supporters, were indications of a pragmatic survival strategy in the time of a hostile government. But equally, they showed how much had changed since the radical days of the early 1970s. FLS now had many influential supporters who were happy to be publicly associated with the organisation. Once, as the Law Institute Journal reported in 1990 on the occasion of FLS's eighteenth birthday, community legal centres had been treated with hostility by the private legal profession. 10

One can see, then, a shift in the political positioning of FLS following the election of the Kennett Government. FLS positioned itself against the Government, but it sought to secure its future by surrounding itself with prominent legal figures. To some degree this had happened in earlier years, but never to this extent.

More than all the other changes introduced by the Kennett Government, there was one that directly concerned FLS: the reduction of funding to the Legal Aid Commission of Victoria (LACV).
Legal Aid Cutbacks

Even prior to the Kennett Government's election, the failure of the State and Federal Governments to properly resource the LACV was becoming of increasing concern to many commentators on the justice system. In a report issued in July 1990, a Federal Government Committee, known as the National Legal Aid Advisory Committee, was scathing in its criticism of legal aid schemes in Australia. The Committee, one of whose members was Pamela O'Connor, a former FLS caseworker, reported that Commonwealth and State funding of legal aid was demonstrably insufficient to meet the needs of Australians. The Committee reported that Commonwealth Government expenditure on legal aid was appreciably lower than its expenditure on public order and on social security and welfare programs, and it recommended the increased funding of national legal aid programs. In a pointed reference to the situation in Victoria, the Committee noted that in the late 1980s most of the Victorian contribution to legal aid came from interest derived from money in solicitors' trust accounts. The Victorian Government's annual contribution to legal aid had been as little as $500,000.

In the early 1990s the situation became appreciably worse, when funding restrictions began to impact heavily on the LACV's operations. A State budgetary crisis, a decrease in the interest realised on money in solicitors' trust accounts, and the increased demand for assistance engendered by a recession, meant that in 1991 the LACV refused one in three applications for assistance. In the year ending June 1992, the LACV approved only 30,229 applications for assistance, the lowest number in its eleven year history. This figure dropped by a further 200 in the following year. Greg Connellan,
FLS's Legal Projects Officer since December 1990, argued that legal aid had been cut so severely in Victoria that the situation was disastrous. He argued that large sections of the community had lost faith in the belief that the justice system was involved in dispensing justice.¹⁴

Connellan was by no means alone in this belief. Only months earlier, the High Court had delivered a landmark judgement in the case *Dietrich v. The Queen*. There the Court had held that Australian courts should, if requested, stay or adjourn trials where people charged with serious offences had been unable to obtain legal representation. The accused in the case before the High Court, who had been charged with importing heroin into Australia, had been refused a grant of assistance by the LACV.¹⁵ The High Court decision was significant because the Judges were, in effect, stating that the cutbacks to the LACV's budget were having serious ramifications on the ability of an individual in Australia to receive a fair trial.

In addition to this, in 1994 the Federal Government's Advisory Committee on Access to Justice released its report. The Committee's chairman, Ronald Sackville, had released a groundbreaking report on legal aid nineteen years earlier.¹⁶ Consistent with his 1975 report, Sackville advocated an increase in legal aid funding. He further emphasised, as he had years before, that legal aid should not only involve the funding of litigation. It should incorporate community education programs as well.¹⁷

The reduction of the LACV's budget, which saw a drop in State funding of $1.7 million in the 1993/4 financial year,¹⁸ soon affected the funding of community legal centres. Since 1981 the LACV had administered the Commonwealth and State funding of Victorian
community legal centres, and in 1993, for the first time since the establishment of the LACV, the level of FLS's annual grant fell. The reduction, from $242,000 to $231,000, was, however, significantly smaller than had been feared.19

Casework

Notwithstanding the reduction to its funding, FLS continued in the early 1990s to provide legal assistance to thousands of clients each year. The organisation's capacity to provide a high volume of casework was even improved when, in 1991, the Service opened an outreach legal advice centre at the North Richmond Community Health Centre. Free legal assistance continues to be provided from the Centre every Wednesday night.20

The establishment of the North Richmond outreach centre was one of several programs initiated by FLS in an attempt to provide a more effective service to people from non-English speaking backgrounds, a group of people who comprise over one-third of the population in Fitzroy and in neighbouring suburbs.21 Early figures suggested that about 90 percent of clients at the North Richmond outreach centre came from non-English speaking backgrounds, while at FLS's Fitzroy office, the proportion of clients from such backgrounds has been consistent at about one in three.22

FLS workers made other attempts in the 1990s to improve the organisation's service delivery to people from non-English speaking backgrounds: workers appeared in the press calling for greater free access to interpreters;23 during 1992 FLS sought and received a $2,900 grant which enabled it to train volunteers in the use of interpreters;24 and in 1993 twelve legal education articles prepared
by FLS were translated into Vietnamese and published in the popular Vietnamese newspaper *TIVI Tuan San.*

FLS's Casework Practice continued to operate in the 1990s much as it did in the 1980s. I have discussed throughout this thesis the way in which the Casework Practice has always had somewhat of a precarious existence at FLS. The cuts to the funding of the LACV in the 1990s, as well as affecting FLS's direct grant, significantly affected the Casework Practice's ability to generate income. With fewer cases receiving legal aid funding, it was inevitable that the Casework Practice would find it increasingly more difficult to meet its budget. During the 1990s the Practice, which paid the salaries of two casework solicitors, regularly sustained yearly losses, the greatest of which was $15,000 for the year ending June 1994. The shortfalls in the Practice income were met variously by loans and payments from the organisation's general funds.

FLS's casework solicitors in the 1990s have been Angela Palombo, who started in September 1989, and Emma Bridge, who took over when Jeff Giddings vacated the Legal Advocate position in February 1990. Giddings then became Legal Projects Officer, replacing Simon Bailey, who went to work in the Policy and Research Unit of the Victorian Attorney-General's Department. Prior to their appointments, Palombo had been a Tuesday night volunteer at FLS and a solicitor with a small Fitzroy law firm, while Bridge had been a Monday night volunteer and had worked at the Preston office of the LACV. Simon Northeast later joined FLS, in 1994, when Bridge took maternity leave.

In addition to their responsibility for generating Practice income, the caseworkers have been responsible for reviewing the files
handled by the night service. This has involved them checking the
dvice given by night volunteers, signing letters drafted in the
evenings, and conducting any communications needed to be carried out
on files during business hours. In one gesture to reduce the
caseworkers' regularly onerous workloads, the organisation decided in
August 1993 to cease providing ongoing assistance to clients with
property claims resulting from motor vehicle accidents. Such cases
rarely, if ever, attracted legal aid, and yet the caseworkers spent
considerable amounts of time negotiating their settlement. Indeed,
such disputes accounted for around ten percent of the legal problems
for which FLS clients sought advice. From August 1993 assistance on
such matters would only be provided by volunteers on the night
service.28

Notwithstanding the Practice's financial difficulties, the
caseworkers were involved in some significant cases in the early
1990s. Most of these cases saw FLS fulfil its self-appointed role as
a watchdog over the Victoria Police.

Police

One case handled by Angela Palombo highlighted police
harassment of homosexual people. An FLS client had been found guilty,
in the Magistrates' Court, of offensive behaviour. He and his male
friend had been kissing in a car early one morning, and police
evidence was accepted that they had been having sex. This was denied
by the FLS client. On appeal to the County Court in February 1991,
the evidence was re-heard, and the FLS client was found not guilty.
The Judge found that the police officers' suspicion of what may have
been going on in the car did not constitute sufficiently substantial
evidence to justify a conviction. More significantly, the Judge ordered police to pay the FLS client's costs.29

Similarly, in 1992 FLS represented a man charged with a number of offences, which included offensive behaviour, escaping from police custody, assaulting police, and resisting arrest. The man gave evidence that he had had sex with a man he met in a park on the night of his arrest, but he said that they had been well hidden behind bushes in an area not brightly lit. The area was a known gay beat, and the FLS client thought that the plain-clothes policeman who approached him was a gay basher, so he fled. Cross-examination of police revealed that they had not seen the FLS client engage in any sexual activity, and the Magistrate ruled that since the man's activity could only have been seen by someone taking extraordinary measures, he was not guilty of offensive behaviour. All the other charges were dismissed, after the Magistrate accepted the man's evidence that he had believed the police officers to be gay bashers.30

A more recent case saw FLS act for a number of people who were strip-searched during a police raid on a gay and lesbian nightclub in Flinders Lane, Melbourne. The raid in August 1994, during which an amazing 463 people were strip-searched by police, resulted in civil action against police.31 Greg Connellan argued in the Herald Sun that the raid showed more than bad taste and poor judgement by the Victoria Police. It raised serious questions about police powers, and about the police force's propensity to abuse those powers.32

In addition to an involvement in cases against the Victoria Police, FLS workers in the early 1990s spent considerable energy outside court criticising police operations.
Public confidence in the Victoria Police was considerably shaken in the 1990s. In the years between 1988 and 1994, a staggering 23 people were shot dead by police in Victoria. This figure was higher than the total number of fatal police shootings over the same period in all other States combined.\(^{33}\) FLS assisted in publicising this issue in 1992 by publishing a book written jointly by workers at the Flemington/Kensington Community Legal Centre and the families of three of the men killed by police.\(^{34}\) FLS workers were also visible press commentators on the issue. Connellan, in particular, criticised the police force's lack of accountability, and he was one of many people calling for a Royal Commission into the police shootings.\(^{35}\)

FLS criticisms of police operations did not stop at police shootings. Simon Bailey, the Legal Projects Officer until early 1990, appeared in the press that year criticising police over their "Operation Noah", a program which solicited anonymous calls from the public about drug crimes that had been committed. Bailey criticised police for encouraging the media to attend a raid on a house in Northcote. In the raid, news crews hustled a 55-year-old Lebanese woman, who was then charged over her cultivation of six marijuana plants.\(^{36}\) The woman, who became an FLS client, was eventually found not guilty of the charge, after convincing a Magistrate that she did not smoke the marijuana but rather used it to make a poultice to relieve pain. She had not realised that it was illegal to possess the plants.\(^{37}\) The following year Greg Connellan continued FLS's criticism of Operation Noah, arguing that the program provided the opportunity for vindictive people to cause embarrassment to others. He called on Magistrates and officers-in-charge of police stations to refuse to issue search warrants purely on the basis of anonymous and uncorroborated information received through Operation Noah.\(^{38}\)
In other press appearances concerning police in Victoria, FLS workers criticised the culture of violence that existed within the police force, the police force’s use of strip-searches, and the manner in which the police force recruited new members. FLS workers also criticised the existence of laws which, they believed, gave powers to police that could readily be abused. Such laws governed the taking of suspects’ fingerprints, and extended to the prohibitions on graffiti, public drunkenness, and the use of marijuana.

In a broad commentary on the criminal justice system, Angela Palombo argued in 1991 that people acquitted of criminal charges should generally be able to recover their costs against police. As I mentioned earlier, Palombo had previously had success in obtaining a costs order against police. Here, she argued against a State Government proposal to legislate around the High Court case which had given Magistrates the authority to make costs orders against police. Later, in 1993, Greg Connellan was critical of the State Government’s plans to incorporate "victim impact statements" into the criminal trial process. He was concerned that the proposal would unduly and inappropriately influence the severity of the punishment given to people convicted of crimes. He maintained that: "Sentences should reflect the view of society, not the victim."

Another FLS worker who maintained a close watch on police in the 1990s was Sam Biondo, the organisation’s Community Development Officer. Biondo, like his predecessor Robin Inglis, had first been involved with FLS as a social work student on placement. After years of voluntary work with the organisation, he became an employee in 1989. In May 1993 Biondo, together with Darren Palmer, a legal studies lecturer at La Trobe University, released an 81-page report
on police violence. Entitled the *Federation of Community Legal Centres Report into Mistreatment by Police, 1991-92*, the report collated and analysed information concerning 189 cases of alleged police mistreatment. The mistreatment ranged from people being denied access to a lawyer, to verbal and physical abuse. One respondent to the survey claimed to have been kicked more than 20 times in the groin and upper body. Another claimed to have been dragged from his caravan at gunpoint. After he was handcuffed, a hessian bag was placed over his head, and he was then bashed by police.

Ninety-three people, just under half of those who responded to the survey, claimed to have suffered physical injury at the hands of police. Only 40 percent of the people surveyed made formal complaints. Among the 35 recommendations made in the report, Biondo and Palmer recommended that an impartial police complaints system be established.

The Victoria Police force greeted the report with scepticism. Chief Commissioner Neil Comrie argued that the report contained "mischievous, carping criticism, poorly disguised as serious research". He rejected the call to establish an independent police complaints tribunal. Moreover, Comrie called on the State Government to examine the funding of the Federation of Community Legal Centres, which had published the report.

Biondo responded by describing police criticism of the report as an attack on the messenger. He argued that: "Victoria cannot afford a police force with a leadership that refuses to listen to any voice other than its own." He added that the statement made by Comrie about the Federation's funding was "a tactic aimed at stifling free speech and silencing any comment critical of police corruption and abuse."
In the years 1990 to 1994, FLS continued to adopt a variety of strategies to meet its objectives. The Casework Practice continued in much the same manner as it had operated in the 1980s, as did the night service, although a tragedy shook the organisation in 1990. A man, who attended FLS with his family one night to enquire about having his will drawn up, was shot dead in Fitzroy while returning home.49

The after-hours legal advice service, Alphaline, continued in the 1990s to provide assistance to young people in trouble with police. Meanwhile, FLS workers continued to be involved in community legal education, the most popular medium for which was radio. FLS workers, particularly Greg Connellan, regularly appeared on radio station 3AW in the early 1990s, helping to produce 160 Monday afternoon programs over a three-and-a-half year period. The programs canvassed a wide range of legal and public issues.50 During this time, FLS workers were also regular contributors to programs on the local community radio station 3CR.

Meanwhile in publishing, FLS produced a fifth edition of Where You Stand in 1992. The annual Law Handbook, which won the Australian Society of Indexers Medal in 1992, continued to sell well under Cosima McPhee's editorship and Bruce Holland's marketing. And a new publication, the Youth Advocates Guide, appeared in 1992. The 68-page guide provided basic legal information for professionals who worked with young people and people with intellectual disabilities.51

In addition to these activities, FLS, largely through the work of Greg Connellan, was involved in several new initiatives. FLS and the Consumer Law Centre joined with a number of large law firms in 1994 to establish the Public Interest Law Clearing House. The
Clearing House will receive applications and refer public interest test cases to large law firms, which will conduct the cases for free. FLS has also entered into negotiations which may one day see it provide a clinical legal education course for Melbourne University law students. Such a program, under which students would be supervised to assist FLS clients, would replicate the relationship between Springvale Legal Service and Monash University Law School.52

While the workers who constituted the public face of FLS were busy during the early 1990s, so too were the behind-the-scene workers, who ensured the smooth running of a frenetic workplace. Kate Ring, Administrator for five years from 1989, was the person on whom most of the responsibility for the Service’s internal cohesion rested. Her departure in September 1994 to the Overseas Service Bureau marked the end of a significant contribution to FLS. Over the same period of time, Maree Mayall, as bookkeeper, managed to keep FLS’s complicated and sometimes precarious financial existence in a state of repair acceptable to the Service’s funders. This too has been a significant contribution. Maeve O’Driscoll and Denise Wasley, the Front Office Managers during the early 1990s, and Chris Hall, the organisation’s principal typist, also gave generously of their time and energy to FLS, both inside and outside of business hours. They deserve recognition.

The early 1990s saw some interesting developments take place at FLS. FLS’s function as a provider of casework services continued as before, and the organisation continued to fulfil its self-appointed role as a critic of powerful institutions. If anything, FLS in this period strengthened its position as a critic of police.
But, as I mentioned at the start of this chapter, FLS had never before been so involved in the protection of existing legal principles as it was in the early 1990s. Nor had it ever before sought, or received, the support of so many influential figures. FLS workers in 1972 would have thought it absurd for them to be seen as protectors of judicial and quasi-judicial independence. The earliest FLS workers were more intent upon labelling the system in total as biased against the interests of people on low incomes. There is no doubt that FLS's political positioning in the early 1990s can be explained by reference to the changes introduced, and the fears induced, by the Kennett Government. But whether such trends endure beyond the life of the Kennett Government will remain to be seen.
NOTES FOR CHAPTER SIX

1 Age, 6 November 1992, 13; Age, 7 November 1992, 3.

2 Age, 27 October 1993, 1.

3 Herald Sun, 11 December 1993, 1. The proposals ultimately were not implemented, although the resources allocated to the Director of Public Prosecutions were substantially reduced in 1994, forcing the Director's resignation.


5 Moira Rayner, "Caliph Kennett Cuts the Tree of Justice Down to Size", Age, 30 January 1995, 10. In 1995 the College finally won its battle against the Government, when the Full Victorian Supreme Court decided in its favour.

6 See, for instance, Rayner, "Caliph Kennett Cuts the Tree of Justice Down to Size".


10 "Fitzroy Legal Service Comes of Age", (1990) 64 Law Institute Journal 1088.

11 National Legal Aid Advisory Committee, Legal Aid for the Australian Community: Legal Aid Policy: Programs and Strategies (Canberra: AGPS, 1990), 74, 77-8, 82-3, 291-2.

12 National Legal Aid Advisory Committee, Legal Aid for the Australian Community, 82.


14 Letter from Greg Connellan to the Age, 11 January 1993, 12.


16 Ronald Sackville, Legal Aid in Australia: A Report by the Commissioner for Law and Poverty, Professor Ronald Sackville (Canberra: AGPS, 1975).


19 From the middle of 1993 the LACV began to budget according to the financial year rather than the calendar year. I have transposed the figures to give calendar year amounts so that comparisons with previous years may more easily be made. See further, Appendix B.


31 *Age*, 11 August 1994, 1; *Sunday Age*, 28 August 1994, 3; letter from Greg Connellan and Sid Spindler to the *Age*, 11 August 1994, 14.


33 In the *Herald Sun*, 2 December 1994, 4, it was reported that 22 police shootings had occurred between 1988 and 1994 in Victoria. A further police shooting occurred days after this report.


35 Letter from Sid Spindler and six other signatories (including Greg Connellan) to the *Age*, 26 May 1994, 16.

36 *Age*, 8 February 1990, 3.

37 Jeff Giddings, interview, 10 January 1994.

38 Letter from Greg Connellan to the *Age*, 13 February 1991, 12.

39 Letter from Connellan to the *Age*, 9 December 1991, 10; *Age*, 12 May 1993, 7.

40 Letter from Angela Palombo to the *Age*, 5 December 1990, 12; letter from Connellan to the *Age*, 24 November 1990, 10; Greg Connellan, "Cutting the Cost of Justice for Everyone", *Age*, 22 February 1993, 13.

41 Letter from Palombo to the *Age*, 22 February 1991, 12.


47 *Age*, 31 May 1993, 18.

48 Letter from Sam Biondo to the *Age*, 3 June 1993, 14.

49 *Age*, 8 September 1990, 5.


Chapter Seven

LAWYERS

Early in 1973, only weeks after opening, FLS faced a problem which could have led to its closure. Many FLS volunteer lawyers were barristers, who, according to the Victorian Bar Council Ethics Committee, were potentially acting unethically. In a profession divided in Victoria between barristers and solicitors, FLS's volunteer barristers were crossing the divide and acting as solicitors. They were meeting the public directly without a brief. For FLS, the problem was extremely serious. Should action have been taken to strike volunteer barristers from the Victorian Bar Roll, the Service might well have closed.¹

This problem is symbolic of the dilemma facing lawyers who would be reformers. Numerous rules and conventions exist to prescribe the roles to be played by lawyers, and those lawyers who would like to be both lawyers and reformers face difficulties. In the above instance, the problem was resolved in favour of FLS. On 8 March 1973 the Victorian Bar Council adopted the recommendation of its Ethics Committee to make an exception to the rules when free legal assistance was being provided to clients of a "legal aid scheme". Twelve new rules were adopted, according to which barristers could attend legal aid scheme centres, see clients without the presence of an instructing solicitor, sign letters on behalf of the centre, and negotiate orally with third parties.²

There are several ways to view the Council's adoption of new rules. Phil Molan, an early FLS volunteer, recalls FLS workers threatening to take the matter to the Age newspaper, where the publishers were interested in running a feature Saturday article on
the whole affair. There was even talk of establishing a breakaway Bar organisation. On another reading, the new rules came about because FLS volunteers Peter Faris, Geoff Eames and Jim Kennan drew the Council's attention to a ruling of the Bar Council in England, according to which barristers were encouraged to work for free legal services. Kennan recalls that the three encouraged the Victorian Bar Council to adopt the English Bar's approach and waive the rule which prohibited barristers from doing the work of solicitors in the case of voluntary work at legal services. So, on one view, the Victorian Bar Council altered its position because of considerations beyond the merely legal, yet on another, it had a legal precedent to justify the change.

This episode provides insight into the ways in which workers at FLS have sought to employ different methods to challenge the role of lawyers in society. Sometimes the challenge has taken the form of external criticism of the profession, while on other occasions lawyers' professional organisations have been lobbied. Sometimes the challenge has been manifested by the types of cases handled at FLS, sometimes by the refusal of FLS workers to concentrate solely on casework as a means of achieving reform.

In this chapter, I shall consider how FLS has altered what it means to be a lawyer in Australia. To do this I shall draw on some developments at FLS to which I have made reference in earlier chapters. This is done with a view to pursuing here the organisation's relationship with the legal profession in greater depth. The extent to which FLS has been successful in changing the legal profession is, of course, debatable. One argument is that FLS has diluted its criticisms of the legal profession in its struggle to remain a viable legal organisation. Another argument is that the
legal profession has had to make changes in order to accommodate FLS's criticisms of it. So for some, FLS has modified its initial hostility to encompass the norms of the legal profession. For others, the legal profession has had to redefine itself to take account of the criticisms presented by FLS and other community legal centres.

The Legal Profession

For centuries lawyers have occupied a privileged position in western societies. In Australia, lawyers constitute probably the most wealthy, and certainly the most powerful, profession. As well as holding positions of power within legal institutions, as Judges, Magistrates and heads of lawyers' professional organisations, lawyers have also held significant power within legislatures. For while the proportion of Australian politicians with legal backgrounds has generally been low in comparison to the United States and Great Britain, a disproportionately high number of lawyers have been Premiers and Federal and State Ministers. Of the eight Prime Ministers since 1949, five have practised as lawyers.

But the real power held by lawyers comes from their central place in the administration and enforcement of the law. This role, particularly in the wigs-and-gowns theatre of higher courts, posits lawyers as part of a time-honoured tradition. Lawyers are the attendants of the slow-changing common law, and they are responsible, as Judges and advocates, for validating and applying legislation. In these positions lawyers form an elite, the ultimate arbiters of what is and is not lawful and permissible. Such is the nature of legal education and legal reasoning, that the right of the general populace to a voice in these procedures is usually non-existent.
The conclusion that lawyers occupy a powerful position in society is confirmed by demographic evidence collated soon after FLS was founded, which showed lawyers to be disproportionately members of the most privileged group in society - those who are white, wealthy and male. A study conducted by the Victoria Law Foundation in the mid-1970s revealed men to make up 91 percent of lawyers; 84 percent of lawyers were Australian born, as against the Victorian average of 77 percent; 70 percent of lawyers were educated in non-government schools, as against the general population figure of 24 percent; and 45 percent of lawyers had fathers in upper professional or non-government managerial positions, as against the general population figure of ten percent.8

Entirely consistent with this demographic information has been the research carried out by Roman Tomasic into the social attitudes of lawyers. In a survey of over 500 New South Wales lawyers in 1977, he and Cedric Bullard concluded that the vast majority of the legal profession supported and identified with conservative political parties. While this is generally the case with most professional groups,9 it was significant that less than one in five of the corporation lawyers and solicitors in private practice questioned named the Australian Labor Party as the political party which best catered for their political orientation.10

A subsequent report by Tomasic concluded that lawyers generally viewed their legal colleagues to be primarily concerned with preserving the status quo rather than with the promotion of law reform. Monetary considerations prevailed over interests in social justice.11 This is consistent with research carried out in the mid-1970s by Jeffrey Fitzgerald, as part of the Commission of Inquiry into Poverty. In a survey of 213 Victorian lawyers, Fitzgerald found
that only one in four had spent more than ten percent of their time in the previous three months doing legal work of any sort for poor persons.\textsuperscript{12}

Not surprisingly, the volunteers who formed FLS saw the legal profession to be a significant impediment to social justice. Representative of many FLS volunteers, Geoff Eames (who would later become a Supreme Court Judge) commented in 1973 that in the atmosphere which led to the formation of FLS "... lawyers were characterised as tools of the establishment hell bent on preserving the status quo". Many young graduates, Eames continued, "... saw law as a socially parasitic profession unable to satisfy their own idealism".\textsuperscript{13}

Reformist Lawyers

Despite the not unreasonable generalisation that lawyers as a profession are preservers of the status quo, it would obviously be wrong to argue that the only lawyers in Australia who have been interested in achieving social change have been community legal centre lawyers. Of the many lawyers who leave private practice to pursue parliamentary office, the desire to bring some change to society is often a significant motivation. Likewise, those who seek judicial office often do so in the belief that their learning can be applied to the benefit of society. Even those lawyers who work in private practice, as barristers or solicitors, can be driven in varying degrees by a desire to achieve social reform. For solicitors, this desire can be served by acting on behalf of poor clients at a reduced cost, by pursuing cases in the public interest which aim to
clarify ambiguous points of law, or, less directly, by being involved in law reform groups.

For barristers, the desire to serve society can mean all of the above. It can also mean adopting the role of the people's lawyer, usually as counsel for the defence in criminal trials. The figure of Frank Galbally, who has appeared as defence counsel in over 300 murder trials, is quintessential in this regard. In taking on the unwinnable case as defence attorney, as he did in 1985 and 1986 in the defence of Kevin Barlow (who faced execution in Malaysia for drug-running), Galbally stood for the vulnerable ordinary person against the might of a government.\(^4\)

However, the role of Galbally, and other defence lawyers, is less one of seeking reform as it is of ensuring that even the most defenceless individuals have the equal protection of the law. Their role is not one of changing the law, nor of changing the work of lawyers.

Without diminishing any of these methods of achieving reform, it is fair to argue that few lawyers can be defined according to their search for change. Law reform or public interest work may comprise a significant part of some lawyers' operations, but such work is normally extrinsic to the day-to-day operations of lawyers. One significant exception to this would be those lawyers who work as representatives of employees in the field of industrial relations law, lawyers to whom I shall refer as trade union lawyers.

Trade union lawyers provide an interesting contrast to most lawyers because they actively engage in representing one class of people. Most lawyers maintain the rhetoric of being available to all clients who want to pursue their legal entitlements. In less
rhetorical terms, most lawyers seek to make the best case on behalf of whoever can pay them. Traditionally, a lawyer ought to be disinterested in the outcome of a case and only be interested in the legal process. The lawyer is simply an advocate, and is neither judge nor jury.\textsuperscript{15} According to this conception of professional practice, a social conscience is at best irrelevant, at worst obstructive.

Trade union lawyers challenge this model by restricting their availability to workers and unions. They do not work for employers. In doing this, they position themselves as agents within a broad class struggle, as the advocates of their working-class clients.

Lawyers owe much of their importance in the field of industrial relations law to the limited power vested in the Federal Government over industrial relations by section 51(35) of the Constitution. The consequent complexity involved in creating a federal industrial relations system on so limited a basis has meant ample work for industrial relations lawyers.\textsuperscript{16} Lawyers also occupy a significant niche within the States and Territories through the existence of separate industrial relations commissions and the various jurisdictions governing work-related personal injury.

Maurice Blackburn and Co. is the oldest trade union law firm in Melbourne. Its founder, a Labor member of the House of Representatives from 1935 to 1943, was a socialist twice expelled from the Labor party: in 1935 for his association with the Victorian Council Against War and Fascism, and in 1941 for his association with the Australian-Soviet Friendship League.\textsuperscript{17} When he opposed Prime Minister Menzies' \textit{National Security Bill} in 1940, a bill which sought to remove guarantees against industrial and military conscription and courts-martial for civilians, Blackburn maintained that the bill was intended to be used against workers. Despite the fact that the bill
was supported by all but four Labor members. Blackburn's duty was to defend his people, the trade unionists.18

Other trade union law firms in Melbourne include Slater and Gordon, John Zigouras and Co., and Holding Redlich. Many of these firms have close connections to the Australian Labor Party. For example, Clyde Holding was a Labor Opposition leader in Victoria and subsequently a member of the House of Representatives, while Peter Redlich was a State President of the Victorian Labor Party in the mid-1970s.19 John Button, a Minister in the Hawke and Keating Governments, was a partner at Maurice Blackburn and Co. Trade union lawyers are not only solicitors. A number of barristers, such as Ted Laurie, Queen's Counsel, have been prominent in Australian history as trade union barristers.20

Trade union lawyers were the first group of lawyers in Australia to actively seek to represent one group of people to the exclusion of others. A corollary to this is that there are also lawyers who specialise in acting for employers, such as those lawyers who work for the law firms Mallesons and Moule Hamilton & Derham.21

Even though industrial relations law has proved to be one of many lucrative fields of work for lawyers, trade union lawyers in Australia are perhaps the group most closely associated with community legal centre lawyers. Both trade union lawyers and "community lawyers" work with particular groups in society whom they consider to be disadvantaged: trade union lawyers act for workers, community lawyers act for people on low incomes. Both trade union lawyers and community lawyers see their work as principally directed towards achieving change. The main difference between the two groups is that trade union lawyers usually charge fees, whereas community lawyers do not.
Community Lawyers in Australia

When FLS opened, in December 1972, its volunteer lawyers saw themselves strongly as representatives of the working class. Established in Fitzroy, which one reporter wrote was widely regarded as "Melbourne's skid row", newspapers proclaimed the Service with headlines such as "Lawyers for the People", "Law for the Poor" and "Law for those who need it". Judy Peirce and Denyse Dawson told the Woman's Day magazine that they were both from working-class backgrounds and had come back to volunteer at FLS to help the people they understood.

Volunteers at FLS saw mainstream lawyers to be intricately involved in the oppression of their clients. Eilish Cooke recalls that: "Lawyers as a profession and the legal system were seen as agents of repression ... they were seen as the establishment". In a radio interview, Peter Faris said that jails in Australia were largely comprised of working-class people and that: "The whole use of lawyers to the ruling-class and the courts is to keep their clients under control so that the process of sending people to jail is orderly." The Nation Review reported that the radical young lawyers at FLS saw the existing legal machinery as the instrument of middle-class repression. They felt that lawyers should "serve the people".

All of this amounted to a significant challenge to the legal profession, and it was a challenge the media relished. The Herald ran an article in June 1973 which was typical of those reporting on FLS. It began with an aphorism from Barten Holyday, that an oyster may as well be opened without a knife as a lawyer's mouth without a fee, and continued:
Some people used to see some barristers and solicitors as avaricious vampires with a keen interest in the fees they will be paid for their services. But not any more. Not in Fitzroy anyway.28

The initial response by peak bodies within the legal profession to the opening of FLS was cold. It will be remembered that a Law Institute of Victoria committee, known as the Brusey Committee, condemned the operations of FLS soon after it opened because its voluntary nature meant that professional standards would be sacrificed. It was preferable "... for legal action to be undertaken only through solicitors' offices and not through a service such as this."29 Michael O'Brien recalls members of FLS being invited to the Law Institute with a view to having the Service work in conjunction with the Law Institute. This was resisted on the basis that the Service would lose its ethos.30

Having established themselves in opposition to standard legal practitioners. FLS volunteers sought to provide a service which could meet their objectives. As a free service open six, later five, nights a week under the Fitzroy Town Hall, physical and financial accessibility could be provided. But more than this was sought. The vague hope that the organisation could de-mythologise the role of lawyers was one of the paramount concerns of early FLS workers. Michael O'Brien and Eilish Cooke were two early FLS volunteers for whom this was important. According to Cooke, FLS workers were opposed to conventional lawyers. They wanted to de-mythologise the law by de-mythologising lawyers.31

Two concerns seem to have informed this aim. One was that the legal profession restricted access to lay people who sought legal information. Lawyers generally only gave legal information to people
who were their clients, and, even then, the information was usually limited to advice on what to do, not why.32

A second concern of FLS workers was that a strictly legal approach to the problems of clients was too narrow. More often than not legal problems would entail social problems. The hope that a broader perspective would be brought to people’s legal problems than was usually the case was one significant way in which FLS set itself apart from typical legal practices.

Responsibility for the implementation of this broader approach largely fell upon the volunteers who were not legally trained - the so-called "non-lawyers". It was their role to talk with people about their specific problems and about wider issues of which their particular cases may have been symptomatic. It was up to these workers to "provide an atmosphere as divorced as possible from that of a normal 'office' [and] to try hard along with the lawyers, to break down the usual 'client/Lawyer' roles mostly played out on a 'one to one' relating basis".33 The aim was to equip clients so that they could be involved in the solution of their own and others' problems.34

The importance to FLS of interpreters, administrative workers and others who came under the heading "non-lawyers" has been a matter of unending debate since the Service’s formation. For some people, such as John Finlayson, "non-lawyers" were fundamental to ensuring that the Service remained community based and not dominated by lawyers. It was a community-based legal service, not a legal aid society.35 For others, like Remy Van de Wiel: "Non-lawyerism was a token of the lawyers to avoid the reality that they were practising ordinary law."36
Despite disagreement on this issue, there was agreement at FLS that it was important to try to de-mystify the role of lawyers. Integral to this approach was the projection of the belief that there was nothing special about being a lawyer. One way in which this was done was for volunteer lawyers to simply say it, as Peter Faris did on radio when he remarked:

Well look it's not very hard to train a dog and it's much the same as training a lawyer. You can teach animals and people things like that. There's nothing magical about what people do in court. It's not very hard, if lawyers can do it, anybody can do it.37

Another way in which FLS volunteers made it clear that they saw nothing special about being a lawyer was in their presentation of themselves: their dress, and the nature of the office in which they worked. The fact that lawyers were giving advice in casual clothes was great fodder for the media. The Herald reported that FLS lawyers could be wearing an open-necked shirt and leather jacket!38 "Legal Eagles in Jumpers and Jeans" was the headline in the Woman's Day.39

Work conditions ensured that FLS's small offices in the dungeon under the Fitzroy Town Hall could not be mistaken for a commercial law practice. So cramped were the conditions that Felicity Faris recalls a Queen's Counsel interviewing someone in the bathroom because there was no other free space.40

Sometimes the forum in which advice was received seemed a little too accessible. In the early 1970s John Phillips was a highly regarded barrister. He would later become the Chief Justice of the Victorian Supreme Court. Remy Van de Wiel arranged for Phillips to appear for an FLS client for free. The client had been interviewed at FLS by staff who, in jeans and T-shirts, did not present as typical lawyers. An appointment was made for the client to meet Phillips outside the court where the charge was to be heard. When the client
turned up to the court, he was accompanied by another barrister. Phillips introduced himself as the barrister arranged by FLS to represent the client, to which the client replied something like "It's all right mate, I've got myself a real lawyer." 41

It was around this time that "real lawyers" in Australia faced a bigger threat than the operations of FLS posed, with the establishment of the Australian Legal Aid Office (ALAO). The creation of the ALAO threatened to make lawyers like those at FLS much more commonplace.

Legal Aid

In Chapter Three I discussed how, from 1973, the Whitlam Government applied an unprecedented amount of funds into the establishment of a new legal aid scheme. The rise of the ALAO did much to change the way lawyers in Australia operated and were viewed. It is worth recalling how Lionel Murphy, the architect of the ALAO, sought to change the boundaries which had previously restricted the work of lawyers.

In proposing to staff the ALAO with salaried lawyers, rather than simply provide funds to administer referrals to private practitioners, Murphy sought to change the legal profession's attitude to acting for poor people. Robert Kennedy, the United States Attorney-General at the time of that country's so-called "war on poverty", had said that lawyers were responsible for permitting the growth of two systems of law, one for the poor and one for the rich. 42 Murphy, who had visited storefront law centres in the United States, expressed similar sentiments when he said that he hoped that "the young lawyer with a social conscience will be attracted to join
the [ALAO]. Rather than concentrating the Office's services in city skyscrapers, Murphy, it will be recalled, wanted to open storefront offices which people would use as willingly as they used garages for their ailing motor cars. In the same speech to the Senate in December 1973 in which these statements were made, Murphy added that an interim grant had been made to FLS as a "pilot scheme of the 'storefront' law office type". This interim grant, and then Murphy's grant to FLS the following year of $20,000, were extraordinarily significant. For, according to one of his former staff members, Murphy sought to break the grip of the profession:

He saw Fitzroy Legal Service as a potential model. He gave the grant straight to them, not through the profession, without strings attached. He liked to encourage non-conformity.

Tony Lawson, a former FLS lawyer, recalls the private profession in Victoria being particularly opposed to the ALAO. Hostility by members of the legal profession to the scheme mounted, becoming strongest in 1975.

In that year, as I discussed in Chapter Three, an Extraordinary General Meeting of the Law Institute of Victoria sought to gain support for a challenge to the legality of the ALAO. This was also the year in which the Federal Government sought to pass the Legal Aid Bill and give legislative backing to the scheme. Reasons given for hostility to the scheme ranged from the belief that salaried lawyers could not act in the best interests of clients, to the opinion that the ALAO represented an unconstitutional exercise of power by the Federal Government. The extent to which these stated grounds were the sole cause of hostility to the ALAO is not clear. But the fact that the new scheme represented a fairly explicit criticism of the legal
profession's inaccessibility to poor people could hardly have been irrelevant.

Given the initial hostility of many lawyers to the establishment of the ALAO, it is worth considering why this position changed to one of acceptance. The election of the Fraser Liberal Government, after the sacking of Whitlam in November 1975, certainly removed some of the source of the threat felt by lawyers' organisations. Another reason for a change in the attitude of lawyers to the ALAO was the fact that it became clear after a year or two that the ALAO would refer significantly more legally-aided cases to private solicitors than would be handled in-house by salaried solicitors. Thus it became apparent that the private profession stood to gain financially from the system.

A dearth of statistical information regarding the number of cases handled by salaried ALAO staff makes it difficult to assess the ratio of cases handled in-house as against those privately referred. However, details on federal expenditure are available. They show that while more money was spent on the ALAO than on private referrals in the year 1974/5, this pattern was permanently reversed from the year after.46 Susan Armstrong writes that in all States there is no doubt that the great majority of successful applications were referred to private practitioners.47 Indeed, according to the Director of the ALAO in a paper presented in 1976, one of the principles upon which the ALAO operated was that the private profession should conduct the majority of legal aid cases.48

As justification for this new policy of referring cases out, the Director of the ALAO argued that the sheer volume of work meant that the salaried staff could not cope.49 But despite the fact that
the ALAO did have trouble attracting experienced lawyers to become employees, a more convincing reason is given by Susan Armstrong. The referral policy was a calculated attempt to buy off hostility from the legal profession. The policy reduced the possibility of a boycott or constitutional challenge.50

Coinciding with the emphasis upon private referrals, the legal profession's fears that it stood to lose business disappeared. Although a private referral meant payment of only 90 and later 80 percent of the standard legal fee, the alternative, if a defendant appeared unrepresented or if a civil case did not proceed, was no legal fee.

A broader ramification of the referral policy was the failure of the idea that poverty lawyers would be employed by the ALAO to represent poor people as a class. Certainly some private lawyers did considerably more legal aid work than others, but the idea that the ALAO would consist of salaried lawyers working for a class of people was never realised. Poor clients, as individuals, could receive legal assistance for their cases, but any notion that they were members of a class which needed attention upon more systemic issues than individual cases, was lost.

When State and Territory Legal Aid Commissions were established, as part of the Fraser Government's policy of new federalism, the role of legal aid bodies as primarily referral agencies was ensured. In the twelve months to June 1983, the Legal Aid Commission of Victoria (LACV) referred 87 percent of cases to private practitioners. This figure was reduced to around 75 percent in later years.51 In effect, as Stephen Tomsen argues, the legal profession traded control over legal aid for the ongoing subsidisation of the private legal market.52
To be fair to these legal aid bodies, they did oversee an unprecedented level of legal aid funding, and they helped to satisfy the legal needs of many individuals. They also oversaw the establishment of increased duty lawyer schemes and community education programs, and were responsible for funding community legal centres. But the initial promise of reform to the legal profession, associated with Lionel Murphy's plan to see "small unpretentious 'storefront' offices opened" wherein "salaried lawyers ... will work in close co-operation with community welfare organisations",53 was not delivered upon. Indeed, in the early 1980s, one of the stated aims of the LACV was to maintain good relationships with the legal profession.54

At FLS's tenth birthday celebrations, Victorian Premier John Cain quoted Clinton Bamberger of the United States Legal Service Corporation, saying: "The great danger is that legal aid has really become aid for lawyers, not clients".55

Small Reform

Given that Federal Government initiatives into legal aid failed to deliver the type of reform to the legal profession that they once promised, it is worth considering how FLS, on a small scale, tackled many of the issues which confronted the ALAO and the LACV.

When it was formed, FLS presented itself, and was presented by the media, as radical. Lawyers and "non-lawyers" were volunteering many hours each week giving free legal assistance while espousing a reasonably unanimous view that lawyers were agents of oppression. Yet, in the mid-1970s, following the receipt of government funding, workers began to consider that the organisation had something of a
future ahead of it. At the same time, the once relatively radical critiques of the legal profession turned to become increasingly more pragmatic.

Some volunteers, like Remy Van de Wiel, left, upon seeing the Service quickly become too bureaucratised. For those who remained, one central question needed to be answered: how could the Service sustain a critique of the legal profession and at the same time exist as an organisation which employed lawyers? The perceived radicalism of the early days had allowed FLS volunteers, and the media which reported on them, to attack the legal profession with something approaching impunity. The lawyers at FLS were all volunteers, and the criticisms that they provided of the legal profession were received warmly by all but the legal profession itself. The challenge in the years ahead was for the organisation to develop different ways of practising law, and not to become that which it criticised.

It was clear enough how lawyers could continue to be used to achieve one of FLS's central aims - provision of accessible legal assistance. The mere existence of the organisation, with its oversupply of volunteers, ensured that this aim could be achieved. More difficult was the question of how to use lawyers in the search for social change. Since February 1974 Danny Spijer, the first lawyer employed by FLS, had acted principally to co-ordinate the operations of volunteers in a chaotic work-place. It was when he was replaced, in April 1975 by Julian Gardner, that FLS first really tackled the issue of how best to use a paid lawyer to further both of the Service's central objectives.

In the September 1974 edition of the *Legal Service Bulletin* (formerly the *Fitzroy Legal Service Bulletin*) the editorial confronted this issue. FLS had just received its first significant funding.
$20,000, and there was now the possibility of giving greater emphasis to legal educational programs and law reform. The editorial continued:

In the long term with a new Service facing new and wider problems, some members, (not all) feel that a non-lawyer, skilled and experienced in social, educational, political and publishing areas, and, importantly, one trained to think outside the intellectual confines inherent in a lawyer’s training and vocation, should be appointed ... Where this super "cracker-bum" character is to be found ... [is a question] currently left with the Gods. Indeed, someone with Christ-like vision, dedications, talent, and revolutionary zeal (not to mention a well developed martyr [sic] complex) is required.57

Written by Bryan Keen-Cohen, who would later achieve fame as counsel in the Mabo land rights case, the editorial went on to state that through the promotion of community legal education and law reform, the legal profession and the Legal Service Bulletin would eventually become redundant and irrelevant.58

The creation of a second paid position at FLS, in addition to the position of Administrator, was the subject of much debate at a General Meeting in October 1974. One suggestion, it will be remembered, was to employ a "community worker" and not a lawyer. It was pointed out that lawyers may solve individual problems and yet do nothing about changing the law or the practices of lawyers. But the proposal for a community worker was rejected in favour of employing a "lawyer/initiator".59 Gardner was employed in this position, and carried the burden of being many things to many people.

Gardner’s role, he recalls, was not to be a caseworker, but to be a "shit-stirrer".60 His job was largely undefined, doubtless because the position itself was novel. When he applied for the job, he gave priority to issues of law reform, and also emphasised the need for FLS to produce legal educational material.61 Gardner later successfully argued that the title for his position should be changed
to "Legal Co-ordinator" and, while he did conduct some casework, his primary focus was on broader issues of reform.

When in March 1976 FLS took on its first casework solicitor, the organisation was beginning to resemble a private practice. It was Gardner's idea for the Service to create the new position, which would largely be funded through referrals from legal aid agencies. But there were problems from the outset with FLS's Casework Practice. Charles Beckwith, the first casework solicitor, saw his primary role to be to draw income for the Service, rather than to involve himself in community benefit law.

In time, other community legal centres raised objections to the existence at FLS of a referral-back solicitor. Part of the objection was philosophical, namely that the presence of a private solicitor at a community legal centre was anathema to the provision of free and accessible legal assistance. The concern here was that there would be a temptation at FLS for the caseworker to screen clients, to see only those whose cases could attract legal aid. Part of the objection concerned the allocation of the legal aid dollar. for FLS was seen to be duplicitous, double-dipping for its own funds and for the wages of its casework solicitor.

Nor were these concerns confined to other community legal centres. As I discussed in Chapter Four, in early 1977 the ALAO advised FLS of its policy not to refer matters to salaried solicitors. The principal reason given was that it was the duty of the ALAO to choose a client's solicitor, and the Office worked to ensure "a reasonable and equitable spread of work amongst the private profession". FLS was seen to have a captive market, encouraging people to come in for free assistance, and then billing the ALAO to act in cases which qualified for legal aid.
By late 1977 the problem with the ALAO had been officially resolved, after Gardner had drawn the attention of the ALAO to the practice in the United Kingdom whereby legal services could bill legal aid bodies for work done on behalf of legally aided clients.\(^65\) However, the ability of FLS to engage in referral-back casework, which makes FLS unique amongst Victorian community legal centres, remains the cause of many headaches for the LACV.

The resolution of the problem with the ALAO coincided with a change in thinking about the casework position. Rather than existing to draw income for the Service, it was now hoped that the caseworker would be self-sufficient financially and able then to be engaged more in community benefit law, an approach "more in accordance with the philosophy of the FLS".\(^66\)

Debate again arose concerning the appropriateness of having a referral-back caseworker at FLS when, in March 1979, the organisation decided to employ a second caseworker. Against this proposal, it had been argued that the organisation ought not to expand simply for the sake of doing so. But the successful arguments were pragmatic: the Service would be better able to handle urgent cases; it would be able to cover for the holidays of one caseworker; the caseworkers could support each other and share knowledge; and more appearance work could be conducted.\(^67\)

In terms of achieving social change, this move could be justified on the basis that it would better enable FLS to gather and build expertise in enforcing the rights of people on low incomes. Even so, this did not amount to radical reform of the legal profession. To be sure, it is easy to underplay the difficulty facing the organisation: it had to reconcile philosophy with the exigencies
of remaining a viable organisation able to provide some service to 
people in need.

Arguments against the existence of caseworkers, indeed against 
the existence of any paid workers at FLS, have been put by former 
volunteers. Remy Van de Wiel has argued that the receipt of 
government money was part of the disintegration of FLS. "Money became 
the need rather than education becoming the priority."68 Peter Faris 
argues that FLS became absorbed into the establishment.

There's a pretty fair case for saying that [FLS] was seen 
as being a radical and dangerous alternative and, in the 
beginning [the establishment] fought us and then they 
consumed us ... So it was just a ripple in the legal 
profession which came and went perhaps in a year and then 
died.69

For Van de Wiel and Faris, the increased size and bureaucratic 
tendencies of the organisation were its problems.70

When confronted with these arguments, Tony Lawson. FLS's third 
casework solicitor, becomes passionate, characterising them as 
"anarchic/romantic" concepts.

How did they think the place was going to operate ... 
where was the money going to come from to pay for the 
telephones, stamps ... A constant dilemma ... was to 
ensure that in the use of volunteers there was sufficient 
quality and continuity to ensure that we didn't fuck up 
people's lives more than when they'd come to the legal 
service ... I suspect what they're talking about is that 
they had some other ideals ... which were along the lines 
of the challenging of traditional legal culture ... my 
view about that is that organisation and challenging of 
culture are not necessarily contradictory ... The fact 
that the organisation had paid staff ... I don't think 
that that caused a loss of that sense of initial 
idealism.71

When Gardner departed in 1980 to become Director of the newly 
formed LACV, the role of the non-casework lawyer at FLS once again 
became the subject of debate. Gardner's five years at FLS had seen 
him define community lawyers as advocates for low-income earners as a 
class. For him, legal aid needed to go beyond the representation of
individuals, there needed to be advocates for poor people as a class.\textsuperscript{72}

In deciding to change the title of Gardner's position in 1980 to Legal Projects Officer, the organisation signalled that the position would involve less administrative co-ordination and more detailed engagement with projects. The job description required the lawyer to be involved in community education, law reform, media relations, research and outreach work, amongst other things.\textsuperscript{73} The first Legal Projects Officer, Tony Lawson, recalls that most of these tasks went beyond the scope of standard legal practice, and as such the position was extremely challenging.\textsuperscript{74} Yet the irony was that the position on its own probably did little to blur the distinction between lawyers and "non-lawyers". For rather than challenging what it meant to be a lawyer, the Legal Projects Officer would simply have been seen to be sometimes acting as a lawyer - when doing legal research or advocacy - and sometimes not. Even at FLS, there were an army of volunteer lawyers and two casework solicitors whose casework orientation countered the challenging role of the Legal Projects Officer. Again, this is not to discount the work done by volunteer and staff lawyers at FLS in making legal assistance accessible. But in terms of providing a fundamental critique of the legal profession, FLS had engaged an evasive enemy.

Of course, there were other ways in which FLS sought to break down the traditional role of the lawyer. Publications such as the \textit{Legal Resources Book}, \textit{Where You Stand}, and the \textit{Users' Guide} gave legal information in plain English, as did the "No Comment" song and video. Outreach projects and appearances on radio by FLS staff also supported the notion that legal education was a valid engagement for lawyers. But these projects really focussed more on making legal
assistance accessible than on breaking down the traditionally privileged position of lawyers and law enforcers.

Certainly when it was formed, FLS, to use John Cain's words, "stunned and awakened the legal profession". But in terms of changing the legal profession, that initial reaction was not sufficient. Remy Van de Wiel comments on the changing perception of FLS amongst the profession:

There was ... initially strong opposition from the Law Institute, from the legal profession ... they didn't understand that ... they were only going to benefit from this because ... we picked up all the cases which wouldn't have been picked up otherwise, and if they were genuine cases for potential litigation they would be sent to ... solicitors ... The local firms felt threatened because they thought they were going to lose their clients, that we would do their work for free, that we were all a bunch of communists, probably pooters and lesbians ... that's how they perceived us, and they were very frightened because they thought ... this is a threat to the legal profession, but I think after about a year or so they realised ... these kids are generating a lot of work for us, and there was a turn-around.76

Van de Wiel's comments are echoed by an article in the Law Institute Journal in 1987. The article began with:

The private profession once saw community legal centres as havens for rejects from real practice who re-emerge as born again do-gooders who refuse to wear ties and who rob the market of potential paying clients ... After fourteen years, what is the real picture?

The answer was given in the article's headline: "A thorn in the side becomes a healthy branch of the legal profession."77

Jon Faine, FLS casework solicitor and then Legal Projects Officer in the years 1984 to 1987, has said that community legal centres changed the profile of the legal profession in that they made lawyers accessible. But, he continued, while FLS's emphasis on law reform and community education was still frowned upon by some, the casework side of the Service had become "very accepted".78
These are sentiments shared by John Basten, Regina Graycar and David Neal in their 1983 article "Legal Centres in Australia". They argued that the availability of legal services had rendered the face of the law more benign, but that those who had expected more profound social changes through the legal system must have been disappointed. The achievements of legal centres were, they argued, that they had made the legal system more accessible to many more people, and had set up a platform from which the interests of the poor on legal issues and law reform could be voiced.79

This was put another way by Tony Lawson in addressing a national community legal centre conference in Hobart in 1987. when he recalls saying that what legal centres had done was to put the issue of access to justice on the map. And while they had genuinely provided people with access to the law, legal centres had not really challenged legal culture. He asked the conference rhetorically. "Are we merely presenting traditional legal culture in blue jeans?"80

All of this is not to belittle the issue of accessibility, which has always been a primary concern of legal centres. If proof were needed that FLS has been successful in pushing "access to the law" as an issue worthy of debate at governmental level, then one only needs to look to the appointment of Julian Gardner to the Commonwealth Legal Aid Commission in 1978, the appointment of Gardner and former FLS Administrator Susan Bothmann in 1980 as Commissioners on the LACV, and the appointment of Gardner in 1980 as the LACV's first Director.81 Indeed, it is the issue of accessibility which has continued to set legal centre lawyers apart from standard lawyers. Jeff Giddings, who was employed by FLS in a new advocacy position in 1986, told the Herald newspaper that legal centre lawyers were different from "straight-laced lawyers" because they were able to
talk to clients about problems not strictly or solely legal in nature. At FLS, he remarked: "Pinstripes are kept to a minimum, and volunteers are discouraged from playing the role of the 'great lawyer helping the poor client'."82

FLS lawyers, and other community lawyers generally, have maintained a place for themselves outside what might be termed standard legal practice. It is interesting to note that many early volunteers at FLS went on to become pioneers in the Aboriginal Legal Service movement. Phil Molan became the Victorian Aboriginal Legal Service's first paid lawyer, and many of the lawyers who have worked at the Central Australian Aboriginal Legal Aid Service in Alice Springs had previously worked at FLS. In the words of Geoff Eames, who is one such person:

In Central Australia ... apart from the first person who worked there - from then on for many years almost every lawyer who went there came through the Fitzroy Legal Service. It was almost guaranteed that if they'd worked at Fitzroy they could cope with Central Australia.83

Over the last two decades a small but growing number of lawyers have considered themselves to belong to a distinct group within the legal profession. Jon Faine recalls the time when he first realised that such a group existed, when Peter Faris came to Monash University as a lunchtime speaker.

When I was a second year law student this bloke came out in cowboy boots and put his feet on the desk and said "Speaking as a senior member of the Victorian Bar, the system sucks", and I thought, shit, this is a lawyer ... and that was really important to me, that shaped my whole perspective of what a lawyer could be ... That changed my life.84

Jeff Giddings refers to people like Peter Faris and Julian Gardner as having blazed a trail. He continues: "People like me, we're sort of a later phase, we're ... there trying to consolidate in some ways." Giddings' comments are certainly not meant to indicate
that community lawyers have become conservative. He adds that in some ways it was easier in the early days, when "there were screaming targets all over the place".85

Giddings' task as a reformer of the legal profession was less clear cut than had been that of Julian Gardner or Peter Faris. One of many methods Giddings has used is to publicise the delays and costs of civil litigation. He told *Time* magazine in 1989 about a man who was referred to FLS so that someone could explain to him why a civil action which he had initiated had failed. The man's son was bitten by a dog in 1982. The dog owner and the owner of the property where the incident occurred were sued in 1983. The person sued as the dog owner denied ownership, and the father was eventually ordered to pay his costs of $2,532. In 1988, when the case was finally heard by the County Court, the owner of the property was ordered to pay $900. This amount was unlikely to be recovered because of that person's financial status. The father had been granted legal aid to take his case to court. In return the LACV had placed an equitable charge over the man's house. If the father sells his house he will have to pay the LACV $7,134. As Giddings said, "I now have to sit down with this man, who has been referred to us not to do anything but to try to explain the logic of what happened to him. The trouble is, there is no logic."86

Whilst community lawyers may now form a separate entity within the legal profession, their work is still very much the result of their own initiatives. Amanda George, the Legal Projects Officer from 1987 to 1988, comments that her university education did not teach her how to organise a campaign, or how, as a lawyer, to approach social change and law reform.87
Community lawyers have had as one of their defining traits a desire to change the legal profession, and their role in attempting to do this has been consistent, even if it has not been enormously successful. Numerous small incidents evidence this consistent attempt, such as the time in 1985 when Jon Faine attended a Consumer Affairs Department Committee meeting. Members of the Committee were most receptive to the idea that lawyers ought to be treated like panel beaters and be required to quote on money and time, and be made to stick to their quotes. This was, of course, not the first time it had been suggested that lawyers should be like car workers.

In a publicity stunt in 1988, FLS served on the Victorian Attorney-General a Summons requiring him to appear in the Melbourne Magistrates' Court for the use of "Offensive Language: To Wit the Use of Overly Legalistic Jargon".

A more serious attempt that year to change the legal profession came in the form of a report published by the Victorian community legal centres' peak body, the Federation of Community Legal Centres. The report was written by Simon Bailey, a former North Melbourne Legal Service solicitor and now FLS's Legal Projects Officer, together with Susanne Liden and Simon Smith of Springvale Legal Service, and it recommended that third party property damage insurance be made compulsory for all motor vehicles. Motor vehicle property claims took up around 85 percent of the non-debt matters litigated in the Magistrates' Court, and comprised over thirteen percent of all community legal centre casework in 1987. The authors of the report argued that the standard legal costs which would be borne by an unsuccessful litigant on a claim of $1,500 would be $890.50. This would be in addition to the same or higher costs which the litigant would have to pay for his or her own representation.
The main reason for the proposal was that: "Our court system with its emphasis on representation by lawyer, is an expensive and cumbersome method by which to resolve motor vehicle property disputes." 92

In addition to compulsory insurance, it was proposed that the insurance industry be encouraged to develop internal means of resolving disputes, through knock-for-knock agreements, internal arbitration and the use of independent loss assessors. As a last resort, the report proposed that disputes be resolved through an expanded Small Claims Tribunal or through a Magistrates' Court structure in which costs would only rarely be ordered. In either case, it was proposed that legal representation would only be permitted in exceptional circumstances.93 This scheme, opposed by many lawyers, was not introduced.

A similar debate in which FLS was involved concerned a proposal in 1989 to change the way some civil cases were conducted in the Magistrates' Court. Simon Bailey supported the Victorian Labor Government's proposal, contained in a new Magistrates' Court Bill, that civil claims under $5,000 be resolved without recourse to lawyers. Pictured in the Herald newspaper putting a barrister's wig on Labor MP (and former community lawyer) Neil Cole.94 Bailey agreed that such claims should be resolved in an informal, cheap and "lawyerless" arbitration process. In an article in the Age, he pointed out that in pursuing a claim for $1,500 in the Magistrates' Court, a person risked having to pay legal costs of at least $1,000. This effectively denied people full participation in the civil justice system. Bailey pointed to the Small Claims and Residential Tenancy Tribunals as demonstrating the efficiency and fairness of a system which aimed to resolve disputes without lawyers. The proposal, according to Bailey.
would take some of the mystery out of dispute resolution, and give "individuals a chance to break their dependence on lawyers".95

The responses of lawyers to this issue were not surprising. The Senior Vice-Chairman of the Victorian Bar Council, David Harper, said the proposal would deprive people of basic legal rights.96 Jonathan Mott, President of the Law Institute of Victoria, was "outraged by and totally opposed to the proposal that the people of Victoria are to be refused the right to be represented by a lawyer in court". Claiming that the proposal would leave ordinary people unassisted while large commercial organisations and government bodies would be represented by professional in-house advocates, Mott argued that the proposal would "hurt those who are least able to look after themselves: the elderly, the young, the inexperienced and nervous, the inarticulate and people who do not speak English well".97 The proposal was never implemented.

A further example of an attempt at minor reform of the legal profession was the successful push by community legal centres for the adoption of a new rule concerning the conduct of solicitors. Rule 12 of the Solicitors’ (Professional Conduct and Practice) Rules explicitly made it a solicitor's duty to "communicate effectively and promptly" with clients. The Rule also made it the duty of a solicitor to write to any new client stating a reasonable estimate of costs and outlining a client's right to apply for legal aid. Adopted by the Law Institute Council in August 1989, the Rule was designed to accommodate one of the ten most common complaints against solicitors as listed by community legal centres.98 Many lawyers objected to the adoption of the Rule, on the grounds that it was unnecessary and added more regulation to an over-regulated profession.99
Aside from lobbying, FLS has maintained a critical watch on the legal profession by utilising caseworkers in proceedings against individual lawyers. For instance, in November 1990 three groups, the Feminist Lawyers, the Women's Legal Resources Group and the Domestic Violence and Incest Resource Centre, approached FLS to represent them in a hearing before the Solicitors' Board of the Law Institute of Victoria. It was uncommon for people to be legally represented before the Solicitors' Board, but caseworker Angela Palombo agreed that the nature of the case warranted representation. The hearing related to a complaint lodged against a solicitor who had represented two women in a perjury case before the County Court. The women, who pleaded guilty to the charge, had been sentenced to one year and nine months in jail. The perjury trial arose over statements the women had made, and later withdrawn, accusing their father of sexually assaulting them. The solicitor who represented them in their perjury trial had previously represented their father when he had been charged with sexual assault. The solicitor had not seen the existence of any conflict of interest. The Solicitors' Board upheld a charge of professional misconduct. The solicitor, however, was only reprimanded.100

The early 1990s was a time when the legal profession faced significant and widespread criticism. The Law Reform Commission of Victoria released a report in May 1992 criticising the profession's protection from procedures and rules aimed at promoting competition.101 In August 1993, the Senate Standing Committee on Legal and Constitutional Affairs released the second report in its enquiry into the cost of justice. The Committee had received submissions from many groups, including the Federation of Community
Legal Centres. The Federation's submission, which FLS workers had helped to prepare, criticised the way lawyers' fees were set and the manner in which the legal profession disciplined its members.\textsuperscript{102} The Committee's second report recommended, amongst other things, an increased allotment of funds for the provision of community legal education programs. The Committee argued that legal aid commissions and community legal centres were among the most significant providers of legal information in society, and saw the availability of legal education as an important element in the development of citizenship.\textsuperscript{103} As I discussed earlier, community legal education has never been a priority for the private legal profession.

The most significant move in the 1990s to reform the legal profession came from the Trade Practices Commission. In March 1994 the Commission released the final report in its study of the legal profession. It recommended dramatic changes, including the abolition of fee scales, the removal of Bar rules which prevent barristers from dealing directly with clients, and greater lay person representation on disciplinary panels. In short, the report sought to remove the mechanisms by which the legal profession is shielded from commercial and competitive pressures.\textsuperscript{104}

Shortly after, the Federal Labor Government's Advisory Committee on Access to Justice released its report. In the last chapter I mentioned this Committee's recommendations on legal aid. Its other recommendations were largely consistent with those of the Trade Practices Commission, in particular its calls for lawyers to be subject to greater competition and to be subject to the provisions of the \textit{Trade Practices Act}. The Committee also recommended that legislation be enacted requiring lawyers to communicate constantly and in plain English with their clients about the likely charges for
their services. Further, the Committee recommended the establishment of a national advisory council on legal services. One-quarter of whose members would be "non-lawyers". The Council's function would be to make recommendations to Australian Governments and professional associations on the regulation of the legal profession. 105

It will remain to be seen whether any of these recommendations achieve practical outcomes. But in all of these recent moves to reform the legal profession there are two clear sources of influence. One is the economics-driven belief in the importance of competitive practices, evidenced most clearly in the report of the Trade Practices Commission. On the Commission's analysis, the legal profession can best be reformed by removing the anti-competitive restrictions that presently protect it. The profession will then start to reform itself by responding to ordinary commercial pressures.

But the other significant influence on recent calls to reform the profession comes from community legal centres. This influence can be seen in calls for lawyers to be more involved in the provision of community legal education, in moves to have "non-lawyers" more involved in disciplinary hearings concerning lawyers, and in calls for lawyers to communicate more clearly and effectively with their clients. In the 1990s, community legal centres clearly still have a significant standing when it comes to governmental and semi-governmental attempts to reform the legal profession.

One person who in 1994 staged his own challenge to the restrictive practices of the legal profession was Peter Faris, one of the first FLS volunteers. Faris, Queen's Counsel, received considerable media attention when he decided to quit the Victorian Bar and set up his own business as an independent barrister. His
stance was seen as a direct challenge to the restrictive work practices of the Victorian Bar.\textsuperscript{106}

No doubt the most optimistic proposal for change in the culture of the legal profession came from Jon Faine, who, in 1987, proposed a novel basis on which to group barristers. Faine caused a stir all the way down William Street when he mischievously and anonymously put a quarter-page advertisement in the \textit{Law Institute Journal}, stating: "Barristers' Clerk Required for Socialist Chambers".\textsuperscript{107}

FLS lawyers, and other community lawyers, have consistently attempted to question the privileged position occupied by lawyers in society. Their critiques have challenged many conventions of the most powerful profession. But, it is fair to say, their critiques have not achieved wide reform. If anything, the outcomes of FLS's varied campaigns prove just how powerful and conservative a profession the legal profession is. At the same time, FLS has sought to be a financially stable legal organisation with the ability to provide legal assistance to people on low incomes. This has inevitably meant the adoption of some of the legal profession's norms, about which FLS workers were once critical.

John Finlayson, one of FLS's most staunch advocates on the importance of "non-lawyers", was reported in 1992 as saying that FLS had not been successful in all its aims because most people still depended on lawyers. He continued:

\begin{quote}
Law reform and legal education are still Cinderella concepts in the legal-aid movement. The focus is still on paying lawyers to appear ... [T]he problem with lawyers is they always end up in positions of power and their back pockets ... are always pretty thick.\textsuperscript{108}
\end{quote}

Ironically Finlayson, like FLS, has chosen to tackle the legal profession from the inside. Aged in his late 40s, he is now a law student.
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2 Victorian Bar News, 1st Quarter 1973, 4-5.


7 For a discussion on how the general populace was denied a voice in the practice of law in pre-federation times, see Alastair Davidson, The Invisible State: The Formation of the Australian State 1788-1901 (Cambridge: Cambridge University Press, 1991), xvi.


14 Frank Galbally discusses his involvement in the case in Galbally! The Autobiography of Australia's Leading Criminal Lawyer (Ringwood: Viking, 1989), 179-188. In July 1986 Barlow and Geoffrey Chambers were hanged for drug importation.

For a discussion of this see John Button, "View From the Bar Table", in Gareth Evans (ed.), Law, Politics and the Labor Movement (Clayton: Legal Service Bulletin Co-operative, 1980), 59.


Blackburn, Maurice Blackburn, 28-9.

Sexton and Maher, The Legal Mystique, 128.

Sexton and Maher, The Legal Mystique, 128.

Sexton and Maher, The Legal Mystique, 128.

Age, 27 December 1972, 5.


Eilish Cooke, interview, 3 March 1993.


Harry Van Moorst, "Fitzroy Legal Service" (unpublished fourth year thesis, Criminology Department, University of Melbourne, 1973), 46.


Support for this proposition comes from research by Roman Tomasic on general public attitudes to lawyers; over one-third of people questioned (out of a sample of 927) about their experiences with lawyers agreed with the statement that "Solicitors do not care whether their clients fully understand what needs to be done and why." Roman Tomasic, Law, Lawyers and the Community: Some Observations From a Survey of Community Attitudes and Experiences (Sydney: Law Foundation of New South Wales, 1976), 65.

Transcript of talk by Felicity Faris on the "Role of Non-lawyers" to General Meeting, 12 June 1973.


Remy Van de Wiel, quoted in Neal, "Interviews", 58.


40 Felicity Faris, in Neal, "Interviews", 59.


45 Tony Lawson, interview, 29 October 1993.


47 Armstrong, "Labor's Legal Aid Scheme", 233.


49 Armstrong, "Labor's Legal Aid Scheme", 233.

50 Armstrong, "Labor's Legal Aid Scheme", 234.


59 Minutes of General Meeting, 23 October 1974.

60 Julian Gardner, interview, 8 October 1992.
61 Gardner's statement in support of his application accompanied the minutes of General Meeting, 13 March 1975.


64 Letter from the Deputy Director, Australian Legal Aid Office, to Gardner, 4 April 1977.

65 Minutes of Annual General Meeting, 4 July 1977; letter from the Deputy Director, Australian Legal Aid Office, to Gardner, 9 December 1977.


69 Peter Faris, interview, 22 February 1994.

70 Remy Van de Wiel and Peter Faris, in Neal, "Interviews", 57.

71 Tony Lawson, interview, 29 October 1993.

72 Letter from Gardner to P.J. Hanks, 18 May 1979.


74 Lawson, interview, 29 October 1993.

75 Sentinel, 5 April 1983, 2.


80 Lawson, interview, 29 October 1993.

81 Australian, 3 April 1978, 2; Legal Aid Commission of Victoria, Legal Aid Handbook (Melbourne: LACV, 1981), 2-1.

82 Herald, 23 May 1988, 9.


84 Jon Faine, interview, 15 February 1994.

85 Jeff Giddings, interview, 10 January 1994.
86 Time, 7 August 1989, 45-6.

87 Amanda George, interview, 18 January 1994.


91 Bailey, Liden and Smith, Urgent Repairs Needed, 6.

92 Bailey, Liden and Smith, Urgent Repairs Needed, 5.

93 Bailey, Liden and Smith, Urgent Repairs Needed, 32-3.

94 Herald, 4 April 1989, 2.

95 Bailey, "Removing the Cost Barrier to Justice".

96 Herald, 4 April 1989, 2.

97 Jonathan Mott, "Hurt Those Least Able to Speak Up", Age, 20 April 1989, 13. Another response along these lines was a letter from J.W.K. Burnside to the Age, 24 April 1989, 12.

98 Letter from Adrian Evans, Springvale Legal Service Co-ordinator, to the Age, 24 April 1989, 12.


102 Age, 16 July 1990, 6.


106 Age, 3 February 1994, 7; Age, 4 February 1994, 11; Herald Sun, 2 June 1994, 4.


Chapter Eight

VOLUNTEERS

The history of FLS is, of course, many histories. The most dominant of these histories, and indeed the ones given prominence in the last five chapters, have concerned employees of the organisation. For obvious reasons, people employed at FLS have been able to exert considerable influence and energy on the projects the Service has pursued.

But FLS has always been an organisation dependent largely upon the work of volunteers. In the first fourteen months of operation, FLS was totally reliant on volunteers. For the entirety of its history, the night service - the weeknight after-hours drop-in service for which FLS is probably best known - has been staffed solely by volunteers. In addition, numerous volunteers have assisted employees in projects, ranging from outreach law to the production of publications. Volunteers have also assisted in administrative work, and they have been integral to the almost inestimable number of committees that FLS has generated. In particular, without the involvement of volunteers in General Meetings, little meaning could have been given to the ideal of participatory democracy with which FLS was established.

While I can state with some precision that FLS has employed a total of around 112 people in full-time or part-time capacities, the number of volunteers who have assisted the organisation is impossible to ascertain. The lack of documentation surrounding the use of volunteers makes it impossible even to give a good estimation of the number. Many people have volunteered for one night, or a couple of nights, while some, like Brian Wright and Barry Fried, have
volunteered regularly for over ten years. At the end of 1973 there were around 80 volunteers, and the number has remained between 70 and 100 in each year since.¹ But it is the coming and going which complicates the equation. A conservative estimate of 20 new volunteers each year from the end of 1973 would put the total number of FLS volunteers at around 500. A rate of 50 new volunteers each year would amount to a total of over 1,100. It is likely that the true figure is somewhere in between.

Voluntary Organisations in Australia

Before looking at FLS's volunteers, it is worth putting the organisation's use of volunteers into a national context. This is not the simple task it might seem, since the term "voluntary organisation" is potentially so broad that it encompasses groups as varied as the local sporting club and the Salvation Army. The term "non-government welfare organisation" has been adopted by some authors in Australia to refer to those organisations which provide any of a range of social services to people.² Other adjectives, such as "charitable", "not-for-profit", and "community", have been used to describe such organisations. David Scott, in his book subtitled The Social and Political Uses of Voluntary Organisations, prefers "voluntary" to "non-government" because the latter, he argues, suggests an identity only in relation to government.³ "Third sector" is the most recent term used generically to refer to non-government and non-profit organisations that are involved in philanthropy and volunteering.⁴ These various terms are not quite synonymous, but for present purposes I shall use them interchangeably. The subtle
differences in meaning are not germane to the arguments in this chapter.

The most comprehensive survey of non-government welfare organisations in Australia is the 1984 report *Non-Government Welfare Organisations in Australia: A National Classification*. According to the report, these organisations in the early 1980s employed between 152,000 and 601,000 full-time workers, between 122,000 and 398,000 part-time workers, and between 584,000 and 1,700,000 volunteers. It seems fair to draw on this and suggest that up to ten percent of people in Australia work as volunteers in welfare organisations.

David Scott provides a compelling list of reasons to explain why people do voluntary work: concern for those less fortunate; a practical and useful engagement for people with time to spare; a place for social contact; an outlet for idealism unconstrained by employment; and a chance to learn.

In this chapter I shall suggest several different ways of understanding how it is that FLS has managed to attract its large number of volunteers.

**Two Stories**

The brief biographies of two volunteers reveal the complexities involved in trying to ascertain why people have chosen to volunteer at FLS. Roz Jones started volunteering in 1973, soon after the Service opened. At the time, she was teaching adults for the Higher School Certificate, and she had returned to university to study for an Arts degree. Jones, not a lawyer, co-ordinated the volunteers on Friday nights until 1975. She would regularly spend Monday mornings
on the phone to barristers' clerks trying, often successfully, to arrange free representation for clients who had been at FLS the previous Friday.

As with most of the 29 people interviewed for this thesis, Jones explains her time at FLS by reference to a personal political commitment to change, and by reference to the friendships she soon established with fellow workers. She recalls her days at FLS as a time of high energy. She makes reference to contemporary political events - the election of the Whitlam Government and the Australian disengagement from Vietnam - to illustrate her point. In addition, the camaraderie on Friday nights was very strong; volunteers would often stay at FLS until eleven and then go to a restaurant until three in the morning.

Jones plays down any suggestion that her volunteering was particularly virtuous. When asked about her memories of FLS clients, she comments that the most similar characteristic of clients was that they were people affected by the sorts of legal and social problems with which only a certain economic strata of society was faced. Such sentiments display the language of duty, not philanthropy.

Chan Wai Heng began volunteering at FLS in 1987, soon after she completed her articles of clerkship. During business hours she worked in a city law firm, running personal injury actions. On Thursday nights, she came to FLS.

When asked why she became a volunteer, Wai Heng points to her background. She was raised in Malaysia, the daughter of tailors, and came to Australia for her tertiary education. Her volunteering at FLS was an attempt to "give something back" and to be "true to my origins and my background". Like Jones, Wai Heng sees the camaraderie involved in volunteering as important. The office is comfortable, and
the Service attracts volunteers of similar mind. At FLS she can be herself and dress in the way she likes. There is no pretence.8

Both Jones and Wai Heng reveal complex reasons for their involvement with FLS. Both speak of a sense of duty and of subtly articulated desires to bring about change. Neither conceptualises her volunteering in terms of giving handouts to the poor of Fitzroy, but both have obviously been moved by the individual situations of clients. Some clients, says Wai Heng, simply need the warmth of another human being.9

These complexities render futile any attempt to provide a simple explanation for the involvement of volunteers at FLS. And it seems fair to surmise that most volunteers would articulate similarly complex reasons to explain their involvement with FLS. Some volunteers, as Jones recalls, might have adopted an attitude of "aren't we being terribly good".10 But any simple division of volunteers into groups, for instance, according to those who adopted a charity ethic and those who sought social change, would clearly be inappropriate.

It is perhaps not surprising that there seems to be no easy way to classify FLS volunteers. But, it must be asked, is this a problem? Is it appropriate to try to generalise about complex experiences?

This dilemma about how much one should try to generalise from the experiences of individuals is a common dilemma for oral historians, and indeed for historians in general. On one hand, there is an imperative upon historians to generalise from the experiences of those interviewed, in order to formulate and support conclusions about the past. On the other hand, there is the view that the whole value of oral history lies in its ability to give voice to those who
have experienced the past, without those experiences being too
circumscribed by the interventions of historians. According to this
view, there is a danger in generalising too much from the material
collected in interviews, since to do so is to override testimony and
thus deny the capacity of people to speak.11

To be sure, this dilemma is just one version of the debate
concerning the relative merits of theory and experience.12 But the
terms of the debate at least are clear. On one side, there is the
argument that historians should attempt to make sense of the past. On
the other, historians should look to the past to see how people have
made sense of themselves.

In this chapter I shall examine both aspects of this debate as
it relates to FLS volunteers. To do this, I shall argue that there
are two quite different theoretical models which can each be used to
contextualise the work of volunteers at FLS. Then, in the final
section, I will move from these theoretical models to attempt to
describe how volunteers themselves have made sense of their
involvement with FLS.

Thus I am drawing a distinction between how people's actions
and how their motivations might be considered. I do not do this in
order to pass the judgement that one has not always equated with the
other. That would be futile. Rather, I have drawn the distinction so
as to allow myself to do two things: to say something about how sense
may be made of the work of volunteers at FLS, and to discuss how
volunteers themselves have made sense of their time at FLS.
Voluntarism and Activism

The two competing theoretical models that will be used to examine the actions of FLS volunteers may be described by the terms "voluntarism" and "activism." Both terms are taken from Samuel Mathivaanan's *Voluntary Agencies and Social Change*. He defines "voluntarism" to be a non-political humanitarian philosophy according to which individuals in distress are supported without the expectation of anything in return. In contrast, "activism" entails a belief that there exists an unequal distribution of power, and that the awakening of people to their unequal position is an important goal.13 Obviously there are other terms, such as "neighbourliness", "the desire to satisfy a concern for people less fortunate", "philanthropy" and "community development", which could be used to describe similar concepts.

If voluntarism and activism are taken to be at either end of a volunteer continuum, then one would expect most FLS volunteers to fall somewhere in between. This, one can expect, would be particularly evident in the casework operations of FLS, with which the vast majority of volunteers have spent most of their time. At one end would be those volunteers who have empathised with the inability of clients to afford legal assistance, but who have not contextualised that inability within a broader political framework. At the other end would be those who have seen one individual's predicament as a manifestation of an imbalance in society's distribution of power, and the attempts to help one person would have been motivated by a desire to redress that imbalance. To be sure, this distinction between voluntarism and activism is not limited in its application to volunteers. I have already looked in length at the
way a similar dichotomy operates in the operations of casework solicitors, whose work on individual cases may or may not be linked to a desire to bring about social change.

One way, then, to understand a person's voluntary activity at FLS is through the concept of voluntarism. Chan Wai Heng gave a good example of voluntarism in her comment, mentioned earlier, that sometimes her most valuable action was simply to provide clients with the warmth of another human being. Bill Jeppesen puts this another way. In his involvement with FLS he did not want anything to do with the "politics" of the organisation. He believed that, ultimately, it was the people who gave cold hard advice who would be remembered. He views his involvement with FLS as akin to throwing a sugar cube into the ocean. The assistance which he gave clients over twelve years may not have had a huge impact on society, but at least he tried to remove some bitterness from many people's individual situations.14

In many ways the casework activities of volunteers have strong voluntarist overtones. To take an example, thousands of clients have been given free advice about motor vehicle accidents in which they have been involved. Often these clients have been too poor to afford private solicitors, but the advice given to them has inevitably been similar to the advice private solicitors would have given. That advice would normally have included the volunteer lawyer's opinion on who was at fault in the accident, and his or her opinion on what a Magistrate would say if the matter went to court. Given the similarity in the nature of the advice provided by private lawyers and by FLS lawyers, it requires a fair deal of imagination to depict these scenarios as other than examples of voluntarism.
A second way of reading the actions of FLS volunteers is through use of the concept of "activism". David Scott is one person who views voluntary organisations as determinedly able to bring about social change. The first two sentences of his book 'Don't Mourn For Me ... Organise' read:

Many people, especially powerful people, are condescending about voluntary organisations, seeing them as wishy-washy expressions of piety and good intentions, but not as serious means of welfare or social reform.

This book opposes that view.\textsuperscript{15}

Scott adopts the view that voluntary organisations have a real capacity for reform work. His book is an attempt to understand and depict voluntary organisations in Australia in terms of their ability to bring about social change.

In the United States, Alan Rabinowitz makes a similar argument. He sees "social change philanthropy" as an important part of the history of social movements, a history which has its origins in a number of social struggles, including the slave emancipation movement and the women’s suffrage campaigns.\textsuperscript{16}

A similar argument could be made in Australia, such that, for example, the women's suffrage movement, the establishment of unemployment relief in many States in the 1930s, and the withdrawal of troops from Vietnam in 1972, could all be said to belong to a continuum of social change activism which was reliant upon the work of volunteers. The achievements of the above movements could all be said to have been the result of prolonged and inspired voluntary activity.

Moreover, the activities of FLS volunteers could also be placed on this continuum.
FLS as a Voluntary Movement for Social Change

When FLS opened, early documentation and newspaper reporting clearly positioned the volunteers as engaged in a battle with the middle-class legal profession. I argued in Chapter One that there were similarities between the opening of FLS and the workings of contemporary social movements, particularly the anti-Vietnam war and women's movements. As I wrote there, many FLS volunteers were involved in one or both of these movements.

Similarly, Fitzroy, more than any other suburb, saw New Left politics practised at the local community level. As I argued in Chapter Two, Fitzroy was a place where "accessibility" and "participatory democracy" were considered to be the catalysts for social change. At FLS, the 80 or so volunteers sought to use these ideas of accessibility and participatory democracy to challenge the inaccessibility and conservatism of the legal profession.

With these beginnings, it is easy to read the involvement of volunteers at FLS as the involvement of people in a movement for social change. The restrictive operations of the legal profession and the inaccessibility of the law were the immediate targets of calls for change, but broader objectives, such as the increased participation of individuals in the operations of public institutions, were clearly visible. While not a movement in its own right, FLS's espousal of New Left politics certainly placed the organisation on a continuum with other movements for change.

More recent volunteers could also be depicted as belonging to this tradition. The hallmark of FLS's calls for change has been the notion that there ought to be a transfer of power from lawyers to people through the demystification of the law, and recent FLS
volunteers could certainly claim to have attempted to facilitate this process. For example, Patsy Baudinet, who began volunteering in 1986, depicts her work as a volunteer as a time when she helped people to help themselves. She and her fellow volunteers on Friday nights sought to demystify the law. They encouraged people to learn and to pursue their legal rights. This meant encouraging people to represent themselves in court, or at times encouraging people to raise their particular circumstances with the media. So, an argument can certainly be made that volunteers at FLS have been part of a movement for social change.

But, it must be asked, is this the most appropriate way to view the work of FLS volunteers? Ought the volunteers to be seen primarily as activists?

By and large, as noted above, it is with the casework operations of FLS that most volunteers, directly as lawyers or indirectly as administrative workers, have been engaged. The vast majority of volunteers at FLS have worked on the night service, when the organisation has been almost totally devoted to the provision of legal advice to clients. Throughout this thesis I have argued that there are strong limitations in using the law to bring about social change. If this argument is accepted, then it is somewhat ironic that volunteers seem drawn to FLS by its advocacy of social change, when the same volunteers largely pursue the Service's casework activities.

Clearly, then, there is some contest over how volunteers ought to be seen. But who is to decide whether volunteers at FLS ought to be viewed as activists or voluntarists? What will this judgment be based upon?

It seems that uncertainty exists about how volunteers ought to be depicted because there is uncertainty about what constitutes
working for social change. To illustrate this, few people, for instance, would consider the demystification of one person's legal situation by a volunteer to be an act of social change. But the same could not as easily be said of a volunteer who demystifies the legal situations of hundreds of clients over a period of years. Even in the common scenario of a client receiving advice concerning a motor vehicle accident, an element of activism can be identified. For if private solicitors representing one party to an accident have used threatening letters concerning imminent legal action (and associated legal costs) to force the FLS client to pay for repairs, it may involve more than an act of voluntarism for an FLS volunteer to advise the client that he or she was not legally at fault in the accident, and to encourage the client to fight the case.

Thus the division between voluntarism and activism is really not so clear. And this is because voluntarism and activism are partly subjective concepts. One person may give advice to a client without considering that scenario to be part of a broader political objective. But another volunteer may give the same advice and consider that giving of advice to be of broad political significance. An argument could be put that most volunteers have become involved with the casework side of FLS, and that the giving of legal assistance to individuals can never amount to working for social change. That most volunteers seem to have come to FLS in order to work for social change, it could be said, merely points to the capacity of volunteers to live with contradiction. But to make this argument would be to over-simplify a complex issue. It would be to enforce one view of social change without giving credit to the thoughts of the individuals who have been involved.
In order, then, to appreciate the complexities of the experiences of volunteers at FLS, it becomes necessary to look at what has motivated them to become associated with the organisation.

Motivations

Up until now I have looked at two competing arguments which suggest how sense may be made of the work of volunteers at FLS. Now I want to look more closely at the volunteers themselves, at what has motivated them to work at FLS.

One constant in the experiences of volunteers is the idea that there is some moral obligation upon them to provide assistance to individuals for free. For those from a middle-class background, like Bill Jeppesen and Patsy Baudinet, this is enunciated as the debt one accrues for having had a privileged background. Jeppesen, who was educated at a private school and then at university, volunteered at FLS because he "wanted to put something back into the community". For those from less wealthy backgrounds, like Chan Wai Heng, Denyse Dawson and Judy Peirce, a similar sense of moral obligation is expressed as a desire to be true to one's origins, so as not to forget where one came from. Dawson and Peirce told *Woman's Day* in 1973 that they had come to volunteer at FLS because they wanted "to help the people we know and understand".

These are relatively selfless reasons for becoming a volunteer. At the other extreme, some people have pointed to selfish reasons to explain why lawyers become volunteers at community legal centres. John Basten, Regina Graycar and David Neal have argued that some lawyers become legal centre volunteers in order to improve their employability. Patsy Baudinet shares this view, as does Tony
Lawson, who, in his recent position as President of the Victorian Guardianship and Administration Board, saw applicants for jobs tell of their involvement as volunteers in community legal centres. Lawson considers this to be a relatively recent phenomenon. It did not happen in the early 1970s, he recalls, when experience as a legal centre volunteer was seen as too radical and threatening. But Brian Collingburn, a former non-legal volunteer, remembers other types of self-promotion that occurred in the early 1970s. He recalls some lawyers appearing at FLS whenever the media came to visit. Once the media were gone, so were they. He particularly recalls telephoning one such volunteer, who subsequently became a prominent barrister and politician. Collingburn asked him why he was not at the Service when he had been rostered to volunteer. The barrister resisted Collingburn's pressure, pointing out that he was paid nothing for his work at FLS. "What the hell are you doing for nothing?", Collingburn replied.

Selfishness, or self-interest, cannot be dismissed as one factor which has motivated people to become FLS volunteers. Even so, the issue itself is not a simple one. If volunteers have made reference to their involvement at FLS on their curricula vitae, does this automatically mean their involvement has been selfish? Presumably it does not. But how does one decide this issue?

Suffice it to say, one cannot deny that there have been both selfless and selfish reasons why people have become volunteers at FLS. Nevertheless, it seems fair to suggest that a volunteer who has been primarily motivated by either, will not have been a volunteer for long. And, indeed, the concepts of selfishness and selflessness merge when consideration is given to the motivations of longer term volunteers. For, it seems, the longer people have been volunteers,
the less easy it becomes to define their involvement as either selfish or selfless. The reason for this is that their involvement with FLS becomes integral to the way volunteers define themselves. They have given and have received, and cannot be dismissed as simply having done one or the other.

There are some very strong similarities in the motivations of those people who have been volunteers for more than a short period of time. Above all, it is the idea of being involved in social change which has drawn these volunteers to FLS. Eilish Cooke, one of the earliest volunteers, remembers that she wanted to be involved in systemic change.23 Vincent Ruiz considers his involvement with FLS to have been one of many manifestations of a radical politics, which also saw him involved in student politics, the anti-Vietnam war movement, anti-Springbok demonstrations and the operations of the anarchist Free Store, which I discussed in Chapter One.24

Remy Van de Wiel, who had given legal advice from the Free Store, considers his work at FLS to have been part of a radical project in power re-distribution. He wanted to help people take control of situations so that they would not be reliant on others. He considered "poverty" not to be a lack of material possessions, but to be an attitude to life, a situation of powerlessness.25

More recent volunteers have also become involved with FLS as a practical way of seeking social change. Ben Piper, a parliamentary drafter, volunteered at FLS for ten years from 1982. He became involved with FLS because he wanted to work to reform the legal system.26 Bill Jeppesen, who began volunteering in 1980, explains his decision to volunteer by describing himself as a product of the 1970s and late 1960s. He says: "I think that the best way to enable people
to look after themselves is to arm them with knowledge. ... through knowledge comes power."\textsuperscript{27}

This idea of demystifying the law was also important for Carol Andrades, a lawyer with a trade union law firm who began volunteering in 1986. She likens the law to a five star restaurant, where an acquaintance with the maitre d' is the only way one is allowed in. But at FLS things are different. FLS is like a pub where people can just drop in.\textsuperscript{28} Certainly Andrades possesses a less radical agenda for reform than that envisioned by many earlier volunteers. But the objective of reform is still clearly of significance to her.

The explanation given by many volunteers, that they became involved with FLS in order to bring about social change, is so commonly stated that it becomes difficult to identify any other reasons for their involvement with FLS. It becomes even more difficult when interviewing those people who have had up to twenty years to reflect on their time as volunteers. But this is not to suggest that volunteers consider themselves to have been successful in their attempts to bring about social change. Indeed, it is with sobering honesty that many former volunteers regard themselves to have failed in their search for systemic change.

Eilish Cooke makes the point that the volunteers at FLS were interested in systemic change but that the people who used the Service were generally not.\textsuperscript{29} Peter Faris argues that the Service now is foreign to what he had envisaged. He is not in favour of salaried lawyers, nor of overly structured organisations: FLS failed to live up to his expectations of it.\textsuperscript{30} Phil Molan argues that there is still a place for community legal centres, but he feels that in Australia they have not done much except legal band-aid work.\textsuperscript{31} Ben Piper, who stopped volunteering at FLS in 1993, says he soon realised that FLS
was not the place to be if one wanted to be involved in law reform, as internal politics tended to sap a large amount of energy. He likens being a volunteer at FLS to being a Canadian log roller. One keeps moving, but never seems to get anywhere.\textsuperscript{32} None of these people would suggest that there are not positive aspects about FLS. Even so, all do suggest that the hopes for social reform which they had when they started at FLS have not been realised.

Certainly, the perceived failure of FLS to realise its reform potential is a failure shared by many reform organisations. Few organisations which seek broad social change are ever seen to be totally successful in their objectives. Indeed, if they are completely successful then there ceases to be any reason for them to continue to exist. But this is not to deny the feelings of many volunteers that FLS has not done enough to promote and motivate social change. Interestingly, whether or not people view FLS to have lived up to its potential, it is this idea of social change which is given primacy as an explanation for people's association with FLS.

While it is the broad concept of social change which has drawn volunteers to FLS, there is a distinction that can be made to differentiate the motivations of the earliest volunteers from the motivations of more recent volunteers. This distinction may be seen as a shift from a search for a radical identity to a search for an "alternative" one.

In Chapters Three and Seven I argued that over a period of years FLS moved from being a hostile opponent of mainstream legal practice to become an accepted, if slightly unusual, part of the legal profession. Directly related to this is the shift that seems to have occurred in the politics of volunteers, from those who saw their
involvement with FLS as integral to a radical personal politics, to those who see their involvement as contributing to a definition of themselves as alternative.

The word "alternative" suggests difference. It is commonly used now to describe clothes and music, to differentiate a particular style from mainstream and popular versions. "Radical", on the other hand, is more combative and connotes fundamental challenge. The use of "alternative" to describe the more recent volunteers at FLS is not without precedent. The journal once known as the Fitzroy Legal Service Bulletin, and soon after as the Legal Service Bulletin, changed its name in 1992 to become the Alternative Law Journal.

In Chapter One I considered the various ways in which the early volunteers at FLS positioned themselves as radical, as constituting a threat to the private legal profession. The media coverage which the organisation attracted ensured that attention was given to those volunteers calling for an end to the middle class' repression of poor people.

This threat dissipated when the increased availability of legal aid blunted the most piercing criticisms FLS volunteers had of the legal profession, and when it became clear that the nature of FLS's work was not as undermining of the legal profession as had been feared. Certainly there were constant calls from FLS staff and volunteers for changes to various aspects of the legal system, but the work of volunteers in giving free advice to thousands of people each year hardly constituted a challenge to the way private legal practitioners conducted business.

Slowly the definition of volunteers as radicals was becoming inappropriate. The organisation which had attracted people who primarily saw themselves as changing the system, became one which
primarily attracted people disaffected by the system. To be sure, one can be too rigid about these distinctions. Clearly there were disaffected lawyers amongst the first volunteers, just as there have been people in recent times who have volunteered as part of a search for fundamental change to the legal system. Even so, it remains justifiable to argue that a broad change has occurred in the personal politics of volunteers, from a politics best described as radical, to a politics of alternativism.

Carol Andrades graduated in law in 1979. In the years after graduation she became very disillusioned with the law. But, after working for several years in the public service, she became an articled-clerk. At the same time, she began volunteering at FLS. Her association with FLS began because she wanted to provide herself with a balance. She says: "I was really worried about getting too blinkered about private practice and [I was worried about] just becoming a clone private practice solicitor."33

Chan Wai Heng explains her involvement at FLS in terms of the way her work there sets her apart from mainstream lawyers. She talks of the comfort she feels when she is in the FLS building. Opposed to this, implicitly, is the discomfort she feels in the offices of mainstream lawyers. On her view, the arrogance which is rife within the legal profession is rarely evident at FLS. At FLS she can be herself.34

Bill Jeppesen also draws on his experiences at FLS to set himself apart from standard or mainstream lawyers. He was an unemployed lawyer when he began volunteering in 1980. His self-esteem was low, and he began volunteering during the day partly to boost his confidence. There was a free attitude at FLS, he recalls, where all that mattered was the service delivery. "There was no crap."35
Ben Piper views the vast majority of lawyers as parasites who work harder at squeezing money from clients than they do at representing their interests. In his work at FLS, Piper positioned himself as alternative to mainstream lawyers by, for example, coaching people to represent themselves.  

Certainly the idea of volunteers setting themselves apart from standard lawyers was as much in evidence in the early days of FLS as it has been more recently. But the difference, which I have characterised as a shift from radical to alternative, is evidenced by the reluctance of recent volunteers to enunciate desires for sweeping structural change. The recent volunteers I have interviewed do not define themselves as radical. None of them enunciates a desire for broad change to the legal system in the way that the original volunteers, if idealistically, once did. But the recent volunteers all clearly depict themselves as different from mainstream lawyers.

This move from radical to alternative has a broader political perspective beyond the lives of FLS volunteers. Indeed the shift has resonances with developments in movements for social change over recent decades. Since the 1960s, the so-called "new" (or even postmodern) social movements have gained increasing support. Arguably, the new social movements began with the African American civil rights movement of the 1960s, and include the women’s movement, gay liberation, and the green or environmental movement. These movements are said to be linked together by their refusal to follow established avenues for change.  

In addition, these movements may be labelled postmodern for their rejection of truth and certainty in their political compositions. None of these movements professes to embody truths.
about human existence in the way that old social movements, particularly workers' movements, do. Instead, these movements embody and project a politics of difference, or what I would call a politics of alterantivism. They embrace pluralism and the concept of multiple identities, and reject the perceived rigidity and combative nature of the old movements. Rather than restricting their analyses of oppression to factors such as class and the relations of production, the new movements look more broadly to oppression on the basis of race and sexuality.38

For present purposes, the importance of the new movements is the way their participants project themselves as alternative. Likewise at FLS, one can see volunteers from the late 1970s increasingly positing themselves as alternative, rather than as advocates of truth-bearing proposals for change.

Without doubt the least controversial question I asked volunteers was why, once they had started, did they remain volunteers? Most simply spoke of the friends they had made through the organisation. Many volunteers have remained friends, even partners, after ending their involvement with FLS.

For those who stopped volunteering long ago, like Roz Jones, the social atmosphere of the organisation remains vivid.39 Felicity Faris recalls there being a huge sense of camaraderie in the early days, with volunteers often going out together at nights or away together on weekends. There was a sense that she and other volunteers were "rushing along doing something that was worthwhile".40

More recent volunteers have pointed to the importance of friendships to explain the longevity of a volunteer's involvement at FLS. Ben Piper and Patsy Baudinet met at FLS and are now married.
They and Bill Jeppesen all remain close friends, even though all have ceased to be involved with FLS. Jeppesen told the *Herald* newspaper that: "All my closest friends are from the Fitzroy Legal Service because I suppose people of like mind and attitude gather there."41 Some of Carol Andrades' closest friends are people she has met through FLS.42

It is not surprising to find that many volunteers have made close personal friends of other volunteers. Nor is it surprising that this is considered by many to be a highlight of their time at FLS. From the early 1970s onwards, this is a constant which can hardly be disputed.

In this chapter I have discussed whether FLS volunteers ought to be seen as activists, or whether their work may be more fairly termed voluntarist. The subjective nature of both terms makes it impossible to settle this issue. But the unresolvability of this issue does not render it meaningless. Indeed, it provides a different perspective from which to consider the question which has been recurrent throughout this thesis: how can one bring about broad social change by concentrating on the legal entitlements of individuals? FLS volunteers have engaged this question, at varying levels, by their involvement with the organisation. Some volunteers have seen their work as providing them with the opportunity to empower clients, and thus to bring about change. Others have ceased to volunteer after deciding that little social change was possible through their work at FLS.

Importantly, the fact that much uncertainty exists about these issues is not, and has never been, debilitating for FLS. On the contrary, the very existence of these debates has been constructive.
For the availability of free legal assistance at FLS has now been utilised by over 49,000 clients. And a belief in the importance of an often vaguely defined search for social change has motivated the volunteers who have assisted them.
NOTES FOR CHAPTER EIGHT

1 For the 1973 figure, see Harry Van Moorst, "Fitzroy Legal Service" (unpublished fourth year thesis, Criminology Department, University of Melbourne, 1973), 37. In his 1978 article David Neal stated that there were around 70 volunteers at FLS: David Neal, "Delivery of Legal Services - The Innovative Approach of the Fitzroy Legal Service", (1978) 11 Melbourne University Law Review 427, 429. In 1988, 91 people were listed as FLS volunteers: FLS Annual Report 1988, 2.

2 See, for example, Vivienne Milligan, Jill Hardwick and Adam Graycar, Non-Government Welfare Organisations in Australia: A National Classification (Kensington: Social Welfare Research Centre, University of New South Wales, 1984).


4 Australian Third Sector Research Newsletter, June 1993, 1, 4.

5 These figures are in ranges because they are drawn from samples only: Milligan and others, Non-Government Welfare Organisations in Australia, x-xl.

6 Scott, 'Don't Mourn For Me - Organise ...', 13.

7 Roz Jones, interview, 13 March 1994.


10 Jones, interview, 13 March 1994.

11 For further discussion on this issue see Anna Troger, "Oral History: Between Factual History and the History of Experience", in Shelley Schreiner and Diane Bell (eds), This is My Story: Perspectives on the Use of Oral Sources (Geelong: Centre for Australian Studies, Deakin University, 1990).

12 Another common version of this debate emerges as an argument between Marxists and positivists. A positivist would argue that only the issues raised by a subject in an interview ought to be explored. However, a Marxist would reply that a subject's varied experiences need to be subjugated to a central historical truth (about continual class struggle) in order to be fairly interpreted. Concentration solely on the issues raised by a person in an interview would miss larger and more important issues. The criticism levelled at positivists by Marxists is that they give too much significance to unimportant events, and fail to see the deeper structure and broader political contexts of life. According to positivists, however, the subjugation of people's experiences to broad theories serves to deny their agency in their own lives. For a good discussion on this issue see chapter two in Lee Patterson, Negotiating the Past: The Historical Understanding of Medieval Literature (Wisconsin: University of Wisconsin Press, 1987).


15 Scott, 'Don't Mourn For Me - Organise ...', 1.


22 Brian Collingburn, interview, 13 January 1994.


24 Vincent Ruiz, interview, 6 March 1993.


26 Ben Piper, interview, 21 February 1994.


30 Peter Faris, interview, 22 February 1994.


34 Wai Heng, interview, 24 February 1994.


38 See further, Burgmann, *Power and Protest*, 1-5.


40 Felicity Faris, interview, 6 April 1994.


CONCLUSION

In December 1972 the founders of FLS, the first non-Aboriginal community legal centre in Australia, brought an enormous amount of enthusiasm and commitment to a belief that the law and the legal profession operated against the interests of people on low incomes. Moreover, FLS's founders believed that this could be changed. During the two decades FLS has been in operation, considerable changes have taken place in the administration of the law in Australia. Most notable amongst these changes has been the increased access which people on low incomes have had to legal assistance. Whether people have received legal assistance through legal aid or through community legal centres, the improvement in this aspect of the legal system is partly traceable to the formation of FLS.

I have argued in this thesis that FLS's origins were strongly situated in the protest movements of the late 1960s and early 1970s. Borrowing from the philosophies of these movements, FLS volunteers applied the politics of the New Left to the workings of the law. The preference for action over theory, which New Left protest movements advocated, manifested itself at FLS when volunteers, with relatively little planning, decided to open a legal centre six nights a week and dispense free legal assistance. The broader political objective of the New Left, that ordinary people be given greater control over their own lives, also manifested itself at FLS. One of the organisation's principal objectives was to be a community-based agent of social change. Nor was FLS alone in Fitzroy on this score. As I discussed in Chapter Two, FLS was only one of a number of organisations in Fitzroy in the early 1970s to articulate a politics of social change through community involvement.
In application to the law, all of this was quite radical. The legal profession in Australia had never before had its privileged status challenged in such a way. FLS volunteers, and the media which reported on them, depicted lawyers as self-interested professionals who contentedly pursued the rights of those wealthy enough to afford them.

It is in the context of this challenge that FLS's existence can be seen to be a commentary on the relationship between the law and social change in Australia. In depicting the law to operate against the interests of people on low incomes, FLS's earliest volunteers were calling into question the rhetoric that all were equal before the law. FLS volunteers argued that the law was inaccessible to people on low incomes, that such people were often unable to enforce the legal rights they had, that some laws tended only to be enforced against them and not against more wealthy citizens, and that the law did not sufficiently protect their interests. In short, FLS volunteers argued that the law systematically operated to the detriment of one group in society, to the advantage of another. The law was political. At the same time, FLS volunteers were reluctant to channel their pursuit of social change into the pursuit of law reform. They were wary of relying on casework and legislative reform to bring about the changes they considered necessary.

The principal changes sought by the earliest FLS volunteers were twofold: the removal of the mystique that surrounded the operations of the law and the legal profession, and a substantial improvement in the ability of ordinary people to have control over their own affairs. More than just advocating these changes at a broad and intangible level, the earliest FLS volunteers sought to practise what they proposed. To this end, FLS volunteers sought to break down
the traditional relationship that existed between lawyer and client. They emphasised the role that volunteers without legal training could play at FLS in talking with clients and in being activists. Moreover, FLS volunteers sought to provide a holistic approach to the problems which confronted their clients. They attempted to get clients to discuss their problems in groups, rather than comply with the individualism so germane to the law. This, it was hoped, would instil in clients and volunteers the motivation to pursue campaigns where the goal was not simply law reform but the participation of often marginalised individuals in the institutions and legal processes that shaped their lives. These were the most significant proposals for change that the earliest FLS volunteers adopted, and they were ones which the pursuit of casework and legislative reform could not bring about.

None of this is to suggest that these ideas were uniformly put into practice. The norms of the law and of the legal profession were often victorious over enthusiastic calls for change. For example, despite the proposal for clients to be seen in groups, most FLS clients, since 1972, have received standard legal assistance, albeit free of charge. In addition, the hopes that there would be local community involvement in the organisation, and that the organisation would exist as a medium through which ordinary people would voice their opinions, were generally unsatisfied. Nor should this be surprising. It was always unlikely that people who had come to an organisation seeking legal assistance would suddenly want to become involved in the broader political activities of that organisation.

But this is not to question the reality that, by its very existence, FLS was protesting against the rhetoric that the law was an impartial and apolitical phenomenon that served the interests of
no one group in society. This was a serious and challenging political position, and one which commanded attention.

In the years following 1972, the Whitlam Federal Labor Government did address the strongest and most convincing criticisms that FLS volunteers, and that the growing number of workers at other community legal centres, articulated about the operations of the law. In similar fashion to the contemporaneous developments in the women's movement in Australia, the State moved to accommodate the concerns of a radical group of volunteers. The creation of the Australian Legal Aid Office in 1973, by the Federal Attorney-General Lionel Murphy, sought on a massive scale to redress the inaccessibility of the law in Australia.

With the creation of this new legal aid system came the demise of FLS's radicalism. Money was poured, as never before, into the provision of legal assistance to people on low incomes. Some of this money was provided to FLS through direct grants, enabling it to employ staff. Concurrently, FLS workers suddenly found an increasingly receptive audience to their arguments concerning legal aid. These workers, in particular Julian Gardner, quickly, and somewhat remarkably, became significant figures in national debates about legal aid. In addressing FLS's most convincing criticisms of the legal system, the State facilitated an important transformation at FLS: where once it had been a hostile outsider to the legal profession, FLS was now an accepted, if unusual, part of the legal profession.

Lionel Murphy later became a High Court Judge. In one famous case, Percy Neal, an Aboriginal man who lived on an Aboriginal community reserve in Queensland, appeared before the Court. He had previously been sentenced by a Magistrate to serve two months in
prison for spitting at a white man. Neal, the chairman of his local council, had told the man that he and other white people should leave his reserve.

The Magistrate had criticised Neal for promoting an attitude of hatred of white people. In his judgement, Murphy was critical of the Magistrate, saying that anyone who agitated for change in Aboriginal communities would be under a disadvantage in that Magistrate's court. Murphy argued that many of the great figures in history had been agitators, and that "Mr. Neal is entitled to be an agitator."^1

So, with the funding of FLS in June 1973 and then in September 1974, Murphy was saying that FLS was entitled to be an agitator. FLS's loss of radicalism, witnessed by the employment of staff and the increased involvement of FLS workers in government debates about legal aid, was in reality a sign of victory.

During the years 1973 and 1974 FLS's New Left critique of the law lost a great deal of its purchase. The earliest FLS volunteers had argued that Australian conceptions of egalitarianism, which in legal terms promised the equality of all before the law, were meaningless to the constituency they represented. But when the State moved to redress the inaccessibility of the law, by creating a new legal aid system and by funding community legal centres, FLS workers began to withdraw their accusations about the law's inherent bias. Ultimately, FLS workers found meaning in the law's promise of equality. Their once-radical New Left politics became more a point of historical identification than an immediate call to action.

Upon recognising this, FLS workers had to decide whether they still had a role to play. Some volunteers left the organisation, on seeing it become too bureaucratised and too concerned about its own
funding. For those who remained, the question was whether FLS's objectives, to provide accessible legal assistance and to pursue social change, were still worthy ones in a changed political environment.

The question of whether FLS should continue to provide free legal assistance was not one entertained for long. Despite the existence of the Australian Legal Aid Office, clients continued to come to FLS in massive numbers. Nor was there ever a concern about FLS's ability to meet the needs of clients. FLS has always attracted an oversupply of volunteers to satisfy the high demand for individual legal assistance.

More at issue was how the organisation would continue to operate as a medium of change. One of the concerns generated by the receipt of government funding was that the organisation would have a strong incentive to privilege the delivery of casework services over the pursuit of social change campaigns. FLS's casework services have always been particularly attractive to governments because of the heavy use the organisation has made of volunteers. Money spent on coordinating the work of hundreds of volunteers is generally considered to be money well spent. The Service has appeared much less attractive to its funders when it has spent grants on social campaigns, many of which have tended to be critical of governments or public institutions, such as the police force.

FLS has generally preferred the delivery of casework services to the pursuit of social change campaigns. But this emphasis has not simply been the outcome of government funding. The large number of volunteers that the organisation has attracted have, by and large, chosen to be involved with the casework side of FLS.
Despite its concentration on casework, FLS has been able to operate as an effective social critic. This has especially been the case since the late 1970s, when the organisation began to develop and refine ways of publicising and succeeding in its social campaigns. The one characteristic shared by most FLS campaigns is that they have rarely relied on legal avenues in their search for social change.

Since 1972 FLS has witnessed, and been partly responsible for, significant changes in the operation of the law in Australia. FLS can take some credit for the existence of a legal aid system undreamt of in the 1960s, and for the achievement of many less startling but important victories. FLS has been partly responsible for some, albeit slow, reforms to the legal profession. Through publications like the *Legal Resources Book*, the *Law Handbook* and *Where You Stand*, it has helped to make people more aware than ever before of their legal rights. And, significantly, FLS has established for itself an important watchdog role over many powerful institutions in Australia, most notably the Victoria Police. Moreover, FLS has now given legal assistance to over 49,000 clients. This in itself is a staggering statistic, given the largely voluntary nature of the organisation.

When it was founded, FLS offered a hostile critique of both the legal system and the legal profession. After the State moved to accommodate some of FLS's most persuasive criticisms, the organisation established for itself an enduring place as a player in the justice system.

Felicity Faris, one of the first FLS volunteers, is able to place FLS's history in some perspective. A few years ago she attended a community legal centres' conference in Adelaide, as a representative of the Environment Defenders' Office. Prior to this
she had not been involved with community legal centres for many years. She comments:

I can remember walking into this huge place, and there were just hundreds of people, all these young lawyers and young people, and it really just took my breath away, and I said to Amanda who I was with ... "I can't believe this. I came into this at the very beginning, and here I am sitting here at this conference ... with all these people who are employed as lawyers" ... I hadn't seen all of that development, I had gone in other directions and then I came back and here I was in Adelaide a couple of years ago being totally blown out by this huge number of people who are committed to the community legal centre notion.²

FLS is now just one of many community legal centres. And FLS no longer provides the radical critique of the legal system that it once did. But all of this is as much testimony to FLS's success as it is evidence of a loss of radicalism. For the State, in establishing a workable legal aid system and in funding community legal centres, has made adjustments in response to FLS's and others' most profound criticisms of the legal system.

FLS's history contains many stories and messages about the legal profession and about movements for social change in Australia. More than anything, however, FLS's history is a relatively recent, and yet now enduring, commentary on the law in Australia and on the relationship between the law and social change. This commentary suggests that the law and those who administer it still tend to favour some people over others, but that an energetic and broad approach to social change can yield tangible results.
NOTES FOR CONCLUSION


2 Felicity Faris, interview, 6 April 1994.
APPENDIX A
TWO ERAS OF FLS CLIENTS

Type of Problem

1976

- Miscellaneous (14.9%)
- Civil Disputes (14.0%)
- Tenancy (10.6%)
- Car Accidents (16.0%)
- Criminal (22.9%)
- Family (21.6%)

1992

- Miscellaneous (18.4%)
- Civil Disputes (22.3%)
- Tenancy (4.1%)
- Car Accidents (10.4%)
- Criminal (28.5%)
- Family (16.3%)
Source of Income

1976

- Other/Not Recorded (10.7%)
- Social Security (17.8%)
- Employed (49.6%)
- No Income (21.9%)

1992

- Other/Not Recorded (4.2%)
- Social Security (59.1%)
- No Income (5.4%)
- Employed (31.3%)
The 1976 information in these charts comes from an analysis of cases handled by FLS between July 1974 and December 1976, the details of which appear in David Neal, "Delivery of Legal Services - The Innovative Approach of the Fitzroy Legal Service", (1978) 11 Melbourne University Law Review 427. The 1992 figures come from FLS's 1992 Annual Report. I have merged some of the categories contained in both sources in order to enable comparisons to be made.
APPENDIX B

STATE AND FEDERAL GOVERNMENT FUNDING OF FLS

Federal Government Funding

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Combined State and Federal Government Funding

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These figures are derived from Fitzroy Legal Service financial statements, Annual Reports, and from Legal Aid Commission of Victoria Annual Reports. Where the relevant accounting period was for the financial year, I have transposed the figures to give calendar year sums. There are some minor discrepancies between the Service’s and the Commission’s reports as to the amounts of FLS’s annual grants. These relate to deductions made for professional indemnity insurance and for the Service’s participation in statistics schemes. Where discrepancies have occurred, I have favoured the figures in the Service’s financial documents.

APPENDIX C

LIFE MEMBERS OF FITZROY LEGAL SERVICE

Susan Bothmann
Brian Collingburn
John Finlayson
Julian Gardner
Brian Wright
APPENDIX D

SALARIED WORKERS

DAYTIME CO-ORDINATOR
Danny Spijer (1974-1975)

LAWYER/INITIATOR
LEGAL CO-ORDINATOR
Julian Gardner (1975-1980)

ADMINISTRATORS
Betty Oldis (1975-1976)
Susan Bothmann (1976-1979)
John Finlayson (1979-1980)
Christine Coombes (1981-1984)
Bebe Loff (1984)
Tricia Coles (1984-1985)
Kate Ring (1989-1994)

CASEWORK SOLICITORS
Charles Beckwith (1976-1978)
Pam O'Connor (1978-1980)
Tony Lawson (1979-1980)
Dominica Whelan (1980-1982)
Ian Polak (1980-1982)
Domenic Calabro (1982-1983)
David Allen (1982-1984)
Jon Faine (1984-1986)
Mandy Glaister (1985-1986)
Elisa Whittaker (1986-1989)
Janet Manuell (1989)
Angela Palombo (1989- *)

TYPING/ADMINISTRATIVE ASSISTANCE
Rosette Colaci (1975-1978)
Nancy De Salvo (1978)
Linda Williams (1979)
Robyn Marven (1979-1980)
Kerry Lewis (1980)
Michelle Henessy (1981-1983)
Sally James (1981)
Deidre Nuttal (1981-1983)
Joan Sanderson (1982)
Judith Shaw (1984-1985)
Yvonne O'Dea (1982-1984)
Margaret Bayly (1984-1986)
Robyn Greensill (1984)
Mark Halse (1984)
Kathy Foong (1985-1986)
Kerry D'Arcy (1985-1986)
Sarah Minifie (1986-1988)

Denise Goldie (1986)
Allison Badaa (1986-1989)
Terry Callaghan (1986)
Jo Cunislo (1986)
Cathy Ford (1986-1987)
(1989)
Patsy Baudinet (1986)
Alison Davey (1986-1989)
Arie Moses (1987)
Megan Crowley (1987)
Sandy Brien (1987)
Mary Lewis (1988-1994)
Judy Horacek (1988-1989)
Bernadette Shaw (1989)
Annie Bracie (1989)
Sue Connolly (1989-1990)
Yolanda Crawley (1989-1990)
Denise Wasley (1991)
Chris Hall (1992- *)
## ARTICLED CLERKS
- Tony Fitzgerald (1977-1978)
- Tony Lawson (1978-1979)
- Domenic Calabro (1981-1982)

## BOOKKEEPERS
- Bob Gordon (1976-1979)
- Jenny Locke (1986)
- Ross Hazeldine (1986)
- Katherine Kelly (1994- *)

### LEGAL RESOURCES BOOK/LAW HANDBOOK/PUBLICATIONS
- Margaret Anderson (1978-1980)
- Rod Dyke (1981-1983)
- Carolyn Kingham (1981)
- John Breen (1984-1985)
- Mavis Frost (1984-1986)
- Helen Wagner (1985)
- Bruce Holland (1986-1992)

- Emma Bridge (1986)
- Ross Hazeldine (1986)
- Nicola Bullard (1986)
- Cathy Elvins (1987)
- Sue Bruce (1988)
- Mark Courtney (1988)
- Trish Luker (1988)
- Cosima McPhee (1988- *)
- Jacqui Porter (1992)
- Peter Hoysted (1993)
- Catherine Rosenbrook (1994- *)

### LEGAL PROJECTS OFFICERS
- Bebe Loff (1982-1984)
- Jon Faine (1986-1987)
- Tim McCoy (1987)
- Jeff Giddings (1990)
- Greg Connellan (1990-1995)
- Greg Smith (1995- *)

### FRONT OFFICE MANAGERS
- Domenic Calabro (1982)
- Jean Melzer (1982-1986)
- Tony Anderson (1986-1987)
- Jan Browne (1986-1987)
- Helen Kurek (1987-1990)
- Maeve O’Driscoll (1990-1993)
- Sue Connolly (1991-1992)
- Denise Wasley (1993-1995)
- Kim Weir (1995- *)

### COMMUNITY DEVELOPMENT OFFICERS
- Robin Inglis (1984-1989)
- Sam Biondo (1989- *)

### PROGRAM DEVELOPMENT OFFICERS
- Carmel Shute (1983)

### LEGAL ADVOCATES
- Jeff Giddings (1986-1990)
- Emma Bridge (1990- *)
- Simon Northeast (1994- *)

### VOLUNTEER CO-ORDINATOR
- Ruth Buckstein (1994- *)

* indicates people employed by FLS as at April 1995.

This list of salaried workers does not include people who have worked at FLS for short periods of time (such as locum solicitors).
APPENDIX E

ORIGINAL FITZROY LEGAL SERVICE CONSTITUTION
(July 1973)

1. Name

The name of the organization is "Fitzroy Legal Service" hereinafter called "the service".

2. Principle and Objects

To provide a free and readily accessible legal service to the people of Richmond, Fitzroy, Carlton and Collingwood and to such other persons as the service may from time to time decide.

To participate in and involve local citizens in the recognition, understanding and solution [of] their own legal and related problems.

To participate in and practice preventative law.

To participate in and provide legal education in the community.

To initiate and participate in law reform.

3. Members

Membership of the service shall be granted to all who complete an application and tender the membership fee. Acceptance shall be subject to ratification by a General Meeting.

The first subscription shall cover the period from the date of admission to the date of the next Annual General Meeting.

Thereafter subscription shall become due and payable at the conclusion of the Annual General Meeting.

The General Meeting may in special cases elect life members.

4. Powers and Functions

The powers and functions of the service shall be exercised by the members in General Meeting or in Annual General Meeting and may be delegated by such meetings as they from time to time decide, to the co-ordinating committee, the work groups, or to any other group or persons.

5. Meetings

The Annual General Meeting of the service shall be held in the months of June in each year in such place, date and hour as the co-ordinating committee shall determine.

The co-ordinating committee may at any time convene a General Meeting.
Upon receipt of a request signed by no less than 10 members, any member of the co-ordinating committee shall issue notice of a General Meeting within 7 days.

There shall be General Meetings in the months of August, October, December, February and April.

At least 12 and not more than 21 days notice in writing must be given to all members of a General Meeting or Annual General Meeting.

A quorum of the General Meeting or Annual General Meeting shall consist of not less than 20 members.

Accurate minutes shall be kept of all meetings and shall be available for examination by any member. No resolution of a meeting shall be rescinded unless 14 days notice be given to members.

6. Co-ordinating Committee and Work Groups

There shall be a co-ordinating committee which shall be elected at the meetings in August, October, December, February, April and June aforesaid, and shall consist of five lawyers (including articled clerks) and five non-lawyers.

The General Meeting may appoint other persons to the co-ordinating committee upon such terms as it sees fit.

The co-ordinating committee shall have such powers and perform such tasks as are delegated to it by the General Meeting from time to time.

There shall be such work groups as the General Meeting may from time to time deem necessary.

Membership of the work groups shall be self elective.

7. Proceedings

The conduct of proceedings of a work group or co-ordinating committee and an Annual General Meeting and a General Meeting shall be at the absolute discretion of that meeting.

8. Office Bearers

There shall be a Treasurer of the service who shall be appointed at a General Meeting to hold office for a period of one year unless removed during such terms by resolution of a General Meeting.

9. Property

The property of the service shall be vested in three Trustees of the service who shall be appointed by the General Meeting. Each such Trustee shall hold office until his death, retirement or removal from office by a majority of the General Meeting.

The Trustees shall deal with the property of the service as directed by resolution of the General Meeting of the service (of which an entry in the Minute Book shall be conclusive evidence) and shall be indemnified against risk, loss and expense out of the property of the service.
The Treasurer of the service shall act as Secretary to the Trustees and shall be responsible for the keeping of the books of account for the Trustees and for the presentation of reports thereon to the General Meeting and to the service as required.

10. Finance

The co-ordinating committee shall take the necessary steps to open a Bank Account in the name of the service and all monies received shall be paid into this account forthwith. All accounts shall be authorized and passed by the co-ordinating committee and be paid by cheque signed by the Treasurer and by one of two members of the co-ordinating committee nominated by the General Meeting for that purpose.

11. Auditor

At each Annual General Meeting a qualified Auditor shall be appointed who shall carefully audit all accounts of the service including special or trust accounts and those operated by any auxiliaries or section and report to the following Annual General Meeting. The Auditor so appointed shall be a member of some recognized Institute of Accountants.

12. Interpretation of the Constitution

Any question of the interpretation of this Constitution shall be settled by the General Meeting.

13. Alteration to the Constitution

Any proposed amendment to the Constitution must be submitted in writing, signed by not less than two members and addressed to a member of the co-ordinating committee.

The co-ordinating committee shall submit the proposed amendment to a General Meeting of the service having given members at least 14 days notice of the amendment.

14. Dissolution

The service shall not be wound up or dissolved except by the consent of three fourths of those present at a special General Meeting of members of the service such meeting having been specially called for that purpose.

Any and all assets remaining after full settlement of all just debts and liabilities incurred by the service shall be disposed of by transfer to some other organization having similar objects to the service.

No such dispersal shall be made until the written approval of the Commissioner of Taxation has been obtained.
APPENDIX F

SCHEDULE OF INTERVIEWS

Carol Andrades          25 February 1994
Patsy Baudinet          21 February 1994
Domenic Calabro         5 May 1994
Wai Heng Chan           24 February 1994
Brian Collingburn       13 January 1994
Eilish Cooke            3 March 1993
Jon Faine               15 February 1994
Felicity Faris          6 April 1994
Peter Faris             22 February 1994
John Finlayson          19 August 1992
                         3 March 1993
Julian Gardner          8 October 1992
Amanda George           18 January 1994
Jeff Giddings           10 January 1994
Lou Hill                3 March 1993
Robin Inglis            20 May 1994
Bill Jeppesen           21 February 1994
Roz Jones               13 March 1994
Tony Lawson             29 October 1993
Phil Molan              24 October 1992
John Morgan#            17 March 1994
Michael O'Brien         3 March 1993
Betty Oldis*            7 February 1994
Ben Piper               21 February 1994
Bill Roach#             9 May 1994
Vincent Ruiz            6 March 1993
Tony Street#            19 May 1994
Diep Tran               21 April 1994
Remy Van de Wiel        19 March 1993
Elisa Whittaker         12 November 1993

* supplied her own tape containing recollections of FLS
# not their real names
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   Correspondence
   Fitzroy Legal Service Bulletin
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   Internal Reports
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      Central Committee Meetings
      Co-ordinating Committee Meetings
      Core Group Meetings
      General Meetings
      Implementation Group Meetings
      Special or Extraordinary Meetings
   Newsletter
   Press Releases

2. Newspapers, Newsletters, Magazines and Journals
   Age
   Australian
   Australian Third Sector Research Newsletter
   Border Morning Mail
   Brunswick Sentinel
   Coburg Courier
   Collingwood, Fitzroy, Carlton Courier
   Doncaster and Templestowe News
   Ekstasis
   Financial Review
   Herald
   Herald Sun
   Law Institute Journal
   Legal Service Bulletin
   Melbourne Times
   Nation
   Nation Review
   National Times
   Northcote Leader
   Nunawading Gazette
   Refractory Girl
   Resist
   Scarlet Letter
   Sentinel
   San
   Sun-Herald (Sydney)
   Sunday Age
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3. Other Primary Documents

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