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CHAPTER VII.

PUBLIC JUSTICE.

§ 1. Lower (Magistrates') Courts.

1. *General.*—In considering the criminal returns of the various States, due allowance must be made for certain factors, such as the relative powers of the higher and lower courts. In the case of lower courts, the actual number of laws in each State the breach of which renders a person liable to fine or imprisonment must be taken into account. Again, the attitude of the magistracy and police towards certain classes of offences is a factor, for in the case of liquor laws, or laws connected with vagrancy or gaming, the views of the magistrates, and instructions issued to the police, may be responsible for considerable variations in the returns. The strength and distribution of the police forces, and the age-constitution and distribution of the population of the States, also influence the results. Due weight should also be given to the prevalence of undetected crime, but information on this point is not available for all States. It may be mentioned that each State has its own separate judicial system, the Commonwealth jurisdiction being confined to the High Court of Australia, which is largely a Court of Appeal intermediate to the Privy Council although it has also original jurisdiction, the Commonwealth Court of Conciliation and Arbitration and the Federal Court of Bankruptcy. Full particulars regarding the judicial power of the Commonwealth will be found in Chapter III. of the Commonwealth Constitution, page 18.

2. *Powers of the Magistrates.*—Preceding issues of the Official Year Book contain a brief statement of the powers of the magistrates in the various States (see No. 22, p. 462), but this information is not repeated in the present volume.

3. *Cases Tried at Magistrates' Courts.*—The total number of cases tried at Magistrates Courts in each State is given below for the five years 1937 to 1941:—

CASES TRIED AT MAGISTRATES' COURTS.

State or Territory.	1937.	1938.	1939.	1940.	1941.
New South Wales ..	125,791	115,521	144,848	149,421	133,470
Victoria	74,222	79,056	82,858	86,287	77,003
Queensland(a) ..	33,467	35,434	32,501	28,653	25,783
South Australia ..	19,543	20,729	22,776	20,637	24,362
Western Australia ..	24,430	24,822	24,111	23,095	21,667
Tasmania	8,388	9,236	9,498	7,548	7,479
Northern Territory(a) ..	461	591	1,494	1,835	1,168
Australian Capital Territory	216	308	284	306	256
Total	286,518	285,697	318,370	317,782	291,188

(a) Year ended 30th June following.

Investigation of the returns shows that considerable variations in the figures for single States are occasioned by breaches of new Acts, or the more stringent enforcement of the provisions of existing Acts. Any deductions drawn from the total returns as to the increase or otherwise of criminality must, therefore, be largely influenced by a careful analysis of the detailed list of offences.

4. **Convictions.**—The figures given in the tabulation above include, of course, a number of people who were wrongly charged, and, statistically, are not of general importance. A classification of convictions of persons who appeared before the lower courts in each State during 1941 is given in the following table:—

CONVICTIONS AT MAGISTRATES' COURTS, 1941.

Offence.	N.S.W.	Vic.	Qld.(a)	S.A.	W.A.	Tas.	N.T.(a)	A.C.T.	Aust.
Against the Person ..	1,639	646	225	158	237	115	14	16	3,050
Against Property ..	10,019	4,783	1,939	1,211	2,093	649	51	52	20,797
Forgery and Offences against the Currency ..	49	..	1	10	..	..	1	..	61
Against Good Order ..	48,566	17,837	12,171	5,626	4,793	819	531	66	90,439
Other Miscellaneous ..	59,462	44,254	8,961	14,985	13,312	4,138	456	70	145,638
Total ..	119,735	67,520	23,297	21,990	20,435	5,721	1,053	234	259,985

(a) Year ended 30th June, 1942.

The following table shows the number of convictions in each year from 1937 to 1941:—

CONVICTIONS AT MAGISTRATES' COURTS.

State or Territory.	1937.	1938.	1939.	1940.	1941.
New South Wales ..	103,272	96,933	126,353	131,891	119,735
Victoria ..	64,772	68,841	72,186	75,712	67,520
Queensland(a) ..	29,893	32,047	28,920	25,640	23,297
South Australia ..	17,297	18,341	20,429	18,364	21,990
Western Australia ..	22,777	23,134	22,539	21,705	20,435
Tasmania ..	7,927	8,605	8,722	7,078	5,721
Northern Territory(a) ..	397	518	1,394	1,724	1,053
Australian Capital Territory	195	283	260	273	234
Total ..	246,530	248,702	280,803	282,387	259,985

(a) Year ended 30th June following.

5. **Convictions for Serious Crime.**—While the figures given in the preceding table refer to the entire body of convictions, the fact must not be overlooked that they include a large proportion of offences of a technical nature, many of them unwittingly committed, against various Acts of Parliament. Cases of drunkenness and minor breaches of good order, which, if they can be said to come within the category of crime at all, at least do so in a very different sense from some other offences, also help to swell the list. The following table has therefore been prepared for the purpose of showing the convictions at magistrates' courts for what may be regarded as the more serious offences, i.e., against the person and property, either separately or conjointly, and forgery and offences against the currency. Owing to the smallness of the population, the rates for the Northern Territory are subject to considerable variation.

CONVICTIONS FOR SERIOUS CRIME AT MAGISTRATES' COURTS.

State or Territory.	1937.	1938.	1939.	1940.	1941.
NUMBER.					
New South Wales	12,468	11,651	12,724	13,133	11,707
Victoria	5,289	6,064	5,727	5,653	5,429
Queensland(a)	2,278	2,467	2,402	2,275	2,165
South Australia	1,246	1,287	1,224	1,340	1,379
Western Australia	2,011	2,127	2,614	2,601	2,330
Tasmania	1,007	960	959	846	764
Northern Territory(a)	26	62	44	60	66
Australian Capital Territory	25	55	59	35	68
Total	24,350	24,673	25,753	25,943	23,908

PER 10,000 OF THE POPULATION.

New South Wales	45.99	42.82	46.28	47.31	41.82
Victoria	28.44	32.47	30.43	29.69	28.03
Queensland(a)	22.71	24.50	23.60	22.08	20.92
South Australia	21.08	21.72	20.53	22.40	22.97
Western Australia	43.99	46.24	56.21	55.58	49.79
Tasmania	42.14	40.73	40.29	35.21	31.91
Northern Territory(a)	45.07	106.04	62.59	63.71	67.80
Australian Capital Territory	24.40	49.44	49.21	27.46	51.98
Total	35.41	35.78	36.99	36.86	33.67

(a) Year ended 30th June following.

6. Rate of Convictions, 1881 to 1941.—Statistics of convictions reveal a consistent increase in the rate of serious crime from 1925 to 1931, when 37.1 convictions per 10,000 of the population were recorded. Following this comparatively high figure the rate declined to 32.4 in 1933 but increased considerably to 37.0 in 1939. In 1941 the rate declined to 33.7. The rate of convictions over a series of years is included below; only the more serious offences particularized in the preceding sub-section have been taken into consideration.

RATE OF CONVICTIONS FOR SERIOUS CRIME AT MAGISTRATES' COURTS : AUSTRALIA, 1881 TO 1941.

Year	1881.	1891.	1901.	1911.	1921.	1931.	1941.
Convictions per 10,000 persons	69.3.	44.8.	29.1.	24.6.	29.2.	37.1.	33.7.

7. Committals to Superior Courts.—(i) General. In a previous paragraph it has been pointed out that comparisons of criminality based on a consideration of the total returns from magistrates' courts are somewhat inadequate, inasmuch as the figures include numbers of cases which are merely technical breaches of laws having in some instances a purely local significance. The committals to higher courts give a better basis of comparison, although even in this connexion allowances must be made for the

want of uniformity in jurisdiction. A classification of the offences for which persons appearing in the lower courts were committed to higher courts in each State in 1941 is given below :—

COMMITTALS TO SUPERIOR COURTS, 1941.

Offence.	N.S.W.	Vic.	Qld.(a)	S.A.	W.A.	Tas	N.T.(a)	A.C.T.	Aust.
Against the Person ..	511	232	146	122	46	15	6	9	1,087
Against Property ..	1,111	1,054	126	120	63	70	11	1	2,556
Forgery and Offences against the Currency ..	30	67	2	13	..	..	..	..	112
Against Good Order ..	13	4	..	1	1	..	..	..	19
Other Miscellaneous ..	52	43	2	27	4	4	..	..	132
Total	1,717	1,400	276	283	114	89	17	10	3,906

(a) Year ended 30th June, 1942.

The table below gives the number of committals in each year from 1937 to 1941, with the rate of such committals per 10,000 of the population :—

COMMITTALS TO SUPERIOR COURTS.

State or Territory.	1937.	1938.	1939.	1940.	1941.
NUMBER.					
New South Wales ..	1,771	2,048	2,288	2,211	1,717
Victoria	1,545	2,016	1,777	1,543	1,400
Queensland (a) ..	251	282	359	228	276
South Australia ..	230	220	259	199	283
Western Australia ..	181	206	129	211	114
Tasmania	91	66	82	85	89
Northern Territory (a) ..	16	2	12	17	17
Australian Capital Territory	3	4	18	5	10
Total	4,088	4,844	4,924	4,499	3,906

PER 10,000 OF THE POPULATION.

New South Wales ..	6.5	7.5	8.3	8.0	6.1
Victoria	8.3	10.8	9.4	8.1	7.2
Queensland (a) ..	2.5	2.8	3.5	2.2	2.7
South Australia ..	3.9	3.7	4.3	3.3	4.7
Western Australia ..	4.0	4.5	2.8	4.5	2.4
Tasmania	3.8	2.8	3.4	3.5	3.7
Northern Territory (a) ..	27.7	3.4	17.1	18.1	17.5
Australian Capital Territory	2.9	3.6	15.0	3.9	7.6
Total	5.9	7.0	7.1	6.4	5.5

(a) Year ended 30th June following.

(ii) *Rate of Committals since 1881.* With occasional variations the rate of committals for serious crime has remained fairly stable during recent years, and, if the comparison be carried back further, the movement in the rate has undergone very little change during the present century. The rate at intervals since 1881 is as follows :—

RATE OF COMMITTALS TO SUPERIOR COURTS : AUSTRALIA, 1881 TO 1941.

Year	1881.	1891.	1901.	1911.	1921.	1931.	1941.
Committals per 10,000 persons ..	12	11	8	6	7	8	6

8. Drunkenness.—(i) *Cases and Convictions.* The number of cases of drunkenness and the convictions recorded in connexion therewith during the period 1937 to 1941 are given in the following table:—

DRUNKENNESS : CASES AND CONVICTIONS.

State or Territory.	1937.		1938.		1939.		1940.		1941.	
	Cases.	Convictions.	Cases.	Convictions.	Cases.	Convictions.	Cases.	Convictions.	Cases.	Convictions.
New South Wales	29,672	27,651	29,610	27,181	32,472	32,405	34,710	34,575	34,683	34,637
Victoria	10,433	10,296	11,311	11,128	11,609	11,421	11,619	11,440	12,064	11,899
Queensland (a)	10,450	10,183	11,416	11,187	11,202	11,118	9,558	9,422	10,124	10,025
South Australia	2,529	2,520	2,662	2,653	2,607	2,597	2,594	2,580	3,837	3,818
Western Australia	2,708	2,678	2,513	2,479	2,681	2,658	2,860	2,833	3,290	3,262
Tasmania	379	365	349	334	411	407	336	333	282	250
Northern Terr. (a)	145	145	156	151	686	677	522	517	492	479
Aust. Cap. Terr.	92	91	133	133	114	114	109	108	80	80
Total	56,408	53,929	58,150	55,246	61,782	61,397	62,308	61,808	64,852	64,450

(a) Year ended 30th June following.

Under the heading "drunkenness" are included cases of ordinary drunkenness, drunkenness and disorderliness, and habitual drunkenness.

The number of convictions is, as might naturally be expected, almost identical with the number of cases. Until 1939 the number of convictions recorded for New South Wales did not include cases where offenders were admonished and discharged.

(ii) *Convictions per 10,000 of Population.* The convictions for drunkenness per 10,000 of the population during each of the years from 1937 to 1941 are given hereunder:—

CONVICTIONS FOR DRUNKENNESS PER 10,000 OF THE POPULATION.

State or Territory.	1937.	1938.	1939.	1940.	1941.
New South Wales	102.6	100.0	117.9	124.5	123.7
Victoria	55.5	59.6	60.7	60.1	61.4
Queensland (a)	102.3	111.1	109.2	91.5	96.9
South Australia	42.8	44.8	43.6	43.1	63.6
Western Australia	58.9	53.9	57.2	60.5	69.7
Tasmania	15.6	14.2	17.1	14.0	10.4
Australian Capital Territory	89.3	119.6	95.1	84.7	61.2
Total	78.9	80.1	88.2	87.8	90.8

(a) Year ended 30th June following.

In the twenties the convictions for drunkenness averaged approximately 100 per 10,000 inhabitants, but the rate fell away considerably during the following years and was only 57.1 in 1931. With the improvement in the social condition of the people following that year, the average rose steadily to 84.0 in 1936, declined somewhat during the next two years, and rose to 90.8 in 1941. Figures for the consumption of beer have followed a similar course. From an average of 11.33 gallons per head of the population consumed for some years prior to 1931-32, when the amount declined to 7.32 gallons, the average rose each year to 13.76 gallons in 1941-42, but declined in 1942-43 to 12.58 gallons.

The convictions for drunkenness taken by themselves are not altogether a satisfactory test of the relative sobriety of the inhabitants of each State, inasmuch as several important factors must be taken into consideration. The age and sex constitution of the people, for example, are by no means identical in all the States. Another factor

is the distribution of the population. Arrest or summons for drunkenness obviously is more likely in the regions densely populated than in those sparsely populated. In addition allowance must be made for the attitude of the magistracy, the police and the general public in regard to the offence. Due account also must be taken of the effect of legislation dealing with the limitation of hours during which liquor may be sold in hotels.

(iii) *Consumption of Intoxicants.* The following table shows the consumption of spirits, wine and beer per head of the population in Australia during each year of the quinquennium 1938-39 to 1942-43 :—

CONSUMPTION OF INTOXICANTS IN AUSTRALIA.

Year.	Consumption per Head of Population.		
	Spirits.	Wine.	Beer.
	Imp. Galls.	Imp. Galls.	Imp. Galls.
1938-39	0.22	} 0.36 }	12.13
1939-40	0.26		12.89
1940-41	0.22		13.71
1941-42	0.20		13.76
1942-43	0.22		12.58

(iv) *Treatment of Drunkenness.* (a) *General.* Though the problem of the correct method of dealing with dipsomania is by no means an easy one, it seems fairly clear that the present plan of bringing offenders before magistrates, and subjecting them to the penalty of imprisonment or fine, has little deterrent effect, as the same offenders are constantly reappearing before the courts. Examination of the prison records in New South Wales some years ago disclosed the fact that over 40 per cent. of the gaol population had commenced their criminal career with a charge of drunkenness. During the last few years the dangers of moral contamination in this way have been more accurately appreciated, and a system of classification of prisoners has been adopted whereby the petty offender is as far as possible kept from association with those convicted of more serious offences.

(b) *Remedial.* Legislation has been passed in each State providing for the commitment of inebriates to special Government institutions. The laws in the various States are as follows :—New South Wales, Inebriates Act 1912 ; Victoria, Inebriates Act 1928 ; Queensland, Inebriate Institutions Act 1896 ; South Australia, Inebriates Act 1908-1934, Convicted Inebriates Act 1913-1934 ; Western Australia, Inebriates Act 1912-1919 ; Tasmania, Inebriates Act 1885, Inebriate Hospitals Act 1892. Curative work was first undertaken by the Government of New South Wales in 1907. In most cases the institutes are connected with the gaols, and, naturally, custodial measures are still a strong feature in their management ; nevertheless, the results of remedial measures have been encouraging.

9. *First Offenders.*—In all the States statutes dealing with first offenders have been in force for many years. Existing legislation is as follows :—New South Wales, Crimes Act 1900 amended in 1924 and 1929, First Offenders (Women) Act 1919 ; Victoria, Crimes Act 1928 ; Queensland, Criminal Code Acts 1899 to 1939 ; South Australia, Offenders Probation Act 1913-1934 ; Western Australia, Criminal Code Act 1913-1942 ; Tasmania, Probation of Offenders Act 1934. The method of procedure is practically the same in all cases, i.e., with regard to most first offenders the magistrate or judge is empowered to allow the offender to go free on recognizances being entered into for his good behaviour for a certain period. In practice, this humane law has been found to work excellently, very few of those convicted under it having been found to relapse into crime.

10. *Children's Courts.*—Special courts for the trial of juvenile offenders have been established in New South Wales, Victoria, Queensland, Western Australia and Tasmania, while Children's Courts, although not under that title, are provided for by the Maintenance Act of 1926-1941 in South Australia. The object of these courts is to avoid, as far as possible, the unpleasant surroundings of the ordinary police court.

§ 2. Superior Courts.

1. Convictions at Superior Courts.—The following is a list of the principal offences for which persons were convicted in superior courts during 1941 :—

CONVICTIONS AT SUPERIOR COURTS, 1941.

Offence.	N.S.W. (a)	Vic.	Qld. (a)	S.A.	W.A.	Tas.	N.T. (a)	A.C.T.	Aust.
I. OFFENCES AGAINST THE PERSON.									
Murder	4	1	4	1	..	..	..	..	10
Attempted Murder	1	..	..	..	..	..	3	..	4
Manslaughter	9	3	4	..	2	1	..	..	19
Rape	9	5	6	1	3	4	..	..	28
Other Offences against Females	70	46	24	43	7	1	1	..	192
Unnatural Offences	50	36	7	6	..	1	..	..	100
Abortion and Attempts to Procure	3	2	1	2	1	..	..	..	9
Bigamy	19	21	7	4	3	1	..	..	55
Suicide, Attempted .. .. .	..	..	..	..	..	..	..	..	..
Assault, Aggravated .. .. .	..	..	13	..	2	1	..	..	16
Assault, Common	10	9	3	7	..	..	..	1	30
Other Offences against the Person	73	23	5	11	8	..	2	1	123
Total	248	146	74	75	26	9	6	2	586
II. OFFENCES AGAINST PROPERTY.									
Burglary and Housebreaking	343	252	39	33	15	6	9	..	697
Robbery and Stealing from the	62	25	2	1	1	3	6	..	100
Person .. .. .	..	..	..	..	..	..	..	..	1
Horse-stealing	1	..	..	..	..	..	..	..	4
Cattle-stealing	1	3	..	..	..	..	..	..	7
Sheep-stealing .. .. .	..	5	..	1	1	..	..	..	..
Embezzlement and Stealing by	13	23	7	3	4	..	..	..	50
Servants	84	129	13	10	10	2	..	1	249
Larceny, Other .. .. .	..	..	1	..	5	0.	..	..	6
Unlawfully using Horses, Cattle and	16	45	3	2	..	2	..	..	68
Vehicles	38	21	7	19	1	..	..	..	86
Receiving .. .. .	..	3	1	2	..	1	..	..	7
Fraud and False Pretences	5	6	..	2	..	..	..	..	13
Arson	13	6	..	1	..	1	5	..	26
Malicious Damage .. .. .	..	..	..	..	..	..	..	..	..
Other Offences against Property .. .. .	..	..	..	..	..	..	..	..	..
Total	576	518	73	74	37	15	20	1	1,314
III. FORGERY AND OFFENCES AGAINST THE CURRENCY.									
Forgery and Uttering Forged	15	16	2	14	..	..	..	..	47
Instruments	1	..	..	..	..	..	..	..	1
Offences in relation to the Currency .. .. .	..	..	..	..	..	..	..	..	..
Total	16	16	2	14	..	..	..	..	48
IV. OFFENCES AGAINST GOOD ORDER									
Total	13	1	1	4	1	..	..	..	20
V. OTHER MISCELLANEOUS.									
Conspiracy	22	7	..	..	..	..	..	..	29
Perjury and Subornation	7	8	..	2	..	1	..	..	18
Other Offences	4	9	1	8	1	3	..	..	26
Total	33	24	1	10	1	4	..	..	73
Grand Total	886	705	151	177	65	28	26	3	2,041

(a) Year ended 30th June, 1942.

The number of convictions at superior courts and the rate per 10,000 of the population are given below for each of the years 1937 to 1941 :—

CONVICTIONS AT SUPERIOR COURTS.

State or Territory.	1937.	1938.	1939.	1940.	1941.
NUMBER.					
New South Wales(a)	695	804	982	861	886
Victoria	565	642	690	651	705
Queensland(a)	173	142	214	145	151
South Australia	183	172	179	163	177
Western Australia	103	90	71	84	65
Tasmania	42	55	39	59	28
Northern Territory(a)	14	23	11	36	26
Australian Capital Territory	1	4	14	4	3
Total	1,776	1,932	2,200	2,003	2,041

PER 10,000 OF THE POPULATION.

New South Wales(a)	2.6	2.9	3.6	3.1	3.2
Victoria	3.0	3.4	3.7	3.4	3.6
Queensland(a)	1.7	1.4	2.1	1.4	1.5
South Australia	3.1	2.9	3.0	2.7	2.9
Western Australia	2.3	2.0	1.5	1.8	1.4
Tasmania	1.8	2.3	1.6	2.5	1.2
Northern Territory(a)	24.2	39.3	15.6	38.2	26.7
Australian Capital Territory	1.0	3.6	11.7	3.1	2.3
Total	2.6	2.8	3.1	2.8	2.9

(a) Year ended 30th June following.

The rate of convictions, 2.3 per 10,000 of the population, in 1936 was the lowest on record, but it increased during each of the next three years to 3.1 in 1939 and fell slightly to 2.9 in 1941. Owing to the smallness of the population and the particular conditions prevailing there, the rates for the Territories naturally show considerable variation.

2. **Habitual Offenders.**—Some account of the methods adopted in each State in connexion with habitual offenders is given in preceding issues of the Official Year Book (see No. 22, pp. 469-70).

3. **Capital Punishment.**—There were five executions in Australia during the period 1937 to 1941. Two took place in New South Wales (one in 1937-38 and one in 1939-40) and three in Victoria (two in 1939 and one in 1941).

Under the Criminal Code Amendment Act of 1922 capital punishment was abolished in Queensland.

In the early days of the history of Australia the penalty of death was attached to a large number of offences, many of which at the present time would be dealt with in the lower or magistrates' court. With the growth of settlement, and the general amelioration in social and moral conditions, the list was, however, considerably curtailed, and the existing tendency is practically to restrict death sentences to cases of murder. It may be stated that in cases of rape, which is a capital offence in some of the Australian States,

the penalty has been but sparingly inflicted during the last few years. Juries are reputed to be loth to convict on this charge, owing to the uncertainty whether sentence of death will be pronounced.

The average annual number of executions in Australia from 1861 to 1880 was 9, from 1881 to 1900, 6; from 1901 to 1910, 4; from 1911 to 1920, 2; from 1921 to 1930, 2; and from 1931 to 1940, 1.

§ 3. Civil Courts.

1. Lower Courts.—The total number of plaints entered and the amounts awarded to plaintiffs during 1941 are given in the following table. Particulars for earlier years appear in preceding issues of the Official Year Book.

CIVIL CASES AT LOWER COURTS, 1941.

State.	1941.	State or Territory.	1941.
New South Wales	{ Cases No. 57,520 Amount £ 337,983	Western Australia	{ Cases No. 21,307 Amount £ 108,797
Victoria..	{ Cases No. 73,013 Amount £ 431,948	Tasmania ..	{ Cases No. 14,936 Amount £ 59,506
Queensland(a)	{ Cases No. 11,602 Amount £ 135,317	Australian Capital Territory	{ Cases No. 485 Amount £ 3,569
South Australia ..	{ Cases No. 20,793 Amount £ 125,000	Total ..	{ Cases No. 199,656 Amount £ 1,202,120

(a) Year ended 30th June, 1942.

Particulars in regard to the amount of judgments involved in the 530 civil cases in the Northern Territory during the year ended 30th June, 1942, are not available.

The figures just given represent the returns from the Small Debts Courts in New South Wales, the Petty Sessions Courts in Victoria, the Petty Debts Courts in Queensland, the Local Courts of South Australia and Western Australia, the Courts of Requests in Tasmania, and the Court of Petty Sessions in the Australian Capital Territory.

2. Superior Courts.—In the next table will be found the transactions on the civil side in the Superior Courts during 1941. The particulars given below include the number and amount of judgments entered by default or consent, and differ from those in issues of the Official Year Book prior to No. 29, which related in most States only to cases actually tried during the year.

The New South Wales returns refer to judgments in the District Courts only, and exclude 1,522 judgments signed in the Supreme Court, for which the amounts entered are not available.

CIVIL CASES AT SUPERIOR COURTS, 1941.

State.	1941.	State or Territory.	1941.
New South Wales	{ Causes No. 5,762 Amount £ 299,032	Western Australia	{ Causes No. 103 Amount £ 144,840
Victoria..	{ Causes No. 2,234 Amount £ 150,297	(b) Tasmania ..	{ Causes No. 312 Amount £ 32,395
Queensland(a)	{ Causes No. 489 Amount £ 58,114	Australian Capital Territory	{ Causes No. 2 Amount £ 1,089
South Australia ..	{ Causes No. 392 Amount £ 14,987	Total ..	{ Causes No. 9,294 Amount £ 700,754

(a) Year ended 30th June, 1942.

(b) Judgments signed and entered.

3. Divorces and Judicial Separations.—The following table shows the number of petitions for divorce filed in each State during 1941, and the number of divorces granted:—

PETITIONS FOR DIVORCE AND DIVORCES GRANTED, 1941.

State or Territory.	Petitions for Divorce.			Divorces Granted.
	By Husband.	By Wife.	Total.	
New South Wales	1,185	1,192	2,377	1,501
Victoria	438	543	981	837
Queensland	132	126	258	253
South Australia	187	200	387	273
Western Australia	169	192	361	292
Tasmania	48	51	99	84
Northern Territory(a)	3	1	4	4
Australian Capital Territory	3	..	3	2
Total	2,165	2,305	4,470	3,246

(a) Year ended 30th June, 1942.

The grounds on which divorces and judicial separations were granted during 1941 in each State are given in the following table:—

GROUNDS ON WHICH DIVORCES AND JUDICIAL SEPARATIONS WERE GRANTED, 1941.

Grounds on which Granted.	N.S.W.		Vic.		Qld.		S.A.		W.A.		Tas.		N.T.(a)		A.C.T.		Aust.		
	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	
Adultery	328	8	215	2	109	1	94	1	130	..	18	..	..	..	1	..	895	12
Bigamy	85	..	1	..	1	..	..	..	..	..	..	..	..	..	..	..	7	..
Cruelty	8	2	1	1	2	1	7	..	..	..	1	..	..	..	..	..	19	4
Cruelty and Drunkenness	17	..	7	24	..
Drunkenness	9	..	1	..	..	..	7	..	1	..	1	..	..	..	..	..	19	..
Desertion	1,130	..	594	2	133	..	135	..	140	..	61	..	4	..	1	..	2,198	2	
Imprisonment for Crime .. .. .	..	..	4	..	..	..	3	..	1	..	1	..	..	..	..	..	9	..
Insanity .. .. .	..	..	11	..	3	..	2	..	3	..	2	..	..	..	..	..	21	..
Other	4	..	3	..	5	..	25	..	17	..	..	..	..	..	..	..	54	..
Total	1,501	10	837	5	253	2	273	1	292	..	84	..	4	..	2	..	3,246	18	

(a) Year ended 30th June, 1942.

The number of divorces and judicial separations in each State during the period 1937 to 1941 is shown below. The figures refer in the case of divorces to decrees made absolute in each year and include decrees for nullity of marriage.

DIVORCES AND JUDICIAL SEPARATIONS.

State or Territory.	1937.		1938.		1939.		1940.		1941.	
	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.	Divorces.	Judicial Separations.
New South Wales	1,272	11	1,431	9	1,545	8	1,414	13	1,501	10
Victoria	797	3	827	3	801	4	821	1	837	5
Queensland	210	..	201	..	224	4	240	(a) 1	253	2
South Australia	207	3	243	1	243	..	309	..	273	1
Western Australia	236	..	255	..	234	..	246	..	292	..
Tasmania	30	..	109	..	80	..	83	..	84	..
Northern Territory(a)	4	..	4	..	2	..	8	..	4	..
Australian Capital Territory	3	..	4	..	6	1	5	1	2	..
Total	2,759	17	3,074	13	3,135	13	3,126	21	3,246	18

(a) Year ended 30th June following.

The average annual number of divorces and judicial separations in Australia for decennial periods from 1871 to 1940 were as follows:—

DIVORCES AND JUDICIAL SEPARATIONS : AUSTRALIA.

Year ..	1871-80.	1881-90.	1891-1900.	1901-10.	1911-20.	1921-30.	1931-40.
Average ..	29.	70.	358.	401.	707.	1,699.	2,495.

The following table shows the numbers and proportions of divorced males and females according to age in Australia at each Census from 1891 onwards. Prior to 1911 no record was made of divorced persons in South Australia, so that no definite comparisons can be made to extend beyond that date.

DIVORCED PERSONS : AGE DISTRIBUTION, AUSTRALIA, 1891 TO 1933.

Age last Birthday.	Number.					Proportion per 10,000 of the Sex.				
	1891. (a)	1901. (a)	1911.	1921.	1933.	1891. (a)	1901. (a)	1911.	1921.	1933.
MALES.										
Years—										
15-19 ..	..	..	2	11	..	..	..	0	0	..
20-24 ..	10	21	27	55	73	0	1	1	2	3
25-29 ..	37	77	137	321	501	2	5	7	14	18
30-34 ..	60	167	286	580	1,100	4	11	17	26	44
35-39 ..	68	262	321	661	1,575	7	17	21	34	69
40-44 ..	41	233	361	592	1,777	5	19	25	35	77
45-49 ..	34	154	407	533	1,614	5	17	30	37	77
50-54 ..	27	131	338	498	1,256	4	19	31	37	73
55-59 ..	28	76	204	425	877	6	14	28	36	66
60-64 ..	16	55	134	281	611	4	12	26	31	53
65-69 ..	5	33	76	155	477	2	9	19	28	51
70-74 ..	5	14	43	86	270	3	5	14	26	41
75-79 ..	1	7	12	27	122	1	5	6	14	34
80-84 ..	..	3	14	7	35	..	5	16	7	25
85 and over ..	..	1	6	1	10	..	5	17	2	17
Age 15 and over	332	1,234	2,368	4,233	10,298	3	10	15	23	42
FEMALES.										
Years—										
15-19 ..	2	2	1	8	6	0	0	0	0	0
20-24 ..	16	56	71	168	230	1	11	3	7	8
25-29 ..	60	168	239	526	960	4	18	13	22	37
30-34 ..	49	244	332	756	1,565	5	21	21	34	66
35-39 ..	40	287	374	713	1,939	5	24	26	37	82
40-44 ..	26	178	366	621	1,880	4	19	29	38	83
45-49 ..	19	107	319	496	1,598	4	16	29	37	80
50-54 ..	10	52	229	405	1,066	2	10	27	34	65
55-59 ..	4	28	79	280	662	1	6	14	28	51
60-64 ..	1	11	59	217	485	0	3	13	28	42
65-69 ..	..	10	38	70	287	..	3	10	14	32
70-74 ..	1	5	14	25	136	1	3	5	8	21
75-79 ..	..	..	16	14	58	..	..	10	7	16
80-84 ..	..	1	2	2	12	..	2	3	2	8
85 and over ..	..	..	1	3	4	..	..	3	5	5
Age 15 and over	228	1,149	2,140	4,304	10,888	3	10	15	24	46

(a) Excludes South Australia.

4. **Bankruptcies.**—Particulars relating to bankruptcy in each State up to the end of 1927 were incorporated under this heading in preceding issues of the Official Year Book. Under the terms of the Bankruptcy Act 1924-1933 jurisdiction in bankruptcy and insolvency was taken over by the Commonwealth from 1st August, 1928. The Act

makes provision for the declaration of districts, and each State (except Queensland and Northern Territory) have been declared bankruptcy districts. The bankruptcy district of New South Wales includes the Australian Capital Territory. Queensland has been divided into three districts corresponding to the three Supreme Court districts in that State. Operations under the Act for the year ended 31st July, 1943, are given in the following table. For the purposes of comparison, figures for each of the preceding two years are appended to the table.

COMMONWEALTH BANKRUPTCY ACT RETURNS, 1942-1943.

Heading.	N.S.W.	Vic.	Qld.	S. Aust.	W. Aust.	Tas.	Nor. Terr.	Australia.
Sequestration Orders and Orders for Administration of Deceased Debtors' Estates	Number ..	129	73	50	23	15	18	.. 308
	Liabilities £	323,328	75,344	69,364	34,069	40,065	14,029	.. 556,199
	Assets £	237,458	25,272	46,404	11,710	20,134	1,946	.. 342,924
Compositions, etc., after Bankruptcy	Number ..	4	..	1	5	..	..	.. 10
	Liabilities £	5,784	..	494	10,743	..	..	.. 17,021
	Assets £	2,838	..	329	7,169	..	..	.. 10,336
Compositions, etc., without Bankruptcy	Number ..	1	..	2	84	9	..	.. 96
	Liabilities £	1,382	..	6,374	259,089	26,980	..	.. 293,825
	Assets £	1,638	..	8,671	227,544	24,586	..	.. 262,439
Deeds of Arrangement ..	Number ..	31	18	12	..	..	..	.. 61
	Liabilities £	49,767	21,225	13,087	..	..	..	.. 84,079
	Assets £	54,525	14,604	10,957	..	..	..	.. 80,086
Total, 1942-43	Number ..	165	91	65	112	24	18	.. 475
	Liabilities £	380,261	96,569	89,319	303,901	67,045	14,029	.. 951,124
	Assets £	296,459	39,876	66,361	246,423	44,720	1,946	.. 695,785
Total, 1941-42	Number ..	323	215	123	244	48	30	.. 983
	Liabilities £	389,365	254,186	207,841	787,743	200,211	18,716	.. 1,858,062
	Assets £	280,167	101,506	161,102	614,476	137,131	9,240	.. 1,303,622
Total, 1940-41	Number ..	503	313	172	331	94	56	.. 1,469
	Liabilities £	1,055,592	303,056	339,838	884,911	145,673	35,861	.. 2,764,931
	Assets £	534,224	137,369	190,590	679,070	107,497	13,217	.. 1,661,967

It is pointed out that the procedure in certain States has been largely influenced by the procedure in force prior to the passing of the Commonwealth Act, and that, therefore, no particular significance attaches to the large number of compositions, etc., in South Australia and Western Australia.

The Bankruptcy Act 1930 created a Federal Court of Bankruptcy and provided for the appointment of a Judge or two Judges thereto. In 1930 a Federal Judge in Bankruptcy was appointed in addition to the State Judges, to deal with bankruptcy work in New South Wales and Victoria, the Courts in these States having been unable to cope with the business. All the bankruptcy cases in these States are now heard by the Federal Judge, who sits in Sydney and Melbourne alternatively.

5. **High Court of Australia.**—Under the provisions of Section 71 of the Commonwealth Constitution, the judicial power of the Commonwealth is vested in a Federal Supreme Court, called the High Court of Australia, and in such other courts as the Parliament creates or invests with federal jurisdiction. The Federal High Court possesses both original and appellate jurisdiction. The powers of the Court are defined in the Commonwealth Constitution, and in the Judiciary Act 1903-1940. At present the Court consists of a Chief Justice and five other judges. Sittings of the Court are held in the capitals of the various States as occasion may require. The High Court functions as a Court of Appeal for Australia. The following statement shows the transactions of the High Court for 1941 and 1942. Figures for previous years are given in preceding issues.

TRANSACTIONS OF COMMONWEALTH HIGH COURT, 1941 AND 1942.

Original Jurisdiction.			Appellate Jurisdiction.		
	1941.	1942.		1941.	1942.
Number of writs issued	35	74	Number of appeals set down for hearing ..	97	66
Number of causes entered for trial ..	10	21	Number allowed ..	29	15
Verdicts for plaintiffs	3	7	Number dismissed ..	59	27
Verdicts for defendants	..	16	Otherwise disposed of	5	10
Otherwise disposed of	4	27			
Amount of judgments	£100	£16,970			

During 1941 and 1942 respectively the Court dealt also with the following: Appeals from Assessments under Taxation Assessment Act, 45, 26; Special cases stated for the opinion of the Full Court, 6, 14; Applications for Prohibitions, etc., 42, 35. The fees collected amounted to £601 in 1941 and £750 in 1942.

6. **Commonwealth Court of Conciliation and Arbitration.**—A detailed statement regarding the operation of this Court, which was established under the Commonwealth Conciliation and Arbitration Act of 1904-1934, will be found in Chapter XV. "Labour, Wages and Prices", and in the *Labour Report*.

§ 4. Police and Prisons.

1. **General.**—Early issues of the Official Year Book (see No. 4, p. 918) contain a résumé of the evolution of the police force in Australia up to the passing of the Police Act of 1862 (25 Vic. No. 16) in New South Wales.

2. **Strength of Police Force.**—(i) *General.* The strength of the police force in each State during the five years ended 1941 is given in the table hereunder. It may be mentioned that the police forces (with the exception of the small body of Commonwealth police maintained in the Northern Territory and in the Australian Capital Territory) are entirely under State control, but, by arrangement, the Commonwealth Government utilizes their services in various directions, such as acting as aliens registration officers, and policing the liquid fuel regulations, etc.

STRENGTH OF POLICE FORCES.

State or Territory.	Area of State in Sq. Miles.	No. of Police.				
		1937.	1938.	1939.	1940.	1941.
New South Wales ..	399,433	3,816	3,801	3,907	3,964	3,902
Victoria ..	87,884	2,280	2,279	2,333	2,327	2,335
Queensland (a) ..	670,500	1,390	1,395	1,460	1,510	1,621
South Australia (a)	380,070	882	894	905	928	879
Western Australia (a)	975,920	582	601	600	614	638
Tasmania (a) ..	26,215	283	284	296	297	311
Northern Territory (a)	523,620	43	43	48	51	43
Aust. Cap. Territory	939	15	17	17	19	19
Total ..	2,974,581	9,291	9,314	9,566	9,710	9,748

(a) 30th June of year following.

The figures for New South Wales for 1941 exclude 17 "black trackers", (i.e., natives employed in detection of offenders chiefly in outlying districts) and 4 matrons, while the Victorian returns exclude 3 matrons and 1 black tracker. For Queensland the figures exclude 34 black trackers, for South Australia 4 wardresses and 3 black trackers, for Western Australia 37 black trackers and 5 female searchers, and for the Northern Territory 31 black trackers. Women police are employed in all the States, the respective numbers for 1941 included in the table above being :—New South Wales 14, Victoria 8, Queensland 8, South Australia 14, Western Australia 10, and Tasmania 2. Their work is mainly preventive, and the importance and usefulness of their duties have been referred to in very high terms by the Chief Officers of Police. In his Report for 1939 the Inspector-General of Police in New South Wales refers to the valuable work performed by the women police in connexion with the welfare of women and young girls who frequent the streets and places of public resort, and the location of missing girls. They also carry out escort duties in respect of female prisoners. The experience in other States has been of a similar nature.

(ii) *Proportion to Population.*—The average number of persons in the various States to each police officer during the same period is shown in the following table. In considering these figures allowance must, of course, be made for the unequal area and unequal distribution of the population of the various States.

POLICE FORCES IN RELATION TO POPULATION.

State or Territory.	Number of Persons per Sq. Mile, 1933 Census.	Persons to each Police Officer.				
		1937.	1938.	1939.	1940.	1941.
New South Wales	8.41	710	720	709	704	721
Victoria	20.71	816	822	809	825	836
Queensland (a)	1.41	722	729	703	686	640
South Australia (a)	1.53	672	666	661	646	691
Western Australia (a)	0.45	791	774	780	764	737
Tasmania (a)	8.68	827	833	808	804	771
Northern Territory (a)	0.01	134	144	165	195	208
Aust. Cap. Territory	9.52	683	674	721	677	651
Total	2.23	740	744	731	729	733

(a) 30th June of year following.

3. *Duties of the Police.*—In addition to the ordinary employment attaching to their office, the police are called upon to perform many duties which in other countries are carried out by various functionaries. Thus, in New South Wales, it has been estimated that one-fifth of the time of the force was taken up in extraneous duties unconnected with the protection of life and property, while the cash value of the services rendered to other Government departments was stated as over £200,000 per annum. The Queensland Commissioner refers to the circumstance that in 1941-42 no less than 54 important subsidiary offices were held by the police. In South Australia, the Commissioner alludes to the large number of subsidiary duties performed by police officers, and mentions that for the year ended June, 1942, over 215,500 inquiries were made on behalf of other State and Commonwealth departments. As a result of the war extra duties have been added to those normally performed by the police. These include, amongst others, registration of aliens and various duties connected with air raid precautions.

4. **Prison Accommodation and Prisoners, 1941.**—The table below shows the number of prisons in each State, the accommodation therein, and the number of prisoners in confinement at the end of 1941 :—

PRISON ACCOMMODATION AND PRISONERS, 1941.

State or Territory.	Number of Prisons.	Accommodation in—		Prisoners at End of Year.
		Separate Cells.	Wards.	
New South Wales (a)	15	(b) 2,059	..	1,497
Victoria	10	1,292	338	939
Queensland	7	564	94	277
South Australia	15	672	171	208
Western Australia	19	607	506	211
Tasmania (a)	1	142	4	62
Northern Territory	3	13	19	32
Total	70	5,349	1,132	3,226

(a) Year ended 30th June, 1942.

(b) Total accommodation.

The figures refer to prisoners under sentence and exclude aborigines. There are no gaols in the Australian Capital Territory, but there are lock-ups attached to the police stations at Canberra and Jervis Bay, where offenders are held while awaiting trial, and sentences not exceeding one week imposed by a magistrate may be served.

5. **Prisoners in Gaol, 1937 to 1941.**—The number of prisoners in gaol at 31st December in each of the years 1937 to 1941 and the proportion per 10,000 of the population are given in the following table. The figures refer to prisoners under sentence and exclude aborigines.

PRISONERS IN GAOL.

State or Territory.	1937.	1938.	1939.	1940.	1941.
NUMBER.					
New South Wales(a)	1,176	1,364	1,357	1,236	1,497
Victoria	1,030	1,084	1,144	1,046	939
Queensland	276	265	261	271	277
South Australia	231	235	199	197	208
Western Australia	260	294	234	246	211
Tasmania(a)	87	116	108	91	62
Northern Territory	18	17	23	39	32
Total	3,078	3,375	3,326	3,126	3,226

PER 10,000 OF THE POPULATION.

New South Wales(a)	4.3	5.0	4.9	4.4	5.3
Victoria	5.5	5.8	6.1	5.5	4.8
Queensland	2.8	2.6	2.6	2.6	2.7
South Australia	3.9	3.9	3.3	3.3	3.4
Western Australia	5.7	6.4	5.0	5.3	4.5
Tasmania(a)	3.6	4.9	4.5	3.7	2.6
Total	4.5	4.9	4.8	4.4	4.5

(a) 30th June of year following.

After remaining stationary at 6.5 per 10,000 for the four years ended 1932 the proportion of prisoners in gaol to the total population declined to 4.5 in 1941, which figure compares most favourably with that obtaining in 1891, when the proportion was as high as 16 per 10,000. Rates for the Northern Territory have not been included on account of the abnormal conditions prevailing there.

6. **Improvement in Prison Methods.**—In previous issues of the Official Year Book a fairly detailed account is given of the improvements effected in each State during recent years in regard to methods of prison management (see Official Year Book No. 22, pp. 471-4), but this information is not repeated in the present volume.

§ 5. Cost of Administration of Justice.

1. **Expenditure by the States.**—The table below shows the expenditure from Consolidated Revenue during 1941-42 in connexion with the administration of justice in each of the States.

It is difficult to obtain comparable figures of the total costs of the various services under this heading, and net costs have been substituted for gross expenditure. It will be noted that in South Australia and Western Australia the receipts for legal fees and registrations exceed the actual expenditure under "Justice".

NET EXPENDITURE ON JUSTICE, 1941-42.

State.	Net Expenditure.			Per Head of Population.		
	Justice.	Police.	Prisons.	Justice.	Police.	Prisons.
	£	£	£	s. d.	s. d.	s. d.
New South Wales ..	201,931	1,428,313	214,040	1 5	10 2	1 6
Victoria ..	135,029	855,573	121,912	1 5	8 9	1 3
Queensland ..	89,100	663,624	39,920	1 9	12 10	0 9
South Australia ..	-29,385	317,107	34,752	-1 0	10 6	1 2
Western Australia ..	-16,643	251,836	31,123	-0 9	10 9	1 4
Tasmania ..	22,813	118,663	15,287	1 11	9 11	1 3
Total ..	402,845	3,635,116	457,034	1 2	10 3	1 3

2. **Commonwealth Expenditure.**—The expenditure shown in the foregoing table is that incurred by the State Governments only, and does not include expenditure of the Commonwealth Attorney-General's Department, which is given hereunder for the years 1938-39 to 1942-43:—

EXPENDITURE OF THE COMMONWEALTH ATTORNEY-GENERAL'S DEPARTMENT.

Year.	Gross Expenditure.	Receipts.	Net Expenditure.
	£	£	£
1938-39	281,497	111,036	170,461
1939-40	276,557	107,680	168,877
1940-41	297,400	99,898	197,502
1941-42	319,171	90,820	228,351
1942-43	351,452	103,919	247,533

The totals for each year include expenditure in connexion with patents and copyright which amounted in 1942-43 to £48,809. As pointed out previously, the Commonwealth took over jurisdiction in bankruptcy in August, 1928, and the expenditure thereon in 1942-43 amounted to £43,991, including the salary of the Federal Judges, £4,125. Expenditure in connexion with the Australian Capital Territory police amounted in 1942-43 to £10,497, and £3,832 was expended on miscellaneous items including the Law Court, Titles Office and Industrial Arbitration Board. Revenue of the Attorney-General's Department amounted for the year to £103,919, comprising £58,075 for patents, copyright, trademarks and designs, £23,500 for bankruptcy and £22,344 miscellaneous including fees and fines.

In addition to the foregoing a sum of approximately £34,655 was expended in the Northern Territory during 1942-43 by the Department of the Interior on the administration of justice including the costs of the police force and prisons.