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## CHAPTER XVI.

### PUBLIC JUSTICE.

NOTE.—In interpreting statistics of public justice, it should be realized that a number of factors affect comparability from State to State and from year to year, e.g.:

- (a) Differences in the jurisdiction of courts;
- (b) Changes in the law in particular States and differences in the laws between States;
- (c) The methods of compilation of the figures (e.g. *see* footnotes to the tables dealing with convictions);
- (d) The attitude to laws such as those connected with liquor, vagrancy, gaming, and traffic offences;
- (e) The strength and distribution of the police force;
- (f) The proportion of various types of crimes reported and solved.

#### § 1. The Australian Legal System.

1. *General.*—Australia, being a federation, has two systems of courts—State and federal. The only federal courts are the High Court of Australia, the Federal Court of Bankruptcy and the Commonwealth Industrial Court. Otherwise, federal jurisdiction is vested in the State courts.

Thus, while the High Court has extensive original jurisdiction, most civil cases involving federal jurisdiction are heard in the State courts. Almost all criminal matters involving federal jurisdiction are tried in State courts. In the tables in this chapter which give statistics of proceedings in State courts, no distinction has been drawn between State cases proper and cases where State courts are exercising federal jurisdiction.

2. *State Courts.*—(i) *Civil jurisdiction.* Lower courts (which term includes, for the purposes of this chapter, Magistrates' Courts, Courts of Petty Sessions, and Small Debts Courts) are presided over by a stipendiary or police magistrate. In some limited instances, justices of the peace may exercise the jurisdiction of the court. The powers of the magistrates in the various States and Territories are set out in § 2 below. In most cases, unless the amount involved is very small, appeal may be made to a higher court against a magistrate's decision. In any case, the Supreme Court has a supervisory power, by means of prerogative writs, to examine whether a lower court has properly exercised its jurisdiction.

In the higher courts (which term includes, for the purposes of this chapter, District Courts, County Courts, and the Supreme Courts), actions are usually tried by a single judge, sitting with or without a jury, from whose judgment appeal lies to the bench of the Supreme Court. In certain cases, the appeal can be carried to the High Court of Australia. Appeals to the Privy Council are discussed below.

(ii) *Criminal jurisdiction.*—Criminal courts are of two kinds, namely, courts of summary jurisdiction, usually called Courts of Petty Sessions, which may deal summarily with minor offences, and higher courts, known as Courts of Sessions, Quarter Sessions or General Sessions, and the Supreme Court, which hear indictable offences. A court of summary jurisdiction consists of a stipendiary or police magistrate, or two or more justices of the peace; a higher court consists of a judge or chairman, sitting with a jury. The jury finds as to the facts of the case and the judge determines the applicable law.

In the case of other than minor offences, a preliminary hearing is held before a stipendiary magistrate or justice of the peace for the purpose of determining whether a *prima facie* case has been made out. If the magistrate or justice of the peace finds that there is a case to answer, the person charged is committed for trial at a higher court. A magistrate or justice of the peace has power to release on bail.

There is an appeal to a higher court from the decision of a court of summary jurisdiction hearing a minor offence, and an appeal from a higher court to the full bench of the Supreme Court, or Court of Criminal Appeal. A further appeal may, with leave, be brought to the High Court of Australia.

3. **Federal Courts.**—The judicial power of the Commonwealth is vested in the High Court of Australia (the Federal Supreme Court), in the Federal courts created by Parliament (the Federal Court of Bankruptcy and the Commonwealth Industrial Court), and in the State courts invested by Parliament with Federal jurisdiction, both civil and criminal. Further particulars regarding the judicial power of the Commonwealth will be found in Chapter III. (§§ 71–73) of the Commonwealth Constitution (*see p. 16 of this Year Book*).

Particulars concerning the Federal Court of Bankruptcy and the High Court of Australia will be found in sections 4c and 5, respectively, of this chapter. Information regarding the Commonwealth Industrial Court, which was established under the Conciliation and Arbitration Act 1904–1958, will be found in Chapter XII.—Labour, Wages and Prices (p. 416).

4. **Appeal to the Privy Council.**—There is an appeal, by special leave of the Privy Council, from the High Court to the Privy Council. In certain important types of constitutional disputes, involving questions of the powers of the Commonwealth *vis-à-vis* the States, a certificate of the High Court in effect granting leave to appeal is necessary. There is also an appeal from the State Supreme Courts direct to the Privy Council.

## § 2. Lower (Magistrates') Courts.

### A. POWERS OF THE MAGISTRATES.

1. **New South Wales.**—There is no general limit to the powers of the magistrates with regard to offences punishable summarily, their authority depending in each case on the statute which creates the offence and gives them jurisdiction. Except in the case of a very few statutes, and excluding cumulative sentences, the power of sentence is limited to twelve months. Imprisonment in default of fine is regulated by a scale limiting the maximum period according to the sum ordered to be paid, but in no case exceeding twelve months. Actions for debt and damage within certain limits also come within magisterial jurisdiction. In cases of liquidated debts, and damages whether liquidated or unliquidated, the amount is limited to £50 before a court constituted by a stipendiary magistrate. Magistrates have power to entertain claims of up to £250 under the Hire Purchase Agreements Acts. The amount in actions of debt before two or more justices of the peace is limited to £30 and in actions of damage it is limited to £10, but may extend to £30 with the consent of the defendant. Outside the Metropolitan Area of Sydney and certain other prescribed districts, one justice of the peace may hear cases of debt, liquidated or unliquidated, or damage up to £5 or to £30 by consent of parties.

2. **Victoria.**—The civil jurisdiction of magistrates is restricted to what may be designated ordinary debts, damages for assault, restitution of goods, etc., where the amount in dispute does not exceed £100, and to actions arising out of torts or contracts to the extent of £250. No definite limit is fixed to the powers of the magistrates on the criminal side, and for some offences, sentences of up to two years' imprisonment may be imposed. The proportion of long sentences is, however, comparatively small.

3. **Queensland.**—Generally speaking, the maximum term of imprisonment which justices can impose is six months, but in certain exceptional cases, such as offences against sections 233, 344 and 445 of the Criminal Code (betting houses, aggravated assaults, and unlawfully using animals), sentences of twelve months may be imposed.

There is provision for applying cumulative sentences, but in practice not more than one sentence is generally made cumulative on a previous sentence.

4. **South Australia.**—The power of special magistrates to impose fines and imprisonment is defined by the special Act creating the offence and conferring jurisdiction. In the case of minor indictable offences which are tried summarily, a maximum penalty of £100 fine or two years' imprisonment is fixed by the Justices Act 1921–1957. Magistrates also have power to hear certain civil actions in which the amount claimed is less than £1,250.

5. **Western Australia.**—The powers of magistrates and justices with regard to offences which are tried summarily are governed by the Act creating the offence and giving them jurisdiction. Imprisonment in default of payment of a fine is regulated by a scale limiting the period according to the amount of the fine but not to exceed six months.

The civil jurisdiction of Local Courts is restricted in general to £500. By consent of the parties, any action that might be brought in the Supreme Court may be dealt with in a Local Court. Justices may act in the case of illness or absence of the magistrate.

Magistrates are coroners and justices may be appointed as acting coroners.

Magistrates have appellate jurisdiction under some statutes and in country districts act as Chairmen of the Courts of Session. They may be appointed as Commissioners of the Supreme Court. On the goldfields, the magistrate is also the warden.

6. **Tasmania.**—Magistrates are empowered to hear and determine in Courts of Petty Sessions all offences when an enactment expressly or by implication provides that the matter is to be determined summarily, or by or before justices, or that any offence is to be punishable upon summary conviction. In addition, stealing and analogous crimes may be heard and determined summarily on the election of the person charged, when the amount involved does not exceed £100.

No general limit is fixed in respect of sentences, the statute creating the offence almost invariably laying down the penalty. Where this is not the case, the Contravention of Statutes Act 1889 provides that a fine of £50 may be imposed. Sentences of imprisonment which justices may impose vary with the nature of the offence, with a maximum of two years. The aggregate of terms of cumulative sentences may not exceed two years.

The civil jurisdiction of magistrates is divided into two categories. A Commissioner of the Court of Requests, provided he is a legal practitioner, may hear actions for the recovery of debts and damages not exceeding £250. As Commissioners are invariably police magistrates, this jurisdiction is State-wide. Courts of General Sessions, constituted by at least two justices, exercise similar powers, but the jurisdiction cannot exceed £50. Only one court, that at Currie, King Island, has the maximum jurisdiction, the others being limited to £30.

7. **Northern Territory.** Magistrates constituting courts of summary jurisdiction try offences punishable summarily. The punishment that may be imposed depends on the law creating the offence. Where there is no magistrate available the offence may be tried by two or more justices of the peace or, if all parties consent, by one justice. Proceedings for committal on indictable offences may be heard by either a magistrate or a justice of the peace. Certain minor indictable offences may be tried summarily by a magistrate or two justices of the peace who may impose a fine up to £100 or two years' imprisonment.

A stipendiary magistrate constituting a local court has a civil jurisdiction to hear and determine claims for not more than £1,000. A local court constituted by two justices of the peace has a civil jurisdiction to hear claims up to £50.

8. **Australian Capital Territory.** Magistrates have jurisdiction to try an offence which is punishable summarily and also where a person is made liable to a penalty or punishment and no other provision is made for trial. The punishment depends upon the statute which creates the offence. Certain indictable offences of a less serious nature may be tried summarily by a magistrate, who may impose a fine of £50 or imprisonment for one year. Magistrates also hear proceedings for committal on indictable offences. The stipendiary magistrate is also the coroner. In civil proceedings, magistrates try actions for amounts up to £200. Justices of the peace have no judicial functions.

## B. CRIMINAL PROCEEDINGS.

1. Cases Tried.—The total numbers of cases tried at magistrates' courts in each State for the years 1954 to 1958 are shown in the following table:—

## CASES TRIED AT MAGISTRATES' COURTS.

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales (a) ..	271,105	254,487	271,172	307,824	323,097
Victoria .. ..	135,409	149,296	175,899	224,015	270,017
Queensland(b) ..	46,482	49,372	47,072	53,611	62,468
South Australia(b) ..	28,757	32,593	31,799	34,399	36,305
Western Australia ..	50,640	67,739	(c) 62,753	(c) 59,205	(c) 49,945
Tasmania .. ..	19,814	19,672	19,274	19,120	20,009
Northern Territory ..	(b) 2,077	(b) 2,105	(b) 2,779	(b) 2,615	3,103
Australian Capital Territory .. ..	1,406	1,480	1,564	1,875	2,197
<b>Australia .. ..</b>	<b>555,690</b>	<b>576,744</b>	<b>612,312</b>	<b>702,664</b>	<b>767,141</b>

(a) In addition the following numbers of minor traffic offences were settled by payment of fines to the Police Department, without court appearances: 1954—23,177; 1955—61,179; 1956—163,921; 1957—237,811; 1958—315,058. (b) Twelve months ended 30th June of year shown. (c) In addition the following numbers of fines for minor traffic offences were paid to Crown Law Departments: 1956—32,130; 1957—31,405; 1958—36,999.

2. Convictions at Magistrates' Courts.—Of the persons who appeared before Magistrates' Courts in 1958, the following table shows the number who were convicted in each State.

## CONVICTIONS AT MAGISTRATES' COURTS, 1958.

Class of Offence.	N.S.W.	Vic.	Qld. (a)(b)	S.A. (a)	W.A.	Tas.	N.T.	A.C.T.	Aust.
Against the Person ..	3,701	1,568	470	313	470	284	84	118	7,008
Against Property ..	23,921	9,509	3,831	2,021	5,546	1,379	112	239	46,558
Forgery and Offences against the Currency ..	338	55	4	4	3	13	(c)	413	
Against Good Order ..	100,590	38,887	31,050	5,680	6,594	1,670	1,736	472	186,679
Other .. ..	165,990	201,046	25,241	24,603	34,427	13,880	770	1,081	467,038
<b>Total .. ..</b>	<b>294,540</b>	<b>251,065</b>	<b>60,592</b>	<b>32,621</b>	<b>47,037</b>	<b>17,216</b>	<b>2,715</b>	<b>1,910</b>	<b>707,696</b>

(a) Year ended 30th June. (b) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence, the results of all hearings are recorded separately. (c) Included in offences against property.

The following table shows the number of convictions in each year from 1954 to 1958:—

## CONVICTIONS AT MAGISTRATES' COURTS.

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales (a) ..	250,019	233,777	249,131	282,489	294,540
Victoria .. ..	121,919	133,575	158,869	208,125	251,065
Queensland(b)(c) ..	42,590	46,242	45,711	52,113	60,592
South Australia(b) ..	25,482	29,264	28,221	30,658	32,621
Western Australia ..	48,005	65,118	(d) 59,883	(d) 56,297	(d) 47,037
Tasmania .. ..	17,299	17,314	17,029	17,040	17,216
Northern Territory ..	(b) 1,915	(b) 1,864	(b) 2,444	(b) 2,340	2,715
Australian Capital Territory ..	1,128	1,285	1,209	1,597	1,910
<b>Australia .. ..</b>	<b>508,357</b>	<b>528,439</b>	<b>562,497</b>	<b>650,659</b>	<b>707,696</b>

(a) See footnote (a) to table in para. 1 above. (b) Twelve months ended 30th June of year shown. (c) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence the results of all hearings are recorded separately. (d) See footnote (c) to table in para. 1 above.

3. **Convictions for Serious Crime at Magistrates' Courts.**—(i) *General.* The figures given in the preceding tables refer to all convictions, and include offences of a technical nature, drunkenness, and minor breaches of good order which come under the heading of crime in a very different sense from the more serious offences. The following table has therefore been prepared to show convictions at Magistrates' Courts for what may be regarded as the more serious offences, i.e. offences against the person, offences against property, forgery and offences against the currency.

(ii) *Number and Rates.* The following table shows the number of convictions for serious crime at Magistrates' Courts for the years 1954 to 1958:—

**CONVICTIONS FOR SERIOUS(a) CRIME AT MAGISTRATES' COURTS.**

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales .. ..	17,085	19,803	21,399	23,510	27,960
Victoria .. ..	7,471	7,318	8,504	8,926	11,132
Queensland(b)(c) .. ..	3,226	3,546	3,942	4,079	4,301
South Australia(b) .. ..	1,744	1,867	1,889	2,298	2,338
Western Australia .. ..	4,241	4,368	5,289	5,205	6,016
Tasmania .. ..	898	1,127	1,176	1,738	1,666
Northern Territory .. ..	(b) 195	(b) 177	(b) 115	(b) 247	209
Australian Capital Territory	231	138	102	295	357
<b>Australia .. ..</b>	<b>35,091</b>	<b>38,344</b>	<b>42,416</b>	<b>46,298</b>	<b>53,979</b>

(a) Offences against the person, offences against property, forgery and offences against the currency.  
 (b) Twelve months ended 30th June of year shown. (c) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence, the results of all hearings are recorded separately.

The number of convictions for serious crime at Magistrates' Courts per 10,000 of population for the same series of years is shown in the following table:—

**CONVICTIONS FOR SERIOUS CRIME AT MAGISTRATES' COURTS.  
 (PER 10,000 OF POPULATION.)**

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales .. ..	49.8	56.7	60.2	64.9	75.7
Victoria .. ..	30.5	29.0	32.7	33.4	40.6
Queensland(a) .. ..	24.8	26.8	29.1	29.5	30.2
South Australia(a) .. ..	22.2	23.1	22.6	26.7	25.7
Western Australia .. ..	66.3	66.3	78.1	75.2	85.3
Tasmania .. ..	28.9	35.6	36.5	52.6	49.3
Northern Territory .. ..	(a) 122.4	(a) 107.0	(a) 65.8	(a) 134.7	108.7
Australian Capital Territory ..	76.0	42.6	49.4	78.3	90.9
<b>Australia .. ..</b>	<b>39.1</b>	<b>41.8</b>	<b>45.1</b>	<b>48.1</b>	<b>54.7</b>

(a) Twelve months ended 30th June of year shown.

(iii) *Rate of Convictions 1881 to 1951.* The rate of convictions at ten-year intervals over a period of 70 years is shown below.

**RATE OF CONVICTIONS FOR SERIOUS CRIME AT MAGISTRATES' COURTS:  
 AUSTRALIA.**

Year .. ..	1881.	1891.	1901.	1911.	1921.	1931.	1941.	1951.
Convictions per 10,000 persons ..	69.3	44.8	29.1	24.6	29.2	37.1	33.6	37.1

4. *Committals to Higher Courts.*—(i) *Number of Committals.* The following table shows the number of offences, classified according to the nature of the offence, for which persons appearing in the lower courts were committed to higher courts for each State and Territory for the year 1958:—

**COMMITTALS TO HIGHER COURTS, 1958.**

Class of Offence.	N.S.W.	Vic.	Q'land. (a)(b)	S. Aust. (a)	W.Aust.	Tas.	N.T.	A.C.T.	Aus- tralia.
Against the Person ..	1,374	789	227	193	86	48	32	12	2,761
Against Property ..	5,523	2,830	675	266	339	455	24	61	10,173
Forgery and Offences against the Currency ..	95	201	4	23	13	70	3	1	410
Against Good Order ..	79	63	3	7	8	7	3	..	170
Other ..	256	344	2	16	17	20	4	..	659
<b>Total ..</b>	<b>7,327</b>	<b>4,227</b>	<b>911</b>	<b>505</b>	<b>463</b>	<b>600</b>	<b>66</b>	<b>74</b>	<b>14,173</b>

(a) Twelve months ended 30th June of year shown. (b) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence, the results of all hearings are recorded separately.

The following table shows the number of committals to higher courts for each of the years 1954 to 1958:—

**COMMITTALS TO HIGHER COURTS.**

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales ..	4,205	4,792	6,056	7,221	7,327
Victoria ..	2,082	2,198	2,624	2,707	4,227
Queensland(a) ..	609	482	572	712	911
South Australia(a) ..	422	426	432	552	505
Western Australia ..	381	454	386	356	463
Tasmania ..	357	348	321	604	600
Northern Territory ..	(a) 46	(a) 45	(a) 87	(a) 62	66
Australian Capital Territory ..	23	25	40	37	74
<b>Australia ..</b>	<b>8,125</b>	<b>8,770</b>	<b>10,518</b>	<b>12,251</b>	<b>14,173</b>

(a) Twelve months ended 30th June of year shown.

(ii) *Rate of Committals, 1881 to 1951.* The rate of committals to higher courts for serious crime at ten-year intervals since 1881 is shown below:—

**RATE OF COMMITTALS TO HIGHER COURTS, AUSTRALIA.**

Year .. .. .	1881.	1891.	1901.	1911.	1921.	1931.	1941.	1951.
Committals per 10,000 persons ..	12	11	8	6	7	8	5	8

5. *Drunkenness.*—(i) *Cases and Convictions.* The numbers of arrests for drunkenness and the convictions recorded during each of the years 1954 to 1958 are given in the following table:—

**DRUNKENNESS: CASES AND CONVICTIONS.**

State or Territory.	1954.	1955.	1956.	1957.	1958.
CASES.					
New South Wales ..	72,591	81,199	77,867	76,700	69,085
Victoria ..	20,167	20,685	20,457	25,657	29,752
Queensland(a) ..	21,257	23,986	22,748	23,550	28,242
South Australia(a) ..	5,530	4,772	4,739	5,030	4,312
Western Australia ..	5,850	5,752	5,959	5,484	4,870
Tasmania ..	836	776	705	786	746
Northern Territory ..	(a) 707	(a) 487	(a) 507	(a) 1,059	969
Australian Capital Territory	240	231	279	358	385
<b>Australia ..</b>	<b>127,178</b>	<b>137,888</b>	<b>133,261</b>	<b>138,624</b>	<b>138,361</b>

(a) Twelve months ended 30th June of year shown.

DRUNKENNESS: CASES AND CONVICTIONS—*continued.*

State or Territory.	1954.	1955.	1956.	1957.	1958.
<b>CONVICTIONS.</b>					
New South Wales .. ..	72,541	80,457	77,195	75,953	68,354
Victoria .. ..	19,955	20,437	20,184	25,284	29,434
Queensland(a) .. ..	21,199	23,947	22,687	23,521	28,196
South Australia(a) .. ..	5,509	4,765	4,732	5,019	4,299
Western Australia .. ..	5,809	5,720	5,912	5,428	4,821
Tasmania .. ..	798	757	674	760	718
Northern Territory .. ..	(a) 699	(a) 474	(a) 502	(a) 1,029	926
Australian Capital Territory	240	231	271	322	380
<b>Australia .. ..</b>	<b>126,750</b>	<b>136,788</b>	<b>132,157</b>	<b>137,316</b>	<b>137,128</b>

(a) Twelve months ended 30th June of year shown.

The term "drunkenness" includes drunkenness and disorderliness, and habitual drunkenness.

(ii) *Convictions per 10,000 of Population.* In the twenties, the convictions for drunkenness averaged approximately 100 per 10,000 of population, but the rate fell away considerably during 1930 and 1931, being only 57.1 in the latter year. The average then rose steadily, the annual average for the period 1936 to 1939 being 82.7 and that for the years 1940 to 1945, 90.8. In 1946, the convictions per 10,000 rose very steeply to 132.1, increasing further to 174.5 by 1951, since when they have declined again to 138.9 in 1958.

The rates of convictions for drunkenness since 1954 are shown in the following table:—

**CONVICTIONS FOR DRUNKENNESS.**  
(PER 10,000 OF POPULATION.)

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales .. ..	211.6	230.4	217.1	209.7	185.1
Victoria .. ..	81.3	80.9	77.5	94.6	107.4
Queensland(a) .. ..	163.0	180.7	167.7	170.4	200.9
South Australia(a) .. ..	70.1	59.0	56.7	58.3	48.5
Western Australia .. ..	90.7	86.8	87.3	79.5	68.3
Tasmania .. ..	25.6	23.9	20.9	23.0	21.3
Northern Territory .. ..	(a)438.8	(a)286.6	(a)287.3	(a)555.8	481.6
Australian Capital Territory	79.0	71.3	78.1	85.6	88.5
<b>Australia .. ..</b>	<b>141.4</b>	<b>149.1</b>	<b>140.6</b>	<b>142.8</b>	<b>138.9</b>

(a) Twelve months ended 30th June of year shown.

(iii) *Consumption of Intoxicants.* The following table shows the consumption of spirits, wine and beer per head of population in Australia during the years 1954-55 to 1958-59:—

**CONSUMPTION OF INTOXICANTS IN AUSTRALIA PER HEAD OF POPULATION.**

Year.	Spirits.	Wine.	Beer.
	Proof Gals.	Gals.	Gals.
1954-55 .. ..	0.29	1.11	24.26
1955-56 .. ..	0.31	1.11	24.16
1956-57 .. ..	0.28	1.15	22.88
1957-58 .. ..	0.28	1.14	23.00
1958-59 .. ..	0.30	1.14	22.17



(iv) *Remedial Treatment of Drunkenness.* Legislation has been passed in each State providing for the committal of inebriates to special government institutions. The laws in the various States are as follows:—New South Wales, Inebriates Act, 1912–1949; Victoria, Inebriates Act 1958; Queensland, Inebriate Institutions Act of 1896; South Australia, Inebriates Act, 1908–1934, Convicted Inebriates Act, 1913–1934; Western Australia, Inebriates Act, 1912–1919; Tasmania, Inebriates Act, 1885, Inebriate Hospitals Acts, 1892 and 1941; Northern Territory, the Inebriates Act, 1908, of South Australia; Australian Capital Territory, the Inebriates Act, 1900, of New South Wales as amended in 1909, and the Inebriates Ordinance 1938 of the Australian Capital Territory. In New South Wales, the care and treatment of inebriates other than those convicted of an offence are under the control of the Inspector-General of Mental Hospitals. In Victoria, a Psychiatric Clinic has been established at Pentridge Gaol and some remedial treatment is carried out there under the control of the Department of Mental Hygiene. It is proposed to add an alcoholics section to the Psychiatric Clinic in the near future. The Inebriates Home in Queensland is under the control of the Department of Health and Home Affairs. An alcoholism clinic was opened as an annexe to the Brisbane General Hospital in 1958 and in-patient and out-patient treatment is given there to voluntary patients. In Western Australia, the treatment of inebriates is under the control of the Inspector-General of Mental Health Services. In Tasmania, a charitable institution has been established by the Prisons Department, but treatment is purely custodial. A certain amount of remedial treatment is undertaken by the Director of Mental Health. Under an agreement between the Commonwealth and New South Wales and by virtue of the Insane Persons and Inebriates (Committal and Detention) Ordinance 1936–1937, inebriates committed to an institution from the Australian Capital Territory are placed in New South Wales institutions, where they are under the control of the appropriate New South Wales authorities and receive the same care and treatment as inebriates committed in the State.

6. **First Offenders.**—In all States, statutes dealing with first offenders have been in force for many years. Existing legislation is as follows:—New South Wales, Crimes Act, 1900–1955, First Offenders (Women) Act, 1919, amended in 1929; Victoria, Crimes Act 1958; Queensland, Criminal Code Acts, 1899 to 1945; South Australia, Offenders Probation Act, 1913–1953; Western Australia, Criminal Code Act, 1913–1956; Tasmania, Probation of Offenders Act, 1934; Northern Territory, the Offenders Probation Act, 1887, of South Australia; Australian Capital Territory, the Crimes Act, 1900, of New South Wales amended by Crimes Ordinances 1931, 1942, 1944 and 1951. Provisions similar to those of the First Offenders (Women) Act, 1919, of New South Wales have been incorporated in the Australian Capital Territory law by the First Offenders (Women) Ordinance 1947. In New South Wales, Queensland, South Australia, and Western Australia, the court may allow a first offender convicted of a minor offence to go free on recognizances being entered into for his good behaviour for a certain period. In Victoria, in accordance with the provisions of the Crimes Act 1958, and in Queensland, in accordance with the Offenders Probation and Parole Act of 1959, where any person is convicted by any court of any offence for which a term of imprisonment may be imposed (otherwise than in default of payment of a fine) and the court is of the opinion that, having regard to the circumstances, including the nature of the offence and the character and antecedents of the offender, it is expedient to do so, the court may, instead of sentencing him, make a probation order requiring him to be under the supervision of a probation officer for such period being not less than one year and not more than five years as is specified in the order. In Western Australia, the court may also dismiss the indictment or complaint without proceeding to conviction. In Tasmania, the court may discharge an offender on his recognizance, with or without sureties, to be of good behaviour and to appear for sentence when called upon at any time during the following three years. The offender may be placed under the supervision of a probation officer. In the Northern Territory, the court may suspend the sentence imposed on a first offender punishable on summary conviction, or by less than two years imprisonment, upon his entering into a recognizance to be of good behaviour for a certain period. In the Australian Capital Territory, the court may, without proceeding to a conviction, dismiss a charge in respect of an offence punishable summarily, or may discharge the person charged conditionally on his entering into a recognizance to be of good behaviour for a certain period. Alternatively, the court may suspend the sentence imposed on a first offender upon his entering into a recognizance to be of good behaviour for a certain period.

## C. CIVIL PROCEEDINGS.

The total numbers of plaints entered and the amounts awarded to plaintiffs during 1958 are shown in the following table. The figures are compiled from returns from the Small Debts Courts in New South Wales, Courts of Petty Sessions in Victoria, Magistrates' Courts in Queensland, Local Courts in South Australia and Western Australia, Courts of Requests in Tasmania, Courts of Summary Jurisdiction in the Northern Territory and the Court of Petty Sessions in the Australian Capital Territory.

## CIVIL CASES AT LOWER COURTS, 1958.

Particulars.	N.S.W.	Vic.	Q'land. (a)	S.Aust.	W.Aust.	Tas.	N.T. (a)	A.C.T.	Aus- tralia.
Plaints Entered No.	63,929	133,041	31,524	65,306	46,077	30,840	1,339	2,025	374,081
Amount Awarded to Plaintiffs £	435,303	2,425,254	660,374	1,193,716	562,166	412,499	68,557	27,642	5,785,511

(a) Twelve months ended 30th June, 1958.

## § 3. Children's Courts.

1. **New South Wales.**—Children's Courts, established in 1905, exercise jurisdiction under the Child Welfare Act, 1939–55. Where practicable, they are not held in ordinary court rooms, and persons not directly interested are excluded from any hearing in order that children may be protected against the adverse influences which they would encounter in ordinary courts.

The magistrates exercise all the powers of a Court of Petty Sessions in respect of offences committed by or against children under 18 years of age. They also exercise jurisdiction in respect of neglected and uncontrollable children. Their functions are reformative, not punitive; they may commit children to institutions, to the care of persons other than the parents, or to the care of the Minister for Education.

2. **Victoria.**—Under the Children's Court Act 1958, the jurisdiction of Children's Courts is restricted, with certain exceptions, to children up to 17 years of age. Two stipendiary special magistrates with jurisdiction throughout the State and, in addition, honorary special magistrates operate in some metropolitan courts and provincial cities. At country courts to which no special magistrates are appointed, the local stipendiary magistrate usually constitutes the bench. The Children's Court may deal with all offences except homicide. However, consent to the jurisdiction of the Children's Court must be indicated by the child (or by a parent if the child is under 14 years of age) before an indictable case may proceed.

The primary aim of the Children's Court is reformation and rehabilitation of the offender and the court is bound under Section 27(3) of the Children's Court Act 1958 to "firstly have regard to the welfare of the child".

The probation system has been in use by the Children's Court since 1907, and there are now in Victoria a large number of honorary probation officers as well as six stipendiary probation officers. Problem cases are referred by the Court for investigation to a Children's Court Clinic, which is staffed by psychiatrists, psychologists and social workers.

3. **Queensland.**—Children, under the age of 17 years, before the Court on summary charges are dealt with under the Children's Court Acts, 1907–1930, and the State Children Acts, 1911–1955. The Children's Court in the metropolitan area is presided over by a magistrate, and the services of the psychiatric clinic are available to him if he considers they are needed. Proceedings are held *in camera*. A non-commissioned police officer is present to offer any observations he considers necessary and to assist the magistrate. In country areas, the court is presided over by the local stipendiary magistrate or, in his absence, by two justices. If found guilty, a child may be either admonished, released on probation or committed to the care of the State Children Department or an institution. A conviction will not necessarily be recorded against him. His parent or guardian may be ordered to pay damages to the wronged party, and in default is liable to the same consequences as a defendant in an ordinary Court of Petty Sessions.

4. **South Australia.** Provision for the treatment of juvenile offenders under the age of 18 years is contained in various Acts, the main ones being the Maintenance Act, 1926–1952, the Juvenile Courts Act, 1941, the Justices Act, 1921–1957, and the Offenders Probation Act, 1913–1953. A Juvenile Court to hear cases of offences by children is constituted by a special magistrate or two justices of a Juvenile Court and it has power to determine all charges other than homicide. A child convicted of an offence punishable by imprisonment can be committed by a court only to a reformatory. For indictable offences, the penalty is committal to a reformatory or a fine of up to £50.

5. **Western Australia.** Children's Courts deal with offenders under the age of 18 years and to hear cases of certain offences against children. Special magistrates are appointed for Children's Courts, and the Governor may appoint other persons to be members of a particular Children's Court. One member may sit and adjudicate with the special magistrate, but in the magistrate's absence at least two members must be present.

A Children's Court is deemed to be a court of summary jurisdiction and may exercise exclusive jurisdiction in respect of all offences except wilful murder, murder, manslaughter or treason alleged to have been committed by children.

Adults charged with certain indictable offences against children may forgo the right to trial by jury and agree to be dealt with summarily by Children's Courts.

6. **Tasmania.** Under the provisions of the Infants' Welfare Act 1935, Children's Courts are established to deal with offenders under the age of 17 years. Special magistrates are appointed for the Children's Courts by the Governor. One or two special magistrates, or one or two justices, constitute a court.

A Children's Court is deemed to be a court of summary jurisdiction, and may exercise exclusive jurisdiction in respect of all offences alleged to have been committed by children.

7. **Northern Territory.** The Child Welfare Ordinance 1958 provides for the establishment of Children's Courts. These courts are constituted by a special magistrate and one member of the Child Welfare Council authorized to sit as a member of the Children's Court. Where no Children's Court has been established for a particular area, or where special circumstances require it, the jurisdiction of a Children's Court may be exercised by a court of summary jurisdiction constituted by a special magistrate.

Proceedings in a Children's Court are in form similar to proceedings in a court of summary jurisdiction, but no reports of proceedings may be published without the express authority of the Court, and any person not directly concerned may be excluded from the hearing.

A Children's Court has jurisdiction in respect of all offences committed by persons under 18 years of age in respect of which proceedings may be taken in a court of summary jurisdiction. In dealing with such offences, the Court may, in cases other than homicide, impose a fine not exceeding fifty pounds or a sentence of imprisonment for not more than six months, and, in addition to or in lieu of these punishments, may make an order committing the child to the care of the Director of Child Welfare or of a person who is willing to undertake the care on the Courts' terms and conditions (in which case the child may be declared a State child), or it may commit the child to an institution for a specified period or release the child on probation on such conditions as the Court orders. Children's Courts also exercise jurisdiction in respect of destitute, neglected, incorrigible or uncontrollable children.

8. **Australian Capital Territory.** The Child Welfare Ordinance 1957 provides that the Court of Petty Sessions constitutes the Children's Court when it is hearing proceedings involving persons under the age of 18 years. Its proceedings are similar to those of an ordinary Court of Petty Sessions except that persons not directly interested are excluded from the Court.

In addition to the power to deal with summary offences, the Children's Court has power to hear and determine summarily a charge for an indictable offence other than an offence punishable by death. In either case, the Court's powers include releasing an offender on probation, committing him to the care of a specified person, making him a government ward, or committing him to an institution for up to three years.

## § 4. Higher (Judges') Courts.

## A. CRIMINAL PROCEEDINGS.

1. Persons Convicted at Higher Courts.—The following table shows for each State and Territory and for Australia as a whole the number of persons convicted at higher courts during 1958, classified according to the nature of the offence:—

## PERSONS CONVICTED AT HIGHER COURTS, 1958.

Offence.	N.S.W.	Vic.	Q'land. (a)(b)	S. Aust.	W. Aus.	Tas. (c)	N.T.	A.C.T.	Aus- tralia.
<b>I. OFFENCES AGAINST THE PERSON.</b>									
Concealment of Birth ..	..	..	1	3	..	..	..	..	4
Murder ..	8	1	1	2	..	2	..	..	14
Attempted Murder ..	3	1	4	..	..	..	..	..	8
Manslaughter ..	12	14	10	8	9	..	4	1	58
Culpable Driving ..	23	..	..	..	..	..	..	..	23
Rape ..	4	3	7	3	6	2	..	..	25
Other Offences against Females ..	212	187	46	76	1	9	4	3	538
Abduction ..	2	8	1	..	2	1	..	1	13
Incest ..	8	17	10	3	..	1	..	..	41
Unnatural Offences ..	104	166	32	20	8	9	1	3	343
Abortion and Attempts to Procure ..	7	..	..	1	3	..	..	..	11
Bigamy ..	20	16	8	2	5	..	1	..	52
Aggravated Assault ..	39	..	41	3	..	6	3	5	97
Common Assault ..	32	35	3	4	11	..	..	1	86
Malicious Wounding ..	37	25	..	..	..	..	..	..	62
Other Offences against the Person ..	19	8	12	14	3	4	..	..	60
<i>Total</i> ..	<i>530</i>	<i>481</i>	<i>176</i>	<i>139</i>	<i>48</i>	<i>34</i>	<i>13</i>	<i>14</i>	<i>1,435</i>
<b>II. OFFENCES AGAINST PROPERTY.</b>									
Burglary, Breaking and Entering ..	922	695	367	185	132	174	8	50	2,533
Robbery and Stealing from the Person ..	71	45	20	12	1	9	..	..	158
Horse, Cattle and Sheep Stealing ..	..	11	4	4	3	1	2	..	25
Embezzlement or Fraudulent Misappropriation ..	40	40	13	7	12	1	1	..	114
Other larceny ..	433	177	31	13	16	..	2	1	673
Illegally using Vehicles ..	..	55	219	..	2	..	..	..	276
Receiving ..	93	49	11	12	3	4	..	2	174
Fraud and False Pretences ..	115	40	14	30	11	11	..	9	230
Arson ..	8	5	7	3	1	3	..	..	27
Malicious Damage to Property or Animals ..	4	2	..	..	..	..	..	..	6
Other Offences against Property ..	12	24	12	6	2	1	..	1	58
<i>Total</i> ..	<i>1,698</i>	<i>1,143</i>	<i>698</i>	<i>272</i>	<i>183</i>	<i>204</i>	<i>13</i>	<i>63</i>	<i>4,274</i>
<b>III. FORGERY AND OFFENCES AGAINST THE CURRENCY.</b>									
Forgery and Uttering Forged Instruments ..	22	40	5	21	5	12	3	..	108
Other Offences against the Currency ..	..	..	..	..	1	..	..	..	1
<i>Total</i> ..	<i>22</i>	<i>40</i>	<i>5</i>	<i>21</i>	<i>6</i>	<i>12</i>	<i>3</i>	<i>..</i>	<i>109</i>
<b>IV. OFFENCES AGAINST GOOD ORDER</b>									
.. ..	2	7	3	..	5	18	1	..	36
<b>V. OTHER</b>									
.. ..	22	108	1	25	13	8	1	..	178
<i>Total all Offences</i> ..	<i>2,274</i>	<i>1,779</i>	<i>883</i>	<i>457</i>	<i>255</i>	<i>276</i>	<i>31</i>	<i>77</i>	<i>6,032</i>

(a) Year ended 30th June. (b) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence, the results of all hearings are recorded separately. (c) Convictions.

2. **Persons Convicted at Higher Courts.**—The numbers of persons convicted and rates of conviction at higher courts for the years 1954 to 1958 are given in the following table:—

**PERSONS CONVICTED AT HIGHER COURTS.**

State or Territory.	1954.	1955.	1956.	1957.	1958.
NUMBER.					
New South Wales .. .. .	(a) 1,449	(a) 1,631	(a) 1,933	2,225	2,274
Victoria .. .. .	912	1,043	1,249	1,643	1,779
Queensland(a)(b) .. .. .	502	382	431	584	883
South Australia .. .. .	312	340	362	459	457
Western Australia .. .. .	216	260	241	200	255
Tasmania(c) .. .. .	244	154	184	205	276
Northern Territory .. .. .	(a) 51	(a) 55	(a) 72	(a) 59	31
Australian Capital Territory ..	26	20	40	32	77
<b>Australia .. .. .</b>	<b>3,712</b>	<b>3,885</b>	<b>4,512</b>	<b>5,407</b>	<b>6,032</b>

**PER 10,000 OF POPULATION.**

New South Wales .. .. .	(a) 4.3	(a) 4.7	(a) 5.5	6.1	6.2
Victoria .. .. .	3.7	4.1	4.8	6.1	6.5
Queensland(a)(b) .. .. .	3.9	2.9	3.2	4.2	6.3
South Australia .. .. .	3.9	4.1	4.3	5.3	5.0
Western Australia .. .. .	3.4	3.9	3.6	2.9	3.6
Tasmania(c) .. .. .	7.8	4.9	5.7	6.8	8.2
Northern Territory .. .. .	(a) 32.0	(a) 33.3	(a) 41.2	(a) 32.2	16.1
Australian Capital Territory ..	8.6	6.2	11.5	8.5	18.7
<b>Australia .. .. .</b>	<b>4.1</b>	<b>4.2</b>	<b>4.8</b>	<b>5.6</b>	<b>6.1</b>

(a) Twelve months ended 30th June of year shown. (b) A person convicted on several counts at the one hearing is included only once, but if a person has been convicted at different hearings during the year, whether for the same or for a different type of offence, the results of all hearings are recorded separately. (c) Convictions.

3. **Habitual Offenders.**—An account of the methods adopted in each State in connexion with habitual offenders is given in the following paragraphs.

(i) *New South Wales.* The Habitual Criminals Act, 1957 gives power to judges to declare as an habitual criminal any person of or above the age of 25 years who has been convicted on indictment and has on at least two occasions previously served separate terms of imprisonment as a consequence of convictions for indictable offences provided that such offences were not dealt with summarily without his consent. A person may also be pronounced by a Judge to be an habitual criminal upon recommendation by a Stipendiary Magistrate.

A judge, having pronounced a person to be an habitual criminal, shall sentence him to a term of imprisonment of not less than five years nor more than fourteen years.

An habitual criminal so sentenced may be considered for release on licence in the light of his conduct and attitude after he has served two-thirds of his sentence. He will, in any event, be granted a remission to permit his release on licence after five-sixths of his sentence, subject to good conduct and industry.

At 30th June, 1959, there were 101 prisoners detained in pursuance of the legislation.

(ii) *Victoria.* The Indeterminate Sentences provisions of the Crimes Act were abolished as from 1st July, 1957, with the proclamation of the Penal Reform Act 1956. The terms "reformatory prison" and "habitual criminal" also ceased to exist as from that date.

Under the Penal Reform Act 1956, a sentence of twelve months or more must contain provision for an offender's release on parole after he has served a minimum term which must be named. With sentences of under twelve months, the courts may fix a minimum term.

The relevant parts of the Penal Reform Act 1956 have now been embodied in Sections 506 to 542 of the Crimes Act 1958. In the case of the persistent offender, if the court is satisfied that it is expedient for the protection of the public that he should be detained in gaol for a substantial time, the court may pass a sentence of preventive detention for a term of not more than ten years and where any such sentence is passed shall fix a minimum term during which the offender shall not be eligible to be released on parole.

(iii) *Queensland.* Sections 659A to 659I of the Queensland Criminal Code deal with habitual criminals. Only the Supreme Court or a judge thereof may declare a person to be an habitual criminal. An habitual criminal is detained in a reformatory prison (Section 659D) and there employed (Section 659F).

Where the Supreme Court or a judge recommends the discharge of an habitual criminal, the Governor may direct his discharge and may order him so long as he remains in Queensland to report at intervals during any period not exceeding two years (Section 659G).

An habitual criminal may be released by order in writing (called a "parole order") by the Parole Board set up under the provisions of "The Offenders Probation and Parole Act of 1959" after he has been detained during a period of two years (Section 32).

(iv) *South Australia.* The Criminal Law Consolidation Act, 1935-1956 provides that persons previously convicted of a certain number of indictable offences of a particular class may be declared habitual criminals and shall then be detained during Her Majesty's pleasure. Proof of previous convictions is in all cases relevant to the question of penalty.

(v) *Western Australia.* Under the Criminal Code Amendment Act, 1918, power is given to sentence prisoners to be detained in a reformatory prison during the Governor's pleasure, where such prisoner is deemed to be an habitual criminal, or in other special circumstances where the Court considers such a sentence is fit.

The number under preventive detention on 30th June, 1958, was 21 and the total number dealt with since the passing of the Act was 175.

(vi) *Tasmania.* Since the Indeterminate Sentences Act came into operation in 1922, 98 persons have been confined under its provisions and 15 were in custody at the end of 1959.

Of the 83 released on probation 23 have been re-committed.

(vii) *Northern Territory.* The Habitual Criminals Amendment Act, 1907, of South Australia is still in force in the Northern Territory. By virtue of that Act, the Judge of the Northern Territory has power to declare as habitual criminals persons of any age who come before him for sentence and have had at least two or, in some cases, three previous convictions for certain indictable offences specified in the Act. The result of the declaration is that the offender is detained for an indefinite period after the completion of his sentence, and is released only when he is considered fit to be at large.

(viii) *Australian Capital Territory.* The Habitual Criminals Act, 1905, of New South Wales is still in force in the Australian Capital Territory. By virtue of that Act, a judge of the Australian Capital Territory Supreme Court has power to declare as habitual criminals persons of any age who come before him for sentence and have had at least two or, in some cases, three previous convictions for certain indictable offences specified in the Act. The result of the declaration is that the offender is confined for an indefinite period after the completion of his sentence, and is released only when he is considered fit to be at large. Habitual criminals declared in the Australian Capital Territory are detained in New South Wales.

4. **Capital Punishment.**—There were ten executions in Australia during the period 1949 to 1958. Three took place in Victoria (in 1951), four in South Australia (one each in 1950, 1953, 1956, and 1958) one in Western Australia (in 1952), and two in the Northern Territory (in 1952). In each case the offence was murder.

Under the Criminal Code Amendment Act of 1922, capital punishment was abolished in Queensland, and in New South Wales the Crimes Act was amended in 1955 abolishing capital punishment for all offences except treason and piracy. In the Australian Capital Territory, the Child Welfare Ordinance 1957 now provides that no death sentence is to be pronounced or recorded against a person under the age of 18 years.

In the early days of the history of Australia, the penalty of death was attached to a large number of offences, many of which would now be dealt with in a Magistrate's Court. The present tendency is to restrict death sentences to persons convicted of murder. Although rape is a capital offence in some States, the penalty of death has not been imposed in recent years on persons convicted of it.

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; from 1931 to 1940, 1; and from 1941 to 1950, 0.5.

## B. DIVORCE AND OTHER MATRIMONIAL RELIEF.

1. **Separation and Maintenance Orders of Courts of Summary Jurisdiction.**—In all States and Territories there are laws enabling a wife whose husband leaves her or the children of the marriage without adequate means of support to obtain a maintenance order against the husband from a court of summary jurisdiction. In some States and the Northern Territory, courts of summary jurisdiction also have power to make separation orders. *A separation order is primarily intended for the protection of the person of the wife.*

2. **Divorce and Other Matrimonial Relief Granted by Higher Courts.**—The matrimonial relationship may be terminated by a Supreme Court of a State or Territory in one of three ways. Firstly, there may be a dissolution of the marriage, commonly known as divorce; secondly, the courts may annul a marriage; and thirdly, there can be a judicial separation of the parties.

Up till now, each State has been primarily responsible for the provision of matrimonial relief. The law has varied from State to State, for example, as to the period of desertion needed to obtain a decree for the dissolution of marriage.

In 1959, however, the Commonwealth Parliament passed the Matrimonial Causes Act 1959 which will probably come into force in the second half of 1960. The Act establishes uniform grounds throughout the whole of the Commonwealth for the termination of marriage. While the Act displaces corresponding State law, it vests jurisdiction in existing State and Territorial Courts.

All statistical information given in this section relates to proceedings under the system before the passing of the Commonwealth Act. The various grounds of dissolution available are shown in the tables.

3. **Matrimonial Causes Act 1959.**—When the Commonwealth Act, the Matrimonial Causes Act 1959, comes into force, a decree for the dissolution of marriage may be granted under it on various grounds, such as adultery, desertion, insanity, separation for five years in certain circumstances, or failure to comply with a restitution decree.

Proceedings for nullity of marriage may be instituted in respect of a marriage which is void or voidable. A marriage which is void has no existence at all and so it is not legally necessary to obtain a decree of nullity of marriage, but since the issue may depend on difficult questions of fact, such as proof that the consent of one of the parties to the marriage was not a real consent, it is advisable and customary to seek a court judgment which decides the question of the validity of the marriage.

Proceedings for annulling a voidable marriage may be instituted on various grounds as, for example, where at the time of the marriage either party was a mental defective. Proceedings must be taken before the marriage is terminated by dissolution or death. A voidable marriage is void from the date of the decree absolute, but until then the parties have the status of married people and transactions concluded on the basis of the existence of that status cannot be undone or reopened. Since the parties to a marriage which is void or which has been voided do not have the status of married people, they may re-marry.

A decree for the dissolution or annulment is first a decree nisi. The decree automatically becomes absolute at the expiration of three months unless it is in the meantime rescinded, appeal proceedings are instituted, or there are children of the marriage under the age of 16, in which case the Court must be satisfied that appropriate arrangements have been made for their welfare before the decree will become absolute. The parties cannot re-marry until a decree nisi has become absolute.

A decree of judicial separation is available on most of the grounds available for divorce. It leaves unimpaired the status of marriage but suspends rights and duties with respect to cohabitation. A husband is not responsible for the acts of his wife except that he is liable for necessities supplied to her if he has failed to pay alimony ordered by a court. Persons who have judicially separated cannot re-marry but a divorce may be obtained on the same facts as those on which the decree of judicial separation is based.

The new Commonwealth Act provides for financial grants to approved marriage guidance organizations and the courts are enjoined to consider at all times the possibility of reconciliation, and they may take certain steps to endeavour to effect a reconciliation.

4. Number of Petitions Filed.—The following table shows the number of petitions for dissolution of marriage, nullity of marriage and judicial separation filed in each State during 1958:—

**PETITIONS FILED FOR DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE AND JUDICIAL SEPARATION, 1958.**

Petition for—	N.S.W.	Vic.	Q'land.	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
<b>Dissolution of Marriage</b>									
Husband Petitioner ..	1,810	736	474	342	323	120	14	14	3,833
Wife Petitioner ..	2,292	843	478	449	321	147	17	23	4,570
Total ..	4,102	1,579	952	791	644	267	31	37	8,403
<b>Nullity of Marriage</b>									
Husband Petitioner ..	20	9	4	1	6	..	..	..	40
Wife Petitioner ..	20	6	4	4	..	1	..	..	35
Total ..	40	15	8	5	6	1	..	..	75
<b>Judicial Separation</b>									
Husband Petitioner ..	1	..	2	..	10	..	..	..	13
Wife Petitioner ..	21	..	9	..	5	..	..	1	36
Total ..	22	..	11	..	15	..	..	1	49
<b>Total Petitions</b>									
Husband Petitioner No.	1,831	745	480	343	339	120	14	14	3,886
Wife Petitioner No.	2,333	849	491	453	326	148	17	24	4,641
%	44	47	49	43	51	45	45	37	46
%	56	53	51	57	49	55	55	63	54
<b>Grand Total</b> ..	4,164	1,594	971	796	665	268	31	38	8,527

5. Number of Divorces Granted, 1958.—The following table shows the number of dissolutions of marriage, nullities of marriage and judicial separations granted in each State during 1958:—

**DISSOLUTIONS OF MARRIAGE, NULLITIES OF MARRIAGE AND JUDICIAL SEPARATIONS GRANTED, 1958.**

Decree for—	N.S.W.	Vic.	Q'land.	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
<b>Dissolution of Marriage(a)</b>									
Husband Petitioner ..	1,417	816	375	220	285	80	8	17	3,218
Wife Petitioner ..	1,800	882	384	263	251	85	7	19	3,691
Total ..	3,217	1,698	759	483	536	165	15	36	6,909
<b>Nullity of Marriage(b)</b>									
Husband Petitioner ..	8	9	4	2	1	..	1	..	25
Wife Petitioner ..	10	10	3	7	5	..	..	1	36
Total ..	18	19	7	9	6	..	1	1	61
<b>Judicial Separation</b>									
Husband Petitioner ..	..	..	1	1	1	..	..	..	2
Wife Petitioner ..	5	..	1	4	1	..	..	..	11
Total ..	5	..	1	5	2	..	..	..	13
<b>Total Decrees</b>									
Husband Petitioner No.	1,425	825	379	223	287	80	9	17	3,245
Wife Petitioner No.	1,815	892	388	274	257	85	7	20	3,738
%	44	48	49	45	53	48	56	46	46
%	56	52	51	55	47	52	44	54	54
<b>Grand Total</b> ..	3,240	1,717	767	497	544	165	16	37	6,983

(a) Decrees absolute. (b) Final decrees.



6. Number of Divorces granted, 1954 to 1958.—The following table shows the number of dissolutions of marriage, nullities of marriage and judicial separations granted in each State and Territory for each year from 1954 to 1958:—

**DIVORCES GRANTED: AUSTRALIA.**

**DISSOLUTION OF MARRIAGE (DECREES ABSOLUTE).**

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales .. .. .	2,816	2,874	3,125	2,975	3,217
Victoria .. .. .	(a)1,519	(a)1,674	(a)1,255	1,345	1,698
Queensland .. .. .	710	801	703	682	759
South Australia .. .. .	594	624	567	529	483
Western Australia .. .. .	530	479	544	541	536
Tasmania .. .. .	235	233	196	179	165
Northern Territory .. .. .	20	18	25	18	15
Australian Capital Territory .. .. .	33	21	20	29	36
<b>Australia .. .. .</b>	<b>6,457</b>	<b>6,724</b>	<b>6,435</b>	<b>6,298</b>	<b>6,909</b>

**NULLITY OF MARRIAGE (FINAL DECREES).**

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales .. .. .	28	17	18	32	18
Victoria .. .. .	20	16	13	15	19
Queensland .. .. .	4	2	5	7	7
South Australia .. .. .	4	4	5	8	9
Western Australia .. .. .	2	6	4	1	6
Tasmania .. .. .	2	..	1	1	..
Northern Territory .. .. .	..	..	..	..	1
Australian Capital Territory .. .. .	..	..	..	..	1
<b>Australia .. .. .</b>	<b>60</b>	<b>45</b>	<b>46</b>	<b>64</b>	<b>61</b>

**JUDICIAL SEPARATION.**

State or Territory.	1954.	1955.	1956.	1957.	1958.
New South Wales .. .. .	7	9	4	6	5
Victoria .. .. .	..	1	2	2	..
Queensland .. .. .	..	..	..	..	1
South Australia .. .. .	2	..	..	1	5
Western Australia .. .. .	1	3	4	3	2
Tasmania .. .. .	1	..	..	..	..
Northern Territory .. .. .	..	..	..	..	..
Australian Capital Territory .. .. .	..	..	1	..	..
<b>Australia .. .. .</b>	<b>11</b>	<b>13</b>	<b>11</b>	<b>12</b>	<b>13</b>

(a) Decrees nisi granted.

7. Average Number of Divorces granted Annually.—The ten-year averages of the numbers of divorces granted annually in Australia for the 80 years from 1871 to 1950 are as follows.

**DIVORCES: AUSTRALIA.**

Decade 1871-80.	1881-90.	1891-1900.	1901-10.	1911-20.	1921-30.	1931-40.	1941-50
Average 29	70	357	399	742	1,693	2,508	6,187

8. Grounds on which Divorces were Granted.—The grounds on which dissolutions of marriage, nullities of marriage and judicial separations were granted during 1958 in each State and Territory are shown in the following table, but it should be borne in mind that the legal grounds for divorce vary as between States and Territories:—

**GROUND OF DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE AND JUDICIAL SEPARATION, 1958.**

Ground.	N.S.W.	Vic.	Q'land.	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
<b>Dissolution of Marriage—</b>									
Adultery .. ..	800	440	228	203	251	42	5	16	1,985
Bigamy .. ..	1	..	1	..	..	..	..	..	2
Cruelty .. ..	110	9	..	82	..	2	1	4	208
Cruelty and Drunkenness	117	12	..	..	1	1	..	..	131
Desertion .. ..	a 2,125	1,127	526	184	146	119	8	15	4,250
Desertion and Adultery	..	81	1	..	2	..	..	..	84
Drunkenness and Failure to Support ..	42	2	..	4	..	..	..	1	49
Drunkenness and Neglect of Domestic Duties ..	13	1	..	..	..	1	..	..	15
Failure to Pay Maintenance .. ..	..	..	..	1	19	..	..	..	20
Imprisonment .. ..	9	11	..	..	5	..	..	..	25
Incest .. ..	..	1	..	..	..	..	..	..	1
Insanity .. ..	..	12	2	1	2	..	..	..	17
Presumption of Death ..	..	..	1	2	1	..	..	..	4
Refusal to Consummate Separation for over 5 years .. ..	..	..	..	6	108	..	..	..	114
Sodomy .. ..	..	2	..	..	..	..	1	..	3
<b>Total .. ..</b>	<b>3,217</b>	<b>1,698</b>	<b>759</b>	<b>483</b>	<b>536</b>	<b>165</b>	<b>15</b>	<b>36</b>	<b>6,909</b>
<b>Nullity of Marriage—</b>									
Non-consummation .. ..	..	2	1	2	1	..	..	..	1
Bigamy .. ..	8	..	..	..	5	..	..	1	19
Impotence .. ..	8	14	4	6	..	..	1	..	33
Invalid Marriage .. ..	..	..	2	1	..	..	..	..	3
Want of Consent .. ..	..	1	..	..	..	..	..	..	1
Failure to Comply with Legal Provision ..	1	..	..	..	..	..	..	..	1
Consanguinity .. ..	1	..	..	..	..	..	..	..	1
Not Stated .. ..	..	2	..	..	..	..	..	..	2
<b>Total .. ..</b>	<b>18</b>	<b>19</b>	<b>7</b>	<b>9</b>	<b>6</b>	<b>..</b>	<b>1</b>	<b>1</b>	<b>61</b>
<b>Judicial Separation—</b>									
Adultery .. ..	1	..	..	5	..	..	..	..	1
Cruelty .. ..	2	..	1	..	..	..	..	..	8
Desertion .. ..	2	..	..	..	2	..	..	..	4
<b>Total .. ..</b>	<b>5</b>	<b>..</b>	<b>1</b>	<b>5</b>	<b>2</b>	<b>..</b>	<b>..</b>	<b>..</b>	<b>13</b>

(a) Includes non-compliance with order for restitution of conjugal rights, 375.

9. Ages of Husband and Wife at Time of Dissolution of Marriage.—The following table shows the number of husbands and wives in each age group who were parties to marriages dissolved in 1958. Age is taken at the time the decree absolute is made.

Forty-two per cent. of wives were in the 25-34 years age group and 42 per cent. of husbands in the 30-39 years age group. These proportions have varied little during recent years and are considerably higher than the proportions of married persons of those age groups in the whole population (27 per cent. and 26 per cent. respectively at the Census of 30th June, 1947; 28 per cent. and 26 per cent. respectively at the Census of 30th June, 1954).

## AGES OF PARTIES AT TIME OF DISSOLUTION OF MARRIAGE, AUSTRALIA, 1958.

Age of Husband (Years).	Age of Wife (Years).											Total Husbands.
	Under 21.	21 to 24.	25 to 29.	30 to 34.	35 to 39.	40 to 44.	45 to 49.	50 to 54.	55 to 59.	60 and over.	Not stated.	
Under 21 ..	4	..	..	..	..	..	..	..	..	..	..	4
21 to 24 ..	13	71	19	3	..	..	..	..	..	..	..	106
25 to 29 ..	13	285	539	85	9	6	..	..	..	..	..	939
30 to 34 ..	2	82	621	691	114	6	4	1	..	..	..	1,376
35 to 39 ..	..	15	167	557	492	107	22	5	1	..	..	1,370
40 to 44 ..	..	5	36	148	428	321	65	17	6	..	..	1,023
45 to 49 ..	..	1	11	43	136	290	247	38	6	1	1	774
50 to 54 ..	..	..	1	17	42	101	213	144	20	2	..	544
55 to 59 ..	..	..	1	4	10	34	53	82	79	21	..	284
60 and over ..	..	..	1	2	5	7	25	30	61	78	..	210
Not Stated ..	..	..	2	..	..	1	3	1	..	..	116	129
<b>Total Wives</b>	<b>32</b>	<b>459</b>	<b>1,398</b>	<b>1,555</b>	<b>1,237</b>	<b>873</b>	<b>632</b>	<b>318</b>	<b>170</b>	<b>109</b>	<b>126</b>	<b>6,909</b>

10. Duration of Marriages Dissolved and Number of Children.—The following table shows the number of dissolutions of marriage granted in 1958, classified according to the legal duration of the marriage (i.e., the period from the date of marriage to the date when the decree nisi was made absolute) and number of children. The majority of marriages dissolved are of less than fifteen years' duration and 40 per cent. of them are of less than ten years' duration.

## DURATION OF MARRIAGES DISSOLVED AND NUMBER OF CHILDREN(a) AUSTRALIA, 1958.

Duration of Marriage (Years).	Number of Marriages dissolved with—											Total Dissolutions of Marriage.	Total Children. (a)		
	0 Children.	1 Child.	2 Children.	3 Children.	4 Children.	5 Children.	6 Children.	7 Children.	8 Children.	9 Children.	10 Children.			11 Children and over.	N.S.
1 year and under 2 ..	20	3	1	..	..	..	..	..	..	..	..	..	..	24	5
2 years and under ..	41	10	3	1	..	..	..	..	..	..	..	..	..	56	23
3 ..	98	30	4	2	..	..	..	..	..	..	..	..	..	134	44
4 ..	176	67	13	2	..	1	..	..	..	..	..	..	..	259	104
5 ..	219	111	44	2	..	2	..	..	..	..	..	..	..	378	215
6 ..	213	160	47	12	2	2	..	..	..	..	..	..	..	436	308
7 ..	211	155	75	10	5	..	..	..	..	..	..	..	..	456	355
8 ..	201	155	84	22	4	..	..	..	..	..	..	..	..	466	405
9 ..	186	140	93	38	5	3	1	..	..	..	..	..	..	466	481
10 ..	169	143	97	38	9	2	1	..	..	..	..	..	..	459	503
11 ..	114	115	103	53	10	3	1	..	..	..	..	..	..	399	541
12 ..	108	113	112	58	17	3	3	..	..	..	..	..	..	414	612
13 ..	72	86	78	53	12	5	1	2	..	..	..	..	..	309	494
14 ..	68	71	66	28	11	2	2	..	..	..	..	..	..	248	353
15 ..	57	65	65	41	20	4	3	..	..	..	..	..	..	255	436
16 ..	67	64	73	34	16	5	1	..	1	..	..	..	..	261	415
17 ..	60	52	46	32	13	4	2	..	..	..	..	..	..	211	338
18 ..	50	57	73	26	8	4	1	..	3	..	..	..	..	222	363
19 ..	37	46	43	28	14	5	2	..	..	..	..	..	..	175	309
20 ..	41	36	45	26	16	9	1	1	1	..	..	..	..	176	334
21 ..	70	93	140	72	40	15	7	5	..	..	..	1	..	443	912
25 ..	55	71	95	54	43	18	13	4	4	..	..	..	..	357	823
30 ..	31	25	50	32	26	10	7	2	..	2	..	2	..	187	472
35 ..	8	9	17	16	13	5	3	3	..	1	2	..	..	77	236
40 ..	3	2	7	5	4	4	..	1	1	..	..	..	..	27	82
45 .. and over ..	3	3	2	1	2	..	1	..	..	..	..	..	..	12	24
Not Stated ..	1	..	..	..	..	..	..	..	..	..	..	..	1	2	..
<b>Total Dissolutions of Marriage</b>	<b>2,379</b>	<b>1,882</b>	<b>1,476</b>	<b>686</b>	<b>291</b>	<b>106</b>	<b>50</b>	<b>20</b>	<b>10</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>1</b>	<b>6,909</b>	<b>..</b>
<b>Total Children (a)</b>	<b>..</b>	<b>1,882</b>	<b>2,952</b>	<b>2,058</b>	<b>1,164</b>	<b>530</b>	<b>300</b>	<b>140</b>	<b>80</b>	<b>27</b>	<b>20</b>	<b>34</b>	<b>..</b>	<b>..</b>	<b>9,187</b>

(a) The term "children" used in the above table, being dependent upon State legislation and court rules, is not comparable in all States, and is defined as follows:—New South Wales, Victoria and Western Australia, issue of the marriage of all ages, living and dead; Queensland, children, including adoptions and step-children of all ages, living and dead; South Australia, issue of the marriage, living, under 16; Tasmania, living issue of the marriage.

11. Number of Divorced Persons at each Census 1901 to 1954.—The following table shows the number and proportion of divorced persons in Australia at each census from 1901 to 1954. A classification of these persons by age appeared in earlier issues of the Official Year Book (*see* No. 39, p. 269). Prior to 1911, no record was made of divorced persons in South Australia, so comparisons cannot be made to extend beyond that date.

**DIVORCED PERSONS AT CENSUS DATES: AUSTRALIA.**

Sex.	Number.						Proportion per 10,000 of population, 15 years of age and over.					
	1901. (a)	1911.	1921.	1933.	1947.	1954.	1901. (a)	1911.	1921.	1933.	1947.	1954.
Males ..	1,234	2,368	4,233	10,298	25,052	32,389	10	15	23	42	89	100
Females ..	1,149	2,140	4,304	10,888	27,516	36,650	10	15	24	46	96	115

(a) Excludes South Australia.

**C. BANKRUPTCY.**

1. **General.**—Particulars relating to bankruptcy in each State to the end of 1927 were incorporated in issues of the Official Year Book prior to No. 23. On 1st August, 1928, the Commonwealth Bankruptcy Act, which is now the Bankruptcy Act 1924–1959, came into operation.

Under the Bankruptcy Act 1924–1959, the Commonwealth is divided into bankruptcy districts which coincide generally with State boundaries. A Federal Court of Bankruptcy has been established with jurisdiction throughout Australia but it exercises this jurisdiction mainly in the bankruptcy districts of New South Wales, which includes the Australian Capital Territory, and Victoria. Certain State courts have been invested with federal jurisdiction in bankruptcy and, outside New South Wales and Victoria, usually exercise that jurisdiction in the appropriate bankruptcy district.

Any person unable to pay his debts may voluntarily apply for the sequestration of his estate, or his creditors may apply for a compulsory sequestration, if he has committed an act of bankruptcy. The act of bankruptcy usually relied on is non-compliance by a debtor with a bankruptcy notice which requires the debtor to whom it is addressed to pay within a specified time, to a creditor who has obtained a final judgment or order to pay, the amount of the debt or satisfy the Court that he has a counter-claim, set-off, or cross demand which equals or exceeds the judgment debt. If a bankruptcy notice is not complied with, a creditor may thereupon present a petition against a debtor provided that—

- (1) the debt or debts amount to £50;
- (2) the act of bankruptcy relied on has occurred within the six months preceding the presentation of the petition; and
- (3) the statutory requirements relating to domicile or residence are applicable to the debtor.

Upon the issue of a sequestration order, the property of the bankrupt vests in the official receiver named in the order and his property is divisible among his creditors in accordance with the provisions of the Act. No creditor to whom the bankrupt is indebted in respect of any debt provable in bankruptcy has any remedy against the property or person of the bankrupt except by leave of the court.

Under Part XI of the Bankruptcy Act 1924–1959, instead of having a sequestration order made against his estate, a debtor may compound with his creditors or assign his estate for their benefit. Under Part XII of the Act, a debtor may enter into a scheme of arrangement. The object of Parts XI and XII of the Act is to allow a debtor and his creditors to enter into an agreement concerning the debts due to the creditors without having a sequestration order made against the debtor.

The Court has power to decide questions of law affecting a bankrupt estate. Questions of fact may be tried before a jury.

The Bankruptcy Act 1924–1959 provides for an Inspector-General in Bankruptcy, who performs such duties as are prescribed. The Act also provides for a Registrar and an Official Receiver to be appointed for each bankruptcy district.

A Registrar in Bankruptcy is controlled by the Court and has such duties as the Attorney-General of the Commonwealth directs, or as are prescribed, and exercises such functions of an administrative nature as are authorized by the Court. He may examine a bankrupt or a person indebted to a bankrupt or having in his possession any of the estate or effects of a bankrupt. Stipendiary magistrates are appointed Deputy Registrars in country districts.

All sequestrated estates are vested in an Official Receiver, who is a permanent officer of the Commonwealth Public Service. His duties are to investigate the conduct, property and transactions of the debtor, and the cause of bankruptcy of a debtor and to realize and administer the estate of the debtor. In respect of these activities, the Official Receiver is under the control of the Court.

Persons registered by the Court as qualified to act as trustees may be appointed by resolution of the creditors to be trustees of estates. In cases where a registered trustee under a deed of arrangement, composition, or assignment (Parts XI and XII of the Bankruptcy Act) is removed from or vacates his office, the official receiver may be appointed by the Court to complete the administration of the estate, or the Court may direct the official receiver to convene a meeting of the creditors in the estate to enable them to appoint a registered trustee to complete the administration of the estate.

2. **Bankruptcy Proceedings.**—The following table shows the number of bankruptcies of the various types in each State, together with the assets and liabilities of the debtors, during the twelve months ended 30th June, 1959:—

**BANKRUPTCY PROCEEDINGS, 1958-59.**

State.		Sequestration Orders and Orders for Administration of Deceased Debtors' Estates.	Compositions and Schemes under Part XI.	Deeds under Part XI.	Deeds of Arrangement, Part XII.	Total.
N.S.W.	Number ..	654	4	2	85	745
	Liabilities £	1,683,826	19,386	6,056	974,652	2,683,920
	Assets £	751,643	8,420	3,050	898,461	1,661,574
(a)	Number ..	305	1	..	88	394
	Liabilities £	1,015,834	19,261	..	678,644	1,713,739
	Assets £	412,465	11,575	..	528,651	952,691
Vic. ..	Number ..	180	..	..	20	200
	Liabilities £	654,611	..	..	177,961	832,572
	Assets £	509,276	..	..	147,481	656,757
Q'land	Number ..	268	40	8	..	316
	Liabilities £	530,178	146,450	30,853	..	707,481
	Assets £	225,847	123,042	22,599	..	371,488
S. Aust.	Number ..	111	86	9	..	206
	Liabilities £	472,900	422,943	161,821	..	1,057,664
	Assets £	100,888	554,377	120,063	..	775,328
W. Aust.	Number ..	85	..	..	3	88
	Liabilities £	177,130	..	..	13,255	190,385
	Assets £	89,723	..	..	20,113	109,836
Tas. ..	Number ..	..	..	..	..	..
	Liabilities £	..	..	..	..	..
	Assets £	..	..	..	..	..
N.T. ..	Number ..	..	..	..	..	..
	Liabilities £	..	..	..	..	..
	Assets £	..	..	..	..	..
Australia	Number ..	1,603	131	19	196	1,949
	Liabilities £	4,534,479	608,040	198,730	1,844,512	7,185,761
	Assets £	2,089,842	697,414	145,712	1,594,706	4,527,674

(a) Includes the Australian Capital Territory.

For purposes of comparison, the two tables which follow show Australian figures in respect of each of the various types of bankruptcy, and State figures in respect of all types of bankruptcy for the past five years.

Until 1954-55, the bankruptcy year ended on the 31st July. Thereafter it has ended on the 30th June. Figures for 1955-56, therefore, cover only eleven months.

## BANKRUPTCY PROCEEDINGS: AUSTRALIA.

Year.		Sequestration Orders and Orders for Administration of Deceased Debtors' Estates.	Compositions and Schemes under Part XI.	Deeds under Part XI.	Deeds of Arrangement, Part XII.	Total.
1954-55	Number ..	769	66	19	123	977
	Liabilities £	1,724,252	284,027	145,003	1,013,150	3,166,432
	Assets £	946,761	268,729	113,995	728,232	2,057,717
1955-56 (a)	Number ..	798	80	14	120	1,012
	Liabilities £	2,167,986	541,666	110,541	832,635	3,652,828
	Assets £	1,082,492	459,242	81,000	856,009	2,478,743
1956-57	Number ..	1,200	126	32	171	1,529
	Liabilities £	3,243,749	501,486	126,140	1,242,834	5,114,209
	Assets £	1,795,830	545,275	126,063	1,196,604	3,663,772
1957-58	Number ..	1,357	120	28	164	1,669
	Liabilities £	3,126,313	707,134	166,367	1,271,353	5,271,167
	Assets £	1,680,868	636,032	107,675	1,315,856	3,740,431
1958-59	Number ..	1,603	131	19	196	1,949
	Liabilities £	4,534,479	608,040	198,730	1,844,512	7,185,761
	Assets £	2,089,842	697,414	145,712	1,594,706	4,527,674

(a) Eleven months.

## BANKRUPTCY PROCEEDINGS, STATES.

Year.		N.S.W. (a)	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T.	Aus- tralia.
1954-55 ..	Number ..	360	200	155	111	100	49	2	977
	Liabilities £	1,162,001	764,083	461,874	338,481	315,157	121,198	3,638	3,166,432
	Assets £	789,226	365,151	338,287	241,597	237,192	78,851	7,413	2,057,717
1955-56 .. (b)	Number ..	400	206	153	99	120	33	1	1,012
	Liabilities £	1,644,478	712,223	361,636	441,626	373,119	114,159	5,587	3,652,828
	Assets £	1,092,323	522,159	151,954	342,790	276,246	92,642	629	2,478,743
1956-57 ..	Number ..	555	335	152	214	204	66	3	1,529
	Liabilities £	2,262,611	992,246	449,519	598,090	562,808	220,155	28,780	5,114,209
	Assets £	1,441,731	661,268	394,898	352,916	608,424	181,939	22,596	3,663,772
1957-58 ..	Number ..	524	418	181	263	212	70	1	1,669
	Liabilities £	2,010,218	1,021,428	607,109	645,401	793,439	184,552	9,020	5,271,167
	Assets £	1,607,587	676,021	377,379	375,932	578,097	120,778	4,637	3,740,431
1958-59 ..	Number ..	745	394	200	316	206	88	..	1,949
	Liabilities £	2,683,920	1,713,739	832,572	707,481	1,057,664	190,385	..	7,185,761
	Assets £	1,661,574	952,691	656,757	371,488	775,328	109,836	..	4,527,674

(a) Includes the Australian Capital Territory.

(b) Eleven months.

## D. OTHER CIVIL PROCEEDINGS.

The following table shows the civil judgments (excluding those for divorce and bankruptcy) in the higher courts during 1958. The particulars given below include the number and amount of judgments entered by default or confession, or agreement, and differ from those in previous issues of the Official Year Book, which related in most States only to cases tried during the year.

## CIVIL CASES AT HIGHER COURTS, 1958.

Particulars.	N.S.W. (a)	Vic.	Q'land. (b)	S. Aust.	W. Aust. (c)	Tas.	N.T. (b)	A.C.T.	Aus- tralia.
Judgments No.	3,400	10,475	980	163	275	521	(d)	62	(d)
Amount Awarded £	(d)	2,648,115	395,084	223,635	301,986	305,761	(d)	43,140	(d)

(a) Excludes judgments signed in the Supreme Court. (b) Twelve months ended 30th June, 1958.  
(c) Judgments signed and entered. (d) Not available.

### § 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 Supreme Court called the High Court of Australia and in such other courts as the Parliament creates or invests with Federal jurisdiction. The High Court of Australia possesses both original and appellate jurisdiction. The powers of the Court are defined in the Commonwealth Constitution, and in the Judiciary Act 1903-55. The Court consists of a Chief Justice and six other judges. Sittings of the Court are held in the capitals of the various States as occasion requires. The High Court functions as a Court of Appeal for Australia. The following statement shows the transactions of the High Court for 1958 and 1959:—

#### TRANSACTIONS OF THE HIGH COURT OF AUSTRALIA.

Original Jurisdiction. (a)	1958.	1959.	Appellate Jurisdiction.	1958.	1959.
	Number of writs issued	196		156	Number of appeals set down for hearing ..
Number of cases entered for trial ..	48	31	Number allowed ..	25	41
Judgments for plaintiffs	29	41	Number dismissed ..	46	59
Judgments for defendants	2	5	Otherwise disposed of	21	16
Otherwise disposed of ..	16	12			
Amount of judgments ..	£57,589	£122,970			

(a) Some matters dealt with by the High Court neither originate as writs nor are entered as cases.

During 1958 and 1959, respectively, the High Court dealt also with the following: Appeals from Assessments under the Taxation Assessment Act, 25, 30; Special cases stated for the opinion of the Full Court, 19, 8; Applications for Prohibition, etc., 41, 26. The fees collected amounted to £3,201 in 1958 and £3,349 in 1959.

### § 6. Police, Prisons and Prisoners.

1. **Police.**—The primary duties of the police are to prevent crime, to detect and detain offenders, to protect life and property, to enforce the law, and to maintain peace and good order. In addition, they perform many duties in the service of the State, e.g. they act as clerks of petty sessions in small centres, as crown land bailiffs, foresters, mining wardens and inspectors under the fisheries and various other acts. In metropolitan and large country areas, they also regulate the street traffic. With the exception of a small body of Commonwealth police in the Northern Territory and the Australian Capital Territory, the police forces of Australia are under the control of the State governments, but their members perform certain functions for the Commonwealth government, such as acting as aliens registration officers and policing various acts and regulations.

Women police perform special duties at places where young women and girls are subject to moral danger, control traffic at school crossings, and lecture school children on road safety. They also assist male police as required in the performance of normal police duties.

The strength of the police force in each State and Territory and the number of police officers per 10,000 of population are shown in the following tables for the years 1954 to 1958. The figures include traffic police, probationers, cadets, special constables and women police, but exclude parking police, native trackers (natives employed in outlying districts in tracking lost persons and persons wanted by the police), female searchers, wardresses and interpreters. Figures refer to the 30th June, except where otherwise indicated.

#### STRENGTH OF POLICE FORCES.

As at 30th June—	N.S.W.	Vic.	Q'land.	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Australia.
1954 .. ..	(a)4,610	(a)3,021	2,403	1,107	936	438	56	62	12,633
1955 .. ..	(a)4,817	(a)3,109	2,355	1,086	964	471	62	60	12,924
1956 .. ..	(a)4,927	(a)3,392	2,422	1,132	971	481	67	60	13,452
1957 .. ..	(a)5,043	(a)3,709	2,491	1,234	970	507	80	60	14,094
1958 .. ..	5,130	3,753	2,617	1,351	988	526	76	66	14,507

(a) Figures refer to 31st December of the year shown.

The following table shows the population of each State and Territory to each police officer for the years 1954 to 1958.

## POPULATION TO EACH POLICE OFFICER.

As at 30th June—	N.S.W.	Vic.	Q'land.	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Australia.
1954 .. ..	(a) 751	(a) 821	549	720	684	705	294	502	720
1955 .. ..	(a) 732	(a) 813	571	744	683	668	284	558	721
1956 .. ..	(a) 728	(a) 776	566	738	698	665	273	602	706
1957 .. ..	(a) 726	(a) 728	561	708	713	647	240	652	689
1958 .. ..	726	750	542	664	714	638	258	624	683

(a) Figures refer to 31st December of the year shown.

The following table shows the number of women police in each State and Territory for the years 1954 to 1958. As has been stated above, the figures are included in the table showing the strength of the police forces.

## NUMBER OF POLICEWOMEN.

As at 30th June—	N.S.W.	Vic.	Q'land.	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Australia.
1954 .. ..	(a) 37	(a) 30	9	20	9	5	..	3	113
1955 .. ..	(a) 37	(a) 34	8	20	9	5	..	2	115
1956 .. ..	(a) 36	(a) 43	7	23	9	8	..	2	128
1957 .. ..	(a) 38	(a) 55	7	24	9	10	..	2	145
1958 .. ..	46	52	9	32	11	9	..	2	161

(a) Figures refer to 31st December of the year shown.

The following table shows the number of native trackers in each State and Territory for the years 1954 to 1958. As has been stated above, these figures are not included in the table showing the strength of the police forces. There are no native trackers in Tasmania, where the aboriginal race is extinct, nor in the Australian Capital Territory.

## NUMBER OF NATIVE TRACKERS.

As at 30th June—	N.S.W.	Vic.	Q'land.	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Australia.
1954 .. ..	(a) 7	(a) 1	24	..	18	..	28	..	78
1955 .. ..	(a) 8	(a) 1	23	..	18	..	29	..	79
1956 .. ..	(a) 8	(a) 1	25	(b)	7	..	31	..	72
1957 .. ..	(a) 8	(a) 1	23	(b)	3	..	30	..	65
1958 .. ..	7	1	23	(b)	4	..	31	..	66

(a) Figures refer to 31st December of year shown.

(b) One native tracker, who is paid a small weekly retainer and is supplied with rations, is continually on call.

2. Prisons and Prison Accommodation.—The table below shows the number of prisons in each State and the accommodation therein in 1958. All figures refer to 30th June, except where otherwise indicated.

## PRISONS AND PRISON ACCOMMODATION, 1958.

Particulars.	N.S.W.	Vic. (a)	Q'land.	S. Aust.	W. Aust.	Tas.	N.T.	Australia.
Prisons .. ..	17	11	7	16	19	1	2	73
Accommodation .. ..	2,568	1,945	849	859	876	206	59	7,362

(a) 31st December.



There is no gaol in the Australian Capital Territory, but there is a lock-up consisting of five cells attached to the police station at Canberra, and another lock-up at Jervis Bay, where offenders are held while awaiting trial or serving short sentences not exceeding one week imposed by a Magistrate's Court.

3. **Convicted Prisoners.**—The number of convicted prisoners at 30th June of each of the years 1954 to 1958 and the proportion per 10,000 of the population are shown in the following table. The figures exclude aborigines, except for New South Wales and Victoria.

#### CONVICTED PRISONERS.

At 30th June—	N.S.W. (a)	Vic. (b)	Q'land.	S. Aust.	W. Aust.	Tas.	N.T.	Aus- tralia.
NUMBER.								
1954 .. ..	2,155	1,108	606	(b) 377	360	152	47	4,805
1955 .. ..	2,238	1,229	580	413	386	163	50	5,059
1956 .. ..	2,860	1,462	612	457	482	149	21	6,043
1957 .. ..	3,050	1,441	680	569	488	162	29	6,419
1958 .. ..	3,126	1,397	799	526	527	196	32	6,603
NUMBER PER 10,000 OF POPULATION.								
1954 .. ..	6.2	4.5	4.6	(b) 4.7	5.6	4.9	28.5	5.3
1955 .. ..	6.4	4.8	4.3	5.0	5.7	5.2	28.4	5.5
1956 .. ..	8.0	5.6	4.5	5.4	7.1	4.7	11.5	6.4
1957 .. ..	8.3	5.3	4.9	6.6	7.1	5.0	15.8	6.6
1958 .. ..	8.4	5.0	5.6	5.9	7.5	5.8	16.3	6.7

(a) Includes the Australian Capital Territory.

(b) At 31st December of year shown.

### § 7. Cost of Administration of Law and Order.

1. **Expenditure by the States.**—The tables below show the net expenditure (i.e., gross expenditure less receipts from fees, fines, recoup for services rendered, etc.) from Consolidated Revenue during 1958–59 in connexion with the administration of justice, police and prisons in each State.

In South Australia, the receipts for legal fees and registrations exceed the expenditure under "Justice". Because of differing legislative and administrative arrangements in the various States, the activities covered by the figures shown are not exactly the same in each State. Small differences also result from differing accounting practices. However, the figures shown for individual States are comparable from year to year.

#### NET EXPENDITURE ON LAW AND ORDER, 1958-59.

State.	Net Expenditure.			Per Head of Population.		
	Justice.	Police.	Prisons.	Justice.	Police.	Prisons.
	£.	£.	£.	s. d.	s. d.	s. d.
New South Wales ..	1,109,088	7,167,949	1,171,226	5 11	38 6	6 4
Victoria .. ..	738,761	6,013,721	843,689	5 4	43 4	6 1
Queensland .. ..	124,217	3,771,534	307,286	1 9	52 11	4 4
South Australia ..	-133,940	1,898,703	315,544	-2 11	41 10	6 11
Western Australia ..	22,740	1,614,273	264,903	0 8	45 4	7 5
Tasmania .. ..	187,275	762,696	132,552	11 0	44 9	7 10
<b>Total .. ..</b>	<b>2,048,141</b>	<b>21,228,876</b>	<b>3,035,200</b>	<b>4 2</b>	<b>43 0</b>	<b>6 2</b>

2. **Commonwealth Expenditure.**—(i) *Police and Prisons.* The expenditure shown in the previous table is that incurred by the State Governments. Expenditure by the Commonwealth Government on police in the Australian Capital Territory and police and prisons in the Northern Territory is shown in the following table.

**EXPENDITURE ON POLICE AND PRISONS IN THE NORTHERN TERRITORY AND THE AUSTRALIAN CAPITAL TERRITORY.**

(£.)

Year.	Northern Territory.	Australian Capital Territory.(a)
1954-55 .. .. .	135,738	87,126
1955-56 .. .. .	145,387	98,720
1956-57 .. .. .	136,000	109,710
1957-58 .. .. .	208,099	142,462
1958-59 .. .. .	227,031	137,894

(a) Expenditure on police only. There is no prison in the Australian Capital Territory.

(ii) *Attorney-General's Department.* Expenditure by the Commonwealth Attorney-General's Department throughout Australia is shown in the two tables which follow:—

**EXPENDITURE BY THE COMMONWEALTH ATTORNEY-GENERAL'S DEPARTMENT.**

(£.)

Year.	Gross Expenditure.	Receipts.	Net Expenditure.
1954-55 .. .. .	1,715,945	370,759	1,345,186
1955-56 .. .. .	1,896,741	407,474	1,489,267
1956-57 .. .. .	1,952,184	451,758	1,500,426
1957-58 .. .. .	1,984,776	516,090	1,468,686
1958-59 .. .. .	2,100,388	572,771	1,527,617

**EXPENDITURE BY THE COMMONWEALTH ATTORNEY-GENERAL'S DEPARTMENT, 1958-59.**

Item.	Gross Expenditure. £.
Administration .. .. .	281,231
Bankruptcy .. .. .	180,105
Commonwealth Investigation Service .. .. .	123,570
Industrial Registrars' Branch .. .. .	167,785
Court Reporting Branch .. .. .	112,178
Crown Solicitor's Office .. .. .	343,528
High Court .. .. .	130,654
Industrial Court .. .. .	77,747
Judges' Salaries and Pensions .. .. .	16,009
Legal Service Bureau .. .. .	60,384
Miscellaneous Services .. .. .	16,642
Patents, Trade Marks and Designs .. .. .	413,735
Peace Officer Guard .. .. .	99,741
Public Service Arbitrator's Office .. .. .	4,984
Rent .. .. .	62,350
Repairs and Maintenance .. .. .	9,745
<b>Total .. .. .</b>	<b>2,100,388</b>

In addition £244,323 was spent by the Attorney-General's Department on capital works and services.

(iii) *Receipts of Commonwealth Attorney-General's Department.*—The above items of expenditure are gross. Revenue received by the Commonwealth Attorney-General's Department, which offsets this expenditure to some extent, is shown in the following table:—

**RECEIPTS OF THE COMMONWEALTH ATTORNEY-GENERAL'S  
DEPARTMENT, 1958-59.**

Item.	Amount. (£.)
Bankruptcy .. .. .	98,229
Court Reporting Branch .. .. .	72,762
Fees, Fines and Costs of Court .. .. .	43,455
Patents, Trade Marks and Designs, Copyright .. .. .	351,185
Miscellaneous .. .. .	7,140
<b>Total .. .. .</b>	<b>572,771</b>