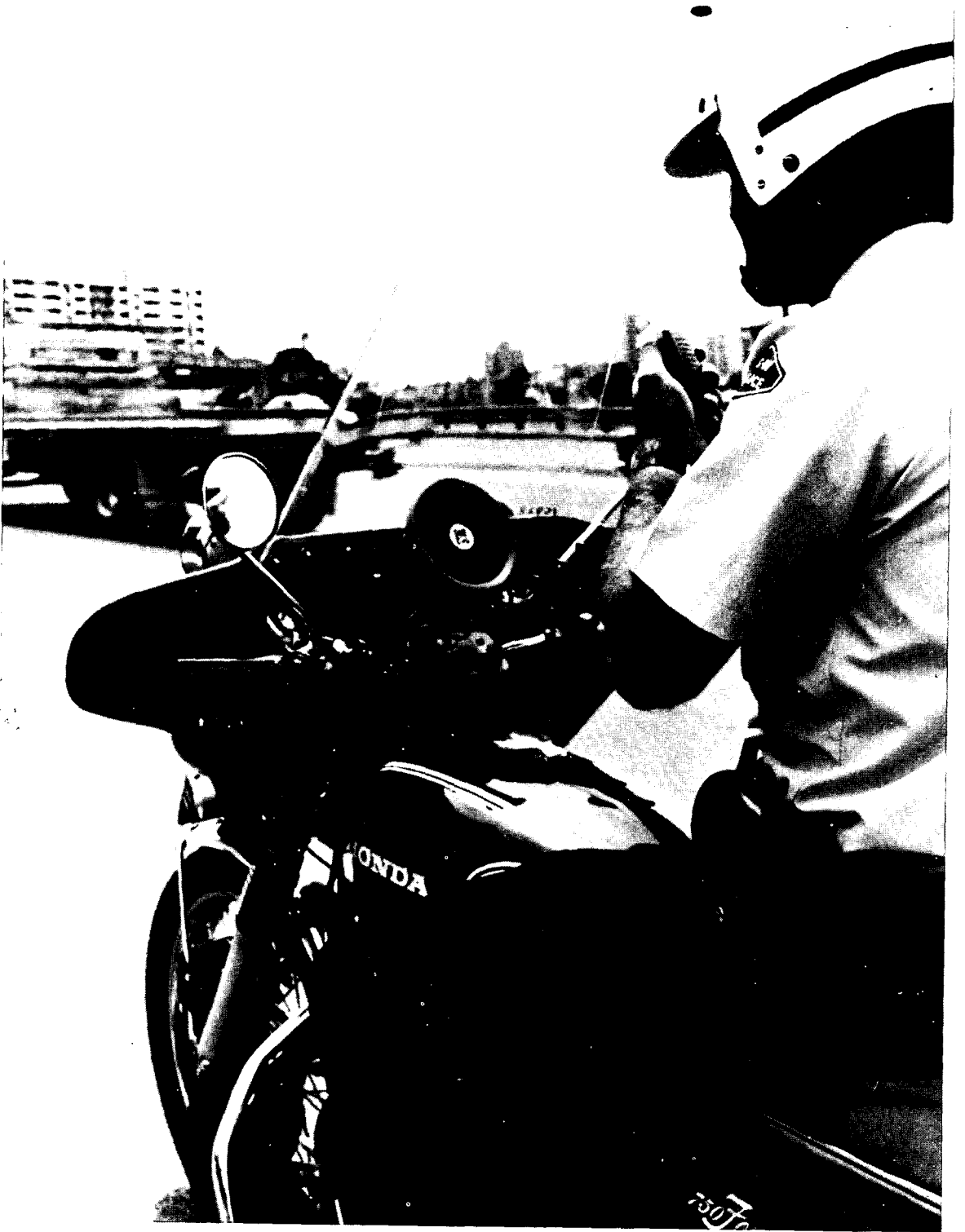


## **CHAPTER 11**

# **LAW AND ORDER**



## CHAPTER 11

### LAW AND ORDER

Law and order throughout Australia are administered by Federal, State and Territorial governments and authorities. The principal authorities are the Australian Federal Police (formed in October 1979 from an amalgamation of the Commonwealth Police and the Australian Capital Territory Police), State police and Northern Territory Police; the Federal, State and Territory judiciary; and State and Territory corrective services. There are, as yet, no independent Federal corrective services.

This chapter provides information about crime in Australia, namely the results of a crime victims survey conducted in 1975, selected crimes reported or becoming known to police, and drug offences. There is also a description of the police, the Federal courts, legal aid, and the administration of law. Information is also given on convicted prisoners, bankruptcy, patents and design and copyright.

Detailed information about State and Territory police, courts, corrections and other law and order functions are provided in State Year Books and other statistical publications and in annual reports of the relevant authorities. Information may also be obtained from the New South Wales Bureau of Crime Statistics and Research and the South Australian Office of Crime Statistics which have been established by the respective State Governments and from the Australian Institute of Criminology which has been established by the Federal Government.

#### CRIME IN AUSTRALIA

In 1975, the Australian Bureau of Statistics, as part of a general social survey of households and of persons aged 15 years and over, conducted a survey of crime victims in which questions were asked about the nature and circumstances of the offence and whether the incident was reported to the police. The results of the survey were published in detail in the ABS publication *General Social Survey, Crime Victims, May 1975* (4105.0). Some basic information from this survey is given below.

In addition to the Annual Reports of the Police Commissioners which provide information on known crime in each State and Territory there are two regular sources of information relating to crime in Australia on a national basis. The series published as "Selected crime reported or becoming known to police" relates to specific offence groups about which the police forces in Australia have been reporting on a regular basis since 1964. The annual report *Drug Abuse in Australia* is published by the Crime Intelligence Unit of the Australian Federal Police (formerly Commonwealth Police) from information supplied to them by all police forces and the Federal Narcotics Bureau. Extracts from both of these sources are included below.

#### Crime Victims Survey 1975

The survey on crime victimisation was part of a General Social Survey of households and persons conducted by the Australian Bureau of Statistics in March to May 1975. Questions were asked about incidents occurring in the twelve months preceding the date of interview.

The survey was designed to provide information on a selection of crimes, including unreported incidents and sought information on whether the victims knew the offenders, the location and time of day at which incidents occurred, whether the incidents were reported to the police, and if not, what were the reasons for not reporting the incidents.

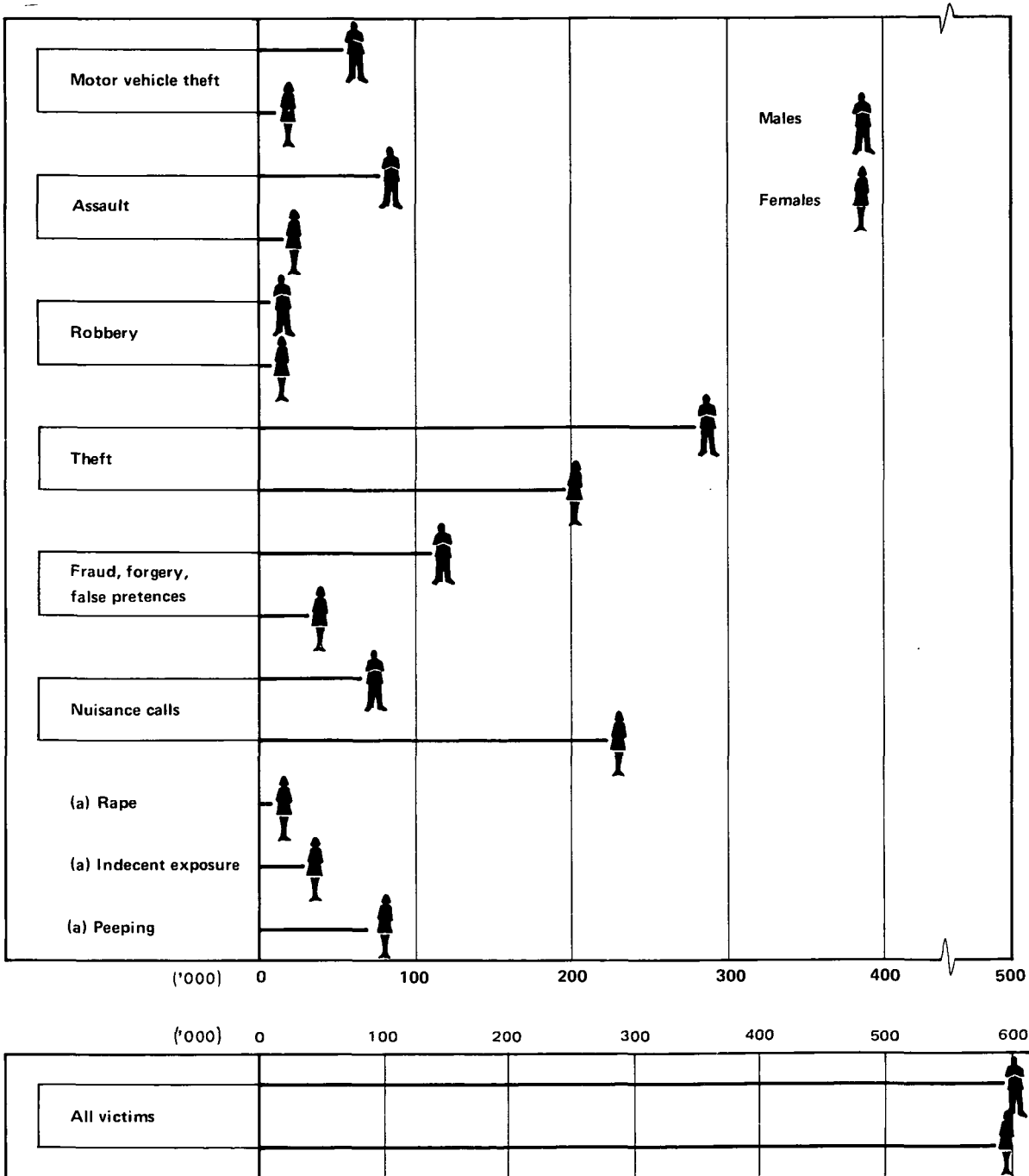
The crimes covered were breaking and entering, motor vehicle theft, assault, robbery, theft, sex offences (rape, indecent exposure and peeping), fraud, forgery and false pretences, and nuisance calls.

The total number of people who were victims of all types of crime was as follows (each victim being counted once only regardless of how many types of crime or how many times he/she was a victim):

	Male	Female	Persons
Number of people victimized ('000)	519.3	518.9	1038.2

Questions about motor vehicle theft, assault, robbery, theft, fraud, forgery and false pretences, and nuisance calls were asked of all persons aged 15 years and over. The number of persons who were victims of each type of crime are shown in the following graph (each person being counted once for each type of crime he/she was a victim of regardless of the number of times he/she was a victim of that crime).

NUMBER OF VICTIMS OF SELECTED OFFENCES  
BY SEX OF VICTIM



(a) Questions about rape, indecent exposure and peeping were asked of females aged 15 years and over.

Questions about breaking and entering were asked only of household heads. The number of households broken into and entered was 123,500.

The following table gives the number of incidents which occurred and whether they were reported to the police.

NUMBER OF INCIDENTS, AND WHETHER REPORTED TO POLICE

	Number of incidents	Reported to Police		
		Yes	No	Not stated
	('000)	%	%	%
Breaking and entering (a)	146.5	62.1	30.3	7.6
Motor vehicle theft	62.7	89.3	10.7	*
Assault	191.0	44.0	52.5	*
Robbery	14.2	54.2	40.1	*
Theft	609.9	34.7	64.0	1.2
Fraud, forgery and false pretences	214.1	23.9	75.4	*
Nuisance calls	(b)285.9	13.2	84.3	*
Rape (c)	7.8	28.2	65.4	*
Indecent exposure (c)	26.4	(d)	(d)	(d)
Peeping (c)	127.9	(d)	(d)	(d)

(a) Asked only of household heads. (b) Number of persons providing information on whether the incidents were reported to the police. The total number of incidents was 1,612,600. (c) Asked only of females aged 15 years and over. (d) Details were not sought for this type of offence. \* Subject to sampling variability too high for most practical purposes.

The reasons given for not notifying police were:

	Per cent
Too trivial	27.6
Police could not do anything about it	14.1
Somebody else was notified instead	7.1
Police would not bother to do anything about it	6.0
Victim would handle situation himself	5.9
Thought it was a private, not a criminal matter	4.8
Would not bother since offenders thought to be children	3.3
Other reasons (a)	31.1
<b>Total</b>	<b>100.0</b>

(a) Includes 'Did not want harm or punishment to come to offender', 'Did not want to take time (in court, from work, etc.)', 'Afraid of reprisal', 'Not sure the offenders would be caught', 'Too confused or upset', 'Police discovered the incident' or 'Fear of insurance problems' as reasons for not notifying the police of an incident. Relatively few respondents gave these reasons and consequently the standard error associated with the estimates for these responses was too high relative to the size of the estimate for these reasons to be included with any certainty in their correct position in the ranking.

### Selected crime reported to police

The following tables show details of certain categories of offences reported or becoming known to police. This series, which commenced in 1964, is derived from police records and is based as far as possible, on definitions and procedural arrangements uniformly determined for all States. For definitions and explanatory notes relating to the following statistics see Year Book No. 61, pp 475-7.

#### Offences reported or becoming known to police

The following table shows, for each State and Territory, the number of offences in each of the seven categories covered by this series which were reported or became known to police. The table includes offences reported to and investigated by the Australian Federal Police (formerly the Commonwealth Police).

**SELECTED CRIME REPORTED OR BECOMING KNOWN TO POLICE:  
NUMBER OF OFFENCES(a)**

<i>Category of Crime</i>	<i>N.S.W.</i>	<i>Vic.</i>	<i>Qld</i>	<i>S.A.</i>	<i>W.A.</i>	<i>Tas.</i>	<i>N.T.</i>	<i>A.C.T.</i>	<i>Aust.</i>
<b>Homicide (b)—</b>									
1975-76 . . . . .	273	127	152	74	53	16	17	2	714
1976-77 . . . . .	314	171	136	57	39	11	33	4	765
1977-78 . . . . .	301	139	121	49	25	9	21	5	670
<b>Serious assault—</b>									
1975-76 . . . . .	837	1,413	537	244	320	45	43	34	3,473
1976-77 . . . . .	895	1,277	544	251	429	42	58	42	3,538
1977-78 . . . . .	1,076	1,531	738	262	367	85	42	53	4,154
<b>Robbery—</b>									
1975-76 . . . . .	1,319	826	332	269	145	35	29	18	2,973
1976-77 . . . . .	1,353	965	282	265	127	38	19	21	3,070
1977-78 . . . . .	1,716	1,110	318	213	155	26	24	15	3,577
<b>Rape—</b>									
1975-76 . . . . .	342	273	64	131	71	25	7	7	920
1976-77 . . . . .	307	264	77	148	93	17	15	7	928
1977-78 . . . . .	365	233	72	172	98	16	17	10	983
<b>Breaking and entering—</b>									
1975-76 . . . . .	41,135	33,525	15,657	14,027	14,013	2,792	978	1,196	123,323
1976-77 . . . . .	42,142	37,347	14,318	14,562	14,433	2,835	1,141	1,512	128,290
1977-78 . . . . .	49,392	45,573	16,366	15,273	14,550	3,145	1,111	1,746	147,156
<b>Motor vehicle theft (c)—</b>									
1975-76 . . . . .	21,769	10,880	5,199	4,846	5,279	1,032	605	495	50,105
1976-77 . . . . .	23,443	13,067	5,189	4,496	5,499	858	675	481	53,708
1977-78 . . . . .	27,018	15,487	5,709	5,516	6,394	933	645	593	62,295
<b>Fraud, forgery and false pretences—</b>									
1975-76 . . . . .	15,372	15,982	8,293	3,238	4,103	809	559	701	49,057
1976-77 . . . . .	18,349	14,166	8,946	3,604	3,524	984	503	1,695	51,771
1977-78 . . . . .	16,578	16,453	10,446	3,072	7,844	1,298	409	1,529	57,629

(a) Includes attempts and a small number of unfounded reports. (b) Comprising murder, attempted murder, and manslaughter, including manslaughter arising from motor vehicle accidents. (c) Includes illegal, unlawful or unauthorised use, etc.

### Crimes cleared and persons involved

The tables which follow show, for the various categories of offences, the numbers of offences reported, the numbers cleared, and the numbers of persons involved according to age and sex. Subdivisions of the categories homicide, breaking and entering, and fraud, etc., are provided.

#### HOMICIDE: CRIMES REPORTED OR BECOMING KNOWN, CRIMES CLEARED AND PERSONS INVOLVED

	<i>Murder</i>			<i>Attempted murder</i>			<i>Manslaughter(a)</i>			<i>All homicide</i>		
	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>
Numbers reported or becoming known . . . . .	250	252	243	140	148	130	332	365	297	714	765	670
Numbers cleared . . . . .	225	231	212	131	143	119	325	362	292	698	736	623
<b>Persons involved in crimes cleared—</b>												
<b>Aged (b)—</b>												
16 years and under . . . . .	7	13	3	2	4	2	6	6	5	15	23	10
17 and 18 years . . . . .	16	15	9	11	14	11	50	37	34	77	66	54
19 and 20 years . . . . .	18	21	32	12	9	11	54	58	40	84	88	83
21 years and over . . . . .	156	198	167	84	99	93	211	210	178	451	507	438
<b>Total persons involved . . . . .</b>	<b>197</b>	<b>247</b>	<b>211</b>	<b>109</b>	<b>126</b>	<b>117</b>	<b>321</b>	<b>311</b>	<b>257</b>	<b>(c)627</b>	<b>(c)684</b>	<b>(c)585</b>

(a) Includes manslaughter arising from motor vehicle accidents. (b) Age last birthday at time of clearance. (c) Includes 55 females in 1975-76, 73 in 1976-77, and 61 in 1977-78.

**SERIOUS ASSAULT, ROBBERY, RAPE: CRIMES REPORTED OR BECOMING KNOWN, CRIMES  
CLEARED AND PERSONS INVOLVED**

	<i>Serious assault</i>			<i>Robbery</i>			<i>Rape</i>		
	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>
Numbers reported or becoming known . . . . .	3,473	3,538	4,154	2,973	3,070	3,577	920	928	983
Numbers cleared . . . . .	2,600	2,532	3,059	911	845	973	483	433	496
Persons involved in crimes cleared—									
Aged (a)—									
16 years and under . . . . .	219	209	262	209	183	187	80	74	67
17 and 18 years . . . . .	326	293	355	243	210	224	134	109	103
19 and 20 years . . . . .	320	357	393	167	193	206	91	95	111
21 years and over . . . . .	1,734	1,763	2,076	457	460	540	284	249	292
<b>Total persons involved</b>	<b>(b)2,599</b>	<b>(b)2,622</b>	<b>(b)3,086</b>	<b>(c)1,076</b>	<b>(c)1,046</b>	<b>(c)1,157</b>	<b>589</b>	<b>527</b>	<b>573</b>

(a) Age last birthday at time of clearance. (b) Includes 151 females in 1975-76, 165 in 1976-77, and 184 in 1977-78. (c) Includes 69 females in 1975-76, 93 in 1976-77, and 97 in 1977-78.

**BREAKING AND ENTERING: CRIMES REPORTED OR BECOMING KNOWN, CRIMES CLEARED AND  
PERSONS INVOLVED**

	<i>Dwellings</i>			<i>Shops</i>			<i>Other buildings</i>			<i>All breaking and entering</i>		
	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>	<i>1975-76</i>	<i>1976-77</i>	<i>1977-78</i>
Numbers reported or becoming known . . . . .	62,750	64,712	73,029	23,035	22,092	27,219	37,500	41,486	46,908	123,323	128,290	147,156
Numbers cleared . . . . .	11,756	11,049	10,433	5,750	5,132	5,094	6,693	6,893	7,073	24,199	22,074	22,600
Persons involved in crimes cleared—												
Aged (a)—												
16 years and under . . . . .	4,036	3,951	4,155	2,816	2,495	2,583	3,610	3,787	3,928	10,462	10,233	10,666
17 and 18 years . . . . .	871	884	955	900	864	953	649	827	946	2,420	2,575	2,854
19 and 20 years . . . . .	495	552	598	530	509	513	377	466	504	1,402	1,537	1,615
21 years and over . . . . .	1,383	1,319	1,412	1,126	1,125	1,154	889	1,034	1,151	3,398	3,478	3,717
<b>Total persons involved</b>	<b>6,785</b>	<b>6,706</b>	<b>7,120</b>	<b>5,372</b>	<b>4,993</b>	<b>5,203</b>	<b>5,525</b>	<b>6,114</b>	<b>6,529</b>	<b>(b)17,682</b>	<b>(b)17,813</b>	<b>(b)18,852</b>

(a) Age last birthday at time of clearance. (b) Includes 769 females in 1975-76, 750 in 1976-77 and 1,047 in 1977-78.

**MOTOR VEHICLE THEFT, ETC., FRAUD, ETC.: CRIMES REPORTED OR BECOMING KNOWN,  
CRIMES CLEARED AND PERSONS INVOLVED**

	<i>Motor vehicle theft (a)</i>			<i>Fraud, forgery, false pretences</i>								
				<i>Valueless cheques</i>			<i>Other</i>			<i>All fraud, etc.</i>		
	1975-76	1976-77	1977-78	1975-76	1976-77	1977-78	1975-76	1976-77	1977-78	1975-76	1976-77	1977-78
Numbers reported or becoming known . . .	50,105	53,708	62,295	10,946	10,916	10,978	33,310	40,855	46,651	43,904	51,771	57,629
Numbers cleared . . .	10,668	10,866	10,962	6,966	6,894	7,534	23,745	24,533	28,246	30,731	31,427	35,780
Persons involved in offences cleared—												
Males aged (b)—												
16 years and under . . .	4,738	4,828	5,414	90	76	64	436	420	436	526	496	500
17 and 18 years . . .	2,583	2,642	2,812	113	118	92	465	501	523	578	619	615
19 and 20 years . . .	1,199	1,302	1,433	122	130	135	557	541	616	679	671	751
21 years and over . . .	2,047	1,983	2,106	1,259	1,426	1,349	3,667	3,792	3,967	4,926	5,218	5,316
<i>Total Males</i> . . .	<i>10,567</i>	<i>10,775</i>	<i>11,765</i>	<i>1,584</i>	<i>1,750</i>	<i>1,640</i>	<i>5,125</i>	<i>5,254</i>	<i>5,542</i>	<i>6,709</i>	<i>7,004</i>	<i>7,182</i>
Females aged (b)—												
16 years and under . . .	193	216	201	19	12	31	194	190	187	213	202	218
17 and 18 years . . .	55	66	66	59	29	41	206	220	273	265	249	314
19 and 20 years . . .	25	31	33	42	29	53	176	167	228	218	196	281
21 years and over . . .	53	58	78	242	235	266	815	919	1,164	1,057	1,154	1,430
<i>Total females</i> . . .	<i>326</i>	<i>371</i>	<i>378</i>	<i>362</i>	<i>305</i>	<i>391</i>	<i>1,391</i>	<i>1,496</i>	<i>1,852</i>	<i>1,753</i>	<i>1,801</i>	<i>2,243</i>
<i>Total persons involved</i> . . .	<i>10,893</i>	<i>11,146</i>	<i>12,143</i>	<i>1,946</i>	<i>2,055</i>	<i>2,031</i>	<i>6,516</i>	<i>6,752</i>	<i>7,394</i>	<i>8,462</i>	<i>8,805</i>	<i>9,425</i>

(a) Includes illegal, unlawful and unauthorised use, etc. (b) Age last birthday at time of clearance.

The number of stolen vehicles recovered was: 1975-76, 42,648; 1976-77, 46,803; 1977-78, 52,623.

### Drug offences

Australia is a signatory to the Single Convention of Narcotic Drugs which has as its main aim the limitation of narcotic drugs to legitimate medical and research purposes.

As its name implies, the Single Convention covers only the so-called narcotic drugs including cannabis and its derivatives. In recognition that there are other drugs of dependence, the member nations met during 1970 and 1971 and drew up a further Convention to impose controls on psychotropic substances such as hallucinogens, amphetamines, other central nervous system stimulants, barbiturates, tranquillisers and certain other sedatives.

#### Legislative provisions

For details see Year Book No. 63, page 218.

Law enforcement in respect of drugs in Australia is handled mainly by the following bodies:

- State and Territory police forces who police State and Territory laws and Commonwealth laws in conjunction with Commonwealth authorities.
- The Australian Federal Police who police Commonwealth laws and who, in November 1979, took over the functions of the Narcotics Bureau from the Department of Business and Consumer Affairs.
- The Bureau of Customs in the Department of Business and Consumer Affairs which has responsibility for the enforcement of laws controlling importing and exporting of drugs.

The National Standing Control Committee on Drugs of Dependence was established in 1969 by the Commonwealth Government to co-ordinate the activities of the various Commonwealth, State and Territories' bodies participating in the administration of drug laws and control. The role of the Committee is to consider further steps that can be taken by the national and State Governments together to combat all aspects of drug abuse in Australia, including addiction, trafficking, treatment and education.

The Australian Federal Police serve as the national agency for the systematic collection, collation, evaluation and dissemination of information concerning the illicit drug traffic in Australia. The following extracts are from the detailed statistics published by them in the annual report *Drug Abuse in Australia: A Statistical Survey*.



## DRUG OFFENCES: OFFENCE TYPE, CLEARED BY CHARGE, 1975 TO 1977

Year	Possess	Import	Use/ administer	Traffic	Steal	False pretences	Forged scripts	Other and non- related crime
1975 . . . . .	7,878	81	4,537	877	228	103	343	1,238
1976 . . . . .	9,812	210	5,510	1,048	231	215	447	1,966
1977 . . . . .	11,711	163	5,982	1,255	91	184	616	2,203

## DRUG OFFENCES: NUMBER OF CHARGES(a) INVOLVING SPECIFIC DRUG TYPES, 1975 TO 1977

Type of drug and Year	Possess	Import	Use/ administer	Traffic	Steal	False pretences	Forged scripts	Other	Total
<b>Narcotics—</b>									
1975 . . . . .	590	15	581	147	73	78	305	87	1,876
1976 . . . . .	941	92	1,061	219	70	228	391	126	3,128
1977 . . . . .	1,194	93	1,138	305	58	133	474	281	3,676
<b>Cannabis—</b>									
1975 . . . . .	7,518	68	3,809	686	1	—	—	926	13,008
1976 . . . . .	9,143	149	4,379	766	6	1	—	1,245	15,689
1977 . . . . .	10,923	91	4,640	878	1	—	—	1,444	17,977
<b>Amphetamines—</b>									
1975 . . . . .	26	—	17	3	3	—	20	1	70
1976 . . . . .	36	—	32	11	—	2	10	2	93
1977 . . . . .	53	2	47	13	1	7	27	6	156
<b>Barbiturates</b>									
<b>hypnotics—</b>									
1975 . . . . .	150	1	97	20	11	6	22	8	315
1976 . . . . .	197	1	142	72	4	26	59	12	513
1977 . . . . .	331	—	277	96	13	20	49	24	810
<b>Tranquillisers—</b>									
1975 . . . . .	17	—	11	3	3	12	46	7	99
1976 . . . . .	25	—	15	9	3	—	14	2	68
1977 . . . . .	29	—	18	8	11	3	4	13	86
<b>Hallucinogens—</b>									
1975 . . . . .	282	4	104	57	—	—	—	2	449
1976 . . . . .	259	2	91	58	—	1	—	5	416
1977 . . . . .	166	—	51	28	—	—	—	5	250
<b>Other—</b>									
1975 . . . . .	7	—	5	—	5	3	1	—	21
1976 . . . . .	23	—	7	1	2	2	4	2	41
1977 . . . . .	53	3	10	4	7	5	7	24	113
<b>Grand total—</b>									
1975 . . . . .	8,590	88	4,624	916	96	99	394	1,031	15,838
1976 . . . . .	10,624	244	5,727	1,136	85	260	478	1,394	19,948
1977 . . . . .	12,749	189	6,181	1,332	91	168	561	1,797	23,068

(a) If a number of different drug types have been involved in an offence, they are counted under each drug category.

**PROSECUTIONS AND CONVICTIONS FOR DRUG OFFENCES REPORTED TO THE AUSTRALIAN  
CRIME INTELLIGENCE CENTRE: PERSONS INCLUDED**

	<i>Number of offenders</i>			<i>Number of individual charges</i>			<i>Convictions on individual charges</i>		
	1975	1976	1977	1975	1976	1977	1975	1976	1977
<b>Males aged—</b>									
16 years and under . . . .	598	793	834	688	864	903	92	228	159
17 and 18 years . . . .	2,441	3,053	3,089	2,725	3,307	3,352	674	1,097	998
19 and 20 years . . . .	3,112	3,736	3,962	3,448	4,167	4,535	1,035	1,460	1,489
21 years and over . . . .	5,641	7,147	8,522	6,504	8,568	10,297	1,848	2,786	2,999
<b>Females aged—</b>									
16 years and under . . . .	144	157	181	167	171	198	23	44	37
17 and 18 years . . . .	420	481	545	452	536	629	117	195	177
19 and 20 years . . . .	426	527	701	470	602	819	135	204	231
21 years and over . . . .	705	963	1,159	831	1,215	1,472	202	297	401
<b>Persons . . . .</b>	<b>13,487</b>	<b>16,857</b>	<b>18,993</b>	<b>15,285</b>	<b>19,430</b>	<b>22,205</b>	<b>4,126</b>	<b>6,311</b>	<b>6,491</b>
<i>Sentences on convictions</i>									
	<i>Fines imposed</i>			<i>Gaol sentences</i>			<i>Number of bonds granted</i>		
	1975	1976	1977	1975	1976	1977	1975	1976	1977
<b>Males aged—</b>									
16 years and under . . . .	32	108	89	—	—	13	45	84	78
17 and 18 years . . . .	489	843	812	14	42	41	163	187	187
19 and 20 years . . . .	783	1,141	1,253	51	89	90	176	204	148
21 years and over . . . .	1,319	1,983	2,329	177	280	277	299	298	306
<b>Females aged—</b>									
16 years and under . . . .	3	17	14	—	—	—	20	25	24
17 and 18 years . . . .	81	125	126	3	6	3	33	52	49
19 and 20 years . . . .	95	131	170	2	9	10	42	56	53
21 years and over . . . .	123	194	296	9	20	17	57	81	79
<b>Persons . . . .</b>	<b>2,925</b>	<b>4,542</b>	<b>5,089</b>	<b>256</b>	<b>446</b>	<b>451</b>	<b>835</b>	<b>987</b>	<b>924</b>

### Convicted prisoners

There are prisons in all States and the Northern Territory. In the Australian Capital Territory there are lock-ups attached to each of the police stations in Canberra and at Jervis Bay, as well as a remand centre in the Canberra suburb of Belconnen where offenders are held for short periods. Prisoners sentenced by a court in the Australian Capital Territory to more than five days are usually held in New South Wales prisons.

#### CONVICTED PRISONERS

<i>30 June—</i>	<i>N.S.W.(a)</i>	<i>Vic.</i>	<i>Qld</i>	<i>S.A.</i>	<i>W.A.</i>	<i>Tas.</i>	<i>N.T.</i>	<i>Aust.</i>
1974 . . . . .	2,696	1,568	1,224	640	915	346	144	7,533
1975 . . . . .	3,009	1,488	1,305	632	867	361	158	7,820
1976 . . . . .	3,221	1,490	1,399	594	873	297	160	8,034
1977 . . . . .	3,272	1,386	1,393	618	1,032	267	175	8,143
1978 . . . . .	3,406	1,608	1,470	690	1,120	271	134	8,699
1979 . . . . .	3,574	1,647	1,583	688	1,332	305	226	9,355

(a) Includes Australian Capital Territory prisoners held in New South Wales prisons.

### 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 the Australian Federal Police (formed in October 1979 by amalgamation of the Commonwealth Police and the Australian Capital Territory Police) and the police in the Northern 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, concurrently with Australian Federal Police and other Commonwealth Officers, policing various Commonwealth 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 as well as normal police duties.

### Australian Federal Police

The Australian Federal Police was formed in October 1979 by the amalgamation of the Commonwealth Police (*see* previous editions of Year Book Australia) and the Australian Capital Territory Police. It is the principal agency for the enforcement of the laws passed by the Commonwealth Parliament; it performs normal police functions in the Australian Capital Territory and it is also responsible for the protection of Commonwealth Government property and interests at various buildings and establishments under the control of the Commonwealth Government. This force coordinates the work of other investigation and law enforcement agencies and acts on behalf of the United Nations Organisation for the suppression of obscene literature and trafficking in women.

Under the control of the force is the Australian Police College at Manly, New South Wales, which provides training for officers of various police forces and other agencies in Australia and New Zealand. The force has its Head Office in Canberra and District Offices in each capital city.

The strength of the police forces in Australia and the ranks of the personnel involved in the police forces in Australia are shown in the following table.

POLICE FORCES <sup>(a)</sup>									
At 30 June—	C'wealth <sup>(b)</sup>	N.S.W.	Vic.	Qld	S.A.	W.A.	Tas.	N.T.	A.C.T. <sup>(b)</sup>
1976 . . . . .	1,466	8,628	(c)6,730	4,034	3,007	2,358	1,004	417	551
1977 . . . . .	1,505	8,959	(c)6,663	4,230	3,216	2,345	1,026	451	549
1978 . . . . .	1,912	9,274	(c)7,001	4,233	3,351	2,490	1,030	470	573
Comprising in 1978—									
Executive officers . . . . .	23	54	71	19	39	38	11	7	5
Inspectors . . . . .	44	209	260	100	66	61	53	23	19
Sergeants . . . . .	193	2,171	1,731	1,028	389	569	145	103	102
Constables <sup>(a)</sup> . . . . .	1,652	6,840	4,939	3,086	2,857	1,822	821	337	447

(a) Includes trainees, cadets and probationary constables in all States and Territories, but excludes cadets in Victoria. (b) From October 1979 the Commonwealth Police and Australian Capital Territory Police have been combined in the Australian Federal Police. (c) Excludes cadets. *See* footnote (a).

## FEDERAL COURTS

The judicial power of the Commonwealth is vested in the High Court of Australia, in the Federal courts created by Parliament and in the State courts invested by Parliament with Federal jurisdiction. The nature and extent of the judicial powers of the Commonwealth are prescribed by Chapter III of the Australian Constitution. For details of Commonwealth of Australia Constitution Act *see* Year Book No. 62, pages 7–24.

### High Court of Australia

The High Court consists of a Chief Justice and six other Justices, and has its principal seat in Sydney. However, sittings are held in every State capital as the need arises.

A new building to permanently accommodate the High Court is being built in Canberra and is scheduled to open in 1980.

The Australian Constitution itself confers original jurisdiction on the High Court in all matters:

- (i) arising under any treaty;
- (ii) affecting consuls or other representatives of other countries;
- (iii) in which the Commonwealth of Australia, or a person suing or being sued on behalf of the Commonwealth of Australia, is a party;
- (iv) between States, or between residents of different States, or between a State and a resident of another State;
- (v) in which a writ of mandamus or prohibition, or an injunction, is sought against an officer of the Commonwealth of Australia.

In addition, the Federal Parliament may, under the Constitution, confer additional original jurisdiction on the High Court in certain classes of matters. The Court currently has original jurisdiction in all matters arising under the Constitution or involving its interpretation, in trials of indictable offences against the laws of the Commonwealth, and in respect of certain other matters specified in various laws made by the Parliament.

The High Court's jurisdiction is made exclusive of the jurisdiction of State courts in:

- (i) matters arising directly under any treaty;
- (ii) suits between States or between persons suing or being sued on behalf of different States, or between a State and a person suing or being sued on behalf of another State;
- (iii) suits by the Commonwealth of Australia or any person suing on behalf of the Commonwealth of Australia against a State, or any person being sued on behalf of a State;
- (iv) suits by a State, or any person suing on behalf of a State against the Commonwealth of Australia or any person being sued on behalf of the Commonwealth of Australia;
- (v) matters in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth of Australia or a Federal court.

The High Court's exclusive jurisdiction no longer includes matters involving the limits *inter se* of the constitutional powers of the Commonwealth and those of the States. Where the High Court has concurrent jurisdiction, it may remit a matter commenced in the High Court to a court of concurrent jurisdiction and remove a matter commenced in another such court into the High Court.

Under the Constitution the High Court has jurisdiction, with such exceptions and subject to such regulations as the Federal Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders and sentences of:

- (i) any Justice or Justices exercising the original jurisdiction of the High Court,
- (ii) any other Federal court or court exercising Federal jurisdiction, and
- (iii) the Supreme Court or other court of any State from which appeal lay to the Privy Council at the establishment of the Commonwealth of Australia.

Subject to the exception mentioned below, an appeal may be brought as of right from a final judgment of a Full Court of a State Supreme Court where the interpretation of the Australian Constitution is involved; from judgments for the sum of \$20,000 or upwards; and from judgments in any proceedings in which the matter in issue amounts to or is of the value of \$20,000 or upwards or which involve a claim, demand or question relating to any property or civil right amounting to or of the value of \$20,000 or upwards. The exception to the generality of this statement is that an appeal on a ground relating to quantum of damages for death or personal injury lies only with special leave of the High Court. In all other cases in which the High Court has appellate jurisdiction, appeals lie only by special leave of the Court.

#### **Appeal to the Privy Council**

In 1968 the Federal Parliament passed an Act, which came into operation on 1 September 1968, restricting appeals to the Privy Council. Under the Act no appeal can be taken to the Privy Council from a judgment of the Supreme Court of any Territory or a Federal court other than the High Court.

Until 1975, special leave of the Privy Council to appeal from the High Court could be sought only in matters that came to the High Court on appeal from the Supreme Court of a State exercising jurisdiction not derived from Federal legislation, and which did not raise in the High Court any question of the application or interpretation of the Australian Constitution, or of Federal or Territory legislation. In 1975 the right to apply for special leave in these cases was removed. An exception to the generality of the foregoing is that under the Australian Constitution an appeal lies to the Privy Council in cases involving the powers of the Commonwealth vis-a-vis the States if the High Court certifies that the question is one that ought to be determined by the Privy Council. No such certificate has in fact been granted since 1913.

## HIGH COURT OF AUSTRALIA TRANSACTIONS

	1977	1978
<i>Original jurisdiction</i>		
Number of writs issued . . . . .	148	88
Number of matters heard . . . . .	20	4
<i>Appellate jurisdiction</i>		
Number of appeals filed		
by plaintiff as appellant . . . . .	29	31
by defendant as appellant . . . . .	25	26
Number of applications for leave/special leave to appeal:		
filed . . . . .	108	141
allowed . . . . .	42	29
refused . . . . .	41	46
Number of judgments		
reserved . . . . .	86	79
oral . . . . .	66	26
<i>Result of hearings</i>		
Verdict/judgments		
plaintiff/appellant . . . . .	67	25
defendant/respondent . . . . .	60	74
Otherwise disposed of . . . . .	10	24
<i>Miscellaneous</i>		
Number of		
matters remitted to State Courts . . . . .	46	19
matters removed into High Court under the Judiciary Act . . . . .	5	13
demurrers set down and heard . . . . .	5	2
cases stated for opinion of a Full Court . . . . .	4	1
<i>Amount of fees collected</i> . . . . .	\$16,637	\$34,803

### Federal Court of Australia

The Federal Court of Australia was created in 1976 and commenced to exercise jurisdiction on 1 February 1977.

For the purposes of its organisation and business, the Federal Court of Australia consists of two Divisions: an Industrial Division and a General Division. Matters arising under the *Conciliation and Arbitration Act 1904* and under the *Stevedoring Industry Act 1956* are dealt with in the Industrial Division. All other matters are dealt with in the General Division of the Court. The Federal Court of Australia sits as required in each State and in the Australian Capital Territory and the Northern Territory.

The *Federal Court of Australia Act 1976* provides that the Court has such original jurisdiction as is invested in it by laws made by the Federal Parliament.

In respect of matters the hearing of which commenced on or after 1 February 1977, the Court's original jurisdiction includes that formerly exercised by the Federal Court of Bankruptcy and the Australian Industrial Court. Further, original jurisdiction has been conferred by a number of Acts, the most significant being the *Federal Court of Australia (Consequential Provisions) Act 1976*.

The Federal Court of Australia has appellate jurisdiction with respect to judgments of the Court constituted by a single judge; judgments of the Supreme Courts of the Territories; and, in certain circumstances provided for by legislation, with respect to judgments of State courts other than those of the Full Court of a State Supreme Court (e.g. *Patents Act 1966*, *Trade Marks Act 1955*, *Bankruptcy Act 1966*, *Income Tax Assessment Act 1936*).

### Australian Industrial Court and Federal Court of Bankruptcy

The hearing of matters which had commenced in these courts at 1 February 1977 continues to be dealt with by these Courts. Subject to this, the respective jurisdictions formerly exercised by these Courts is now vested in the Federal Court of Australia and each of the Courts is to be abolished when there ceases to be a person holding office as a Judge of the Court.

### Family Law

The *Family Law Act 1975* commenced operation on 5 January 1976. It introduced a new law dealing with human problems in marriage, viz. the custody and welfare of the children, divorce, maintenance and the split up of property of the marriage.

The law is administered by the Family Court of Australia and by certain other courts in the States and Territories. A State Family Court has been established in Western Australia to administer family law in that State.

Under the Act, great emphasis is placed on the counselling services available through the family courts to persons involved in proceedings and to any persons who have encountered marriage problems. It is not necessary to start proceedings to make use of these services.

The Act provides that there is only one ground for divorce—that of irretrievable breakdown of a marriage. Irretrievable breakdown of a marriage is established under the law if the husband and wife have separated and have lived apart from each other for 12 months and there is no reasonable likelihood of reconciliation. The main change made by the Act is that fault is no longer taken into account as a ground for divorce.

### **The Family Court of Australia**

Applications can be made to the Family Court of Australia for custody and maintenance even if a divorce is not sought. People may approach the Court for counselling (and help) with regard to their marital problems whether or not they are contemplating proceedings for divorce or other relief.

The judges of the Family Court are chosen because of their suitability to deal with matters of family law by reason of their training, experience and personality. They do not wear wigs and gowns and have a competent back-up staff attached to the Court to assist them.

In dealing with a marriage problem, the Family Court is guided by the following principles:

- the need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life;
- the need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children;
- the need to protect the rights of children and to promote their welfare; and
- the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.

The same principles apply to all courts exercising jurisdiction under the Family Law Act. Proceedings under the Act in the Family Court are heard in private, and no publicity about any proceedings under the Act is permitted.

### *Counselling*

The Family Court aims to be a 'helping' court. A Principal Director of Court Counselling and a staff of court counsellors are attached to the Court to help parties to a marriage settle their problems. Their help is available to parties who are not even contemplating divorce or other proceedings, but who may need counselling assistance. These services complement those already provided by voluntary marriage counselling agencies. People may approach the Court counselling service directly—in person, in writing or by telephone—or through a legal advisor.

### *Children*

The Family Court has the special task of protecting and promoting the welfare and rights of dependent children. The paramount consideration guiding the Court in all custody proceedings is the welfare of the children. Further, a divorce decree will not become effective unless the Court is satisfied that proper arrangements have been made by parties for the welfare of their children.

A feature of the Act is that, in the absence of any court order, both parents of a child have joint custody of the child as a matter of law. However, one parent can ask the Court for sole custody of a child. In disputes over custody, the child may be separately represented. The wishes of children over 14 in such disputes must be taken into account unless there are special circumstances.

### *Maintenance*

The right to maintenance under the Act is based on the needs of the party seeking it and the ability of the other party to pay. There are specific matters for the Court to consider when it is dealing with maintenance applications. These include:

- the age and state of health of each of the parties;
- the income, property and financial resources of each of the parties and their financial obligations;
- whether either party is entitled to a pension or superannuation;
- the length of the marriage and what is an appropriate standard of living for each party;
- whether persons seeking maintenance have to care for children;
- the extent to which a marriage has affected the earning capacity of the marriage partners; and
- the possibility of the persons concerned taking on training courses or further educational courses to improve employment prospects.

Both parties are liable to maintain their children according to their respective means and the Court is guided by similar considerations in deciding what order to make.

#### *Matrimonial Property*

The Court has power to settle disputes about the family assets, including the power to order a transfer of legal interests in property. When dealing with these disputes, the Court considers the interest each of the parties has in the property and the contribution made during the marriage. The Act directs the Court to look at the financial contributions made by the parties and at the contribution made by either party in the capacity of homemaker or parent.

#### *Legal Assistance*

Specific provision is made in the Act for legal assistance to be given by the Australian Legal Aid Office to persons who are assessed to be unable to afford legal representation.

The Court has pamphlets printed in English, Arabic, Finnish, German, Italian, Serbo-Croat, Spanish and Turkish to explain the operation of the new Family Law.

## **Legal Aid**

### **Australian Legal Aid Office**

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

The criteria for the provision of further assistance are the merit of the applicant's case and the financial position of the applicant, i.e. whether he satisfies the means and needs test of the Office. In considering the merits, regard is had to all the circumstances, particularly to any advantage the applicant might gain from the provision of assistance and any disadvantage he might suffer if assistance is refused, and the likelihood that the proceedings will be terminated by a decision, settlement or otherwise so as to result in a proper and just advantage to the applicant. The means and needs test is the inability of the applicant to afford the cost of representation in the particular case. A system of contributions by applicants towards the cost of assistance has been in operation since August 1975.

The Office operates in New South Wales, Victoria, Queensland, Tasmania and the Northern Territory: there is a branch in each of those State and Territory capital cities, and there are twenty-five regional offices in suburban and provincial centres. On 30 June 1979 the Office employed 108 lawyers and 153 supporting administrative staff. The lawyers provide advice at interview to approximately 10,000 persons each month; further assistance is provided by the lawyers or by referral to private legal practitioners to an average of 4,700 persons each month.

The policy of the Commonwealth Government is for State and Territory legal aid commissions to be established which will absorb the functions of the Australian Legal Aid Office throughout Australia. Commissions have commenced operations in South Australia, Western Australia and the Australian Capital Territory, and are expected to do so in Queensland and Victoria shortly.

## **Administration of the Law**

There have been a number of important developments in the field of the administration of the law:

### **Australian Law Reform Commission**

In 1973 the Australian Government established the Australian Law Reform Commission to reform, modernise and simplify Australia's laws. The Attorney-General makes a reference to the Commission on matters requiring attention and, after examination and study, the Commission reports its findings to the Federal Parliament. The Commission has worked in close association with State law reform bodies and with similar agencies overseas.

Since starting formal operations at the beginning of 1975, the Commission has undertaken law reform studies in criminal investigation procedures; complaints against the police; alcohol, drugs, and driving; the legal protection of privacy; defamation; consumers in debt; insurance contract law; the law on organ transplants; the use of Aboriginal customary law in the Australian legal system; the right of access to civil proceedings; the provision of the *Lands Acquisition Act 1955*; and sentencing submissions. Legislative action has been initiated following reports on some of these references.

### Administrative Appeals Tribunal

The Administrative Appeals Tribunal was established by the *Administrative Appeals Tribunal Act 1975* and came into operation on 1 July 1976. The function of the Tribunal is to review on the merits decisions made in the exercise of statutory powers where jurisdiction has been specifically vested in the Tribunal by statute. The Tribunal now has jurisdiction in respect of decisions made under over 70 statutes. Further additions to the Tribunal's jurisdiction are made from time to time.

The Administrative Review Council was also established under the Administrative Appeals Tribunal Act. The Council's functions include reviewing decision-making processes and the practices and procedures of administrative review bodies, such as tribunals or courts. The Council may make recommendations to the Attorney-General on any improvements in those areas that it considers might be made.

### Administrative Decisions (Judicial Review) Act 1977

The *Administrative Decisions (Judicial Review) Act 1977*, which has yet to be proclaimed, provides judicial review in the Federal Court of Australia of administrative actions under statutes to which the Act applies. The Court's role is limited to reviewing the lawfulness of the action in question where application is made by a person aggrieved thereby. A person entitled to seek judicial review in respect of an administrative decision may seek a statement of reasons for the decision from the decision-maker.

### Commonwealth Ombudsman

The Office of the Commonwealth Ombudsman was established in mid-1977. The Ombudsman is empowered to investigate complaints concerning the administrative actions of Commonwealth Government Departments, statutory bodies and other authorities. Where the Ombudsman is of the opinion, after an investigation is completed, that an administrative action involved maladministration he is required to report to the body concerned and may include in his report any recommendations he thinks fit to make. In the event of a failure to comply with a recommendation contained in a report made by the Ombudsman, the Ombudsman may report to the Prime Minister and to the Parliament.

## Bankruptcy

For a description of the provisions of the *Bankruptcy Act 1966*, see Year Book No. 55, Pages 586-7. The Bankruptcy Act was amended in 1970 to remove any obstacle the Act might present to the operation of compositions or schemes of arrangement entered into under State or Territory legislation providing assistance to farmers in respect of their debts.

The following table shows the number of bankruptcies of the various types together with the disclosed assets and liabilities of the debtors. Details for each State are published in the Annual Report by the Minister for Consumer and Business Affairs on the operation of the Bankruptcy Act.

### BANKRUPTCY PROCEEDINGS: AUSTRALIA

Year		<i>Bankruptcies and orders for administration of deceased debtors' estates</i>				Total
		Compositions	Deeds of assignment	Deeds of arrangement		
1973-74	Number . . . . .	1,637	54	110	63	1,864
	Liabilities \$'000 . . . . .	17,194	1,196	3,569	2,280	24,241
	Assets \$'000 . . . . .	5,970	646	2,364	1,307	10,288
1974-75	Number . . . . .	2,061	63	128	80	2,332
	Liabilities \$'000 . . . . .	33,788	1,693	15,776	2,742	53,999
	Assets \$'000 . . . . .	13,529	1,069	5,129	2,034	21,761
1975-76	Number . . . . .	1,900	67	118	92	2,177
	Liabilities \$'000 . . . . .	48,829	8,969	6,374	15,823	79,995
	Assets \$'000 . . . . .	14,188	490	3,864	11,667	30,209
1976-77	Number . . . . .	2,196	72	109	75	2,452
	Liabilities \$'000 . . . . .	48,862	6,996	6,409	15,130	77,397
	Assets \$'000 . . . . .	20,936	723	4,389	9,947	35,995
1977-78	Number . . . . .	3,134	75	163	89	3,461
	Liabilities \$'000 . . . . .	74,723	12,061	9,551	6,042	102,377
	Assets \$'000 . . . . .	27,524	646	5,152	2,521	35,843
1978-79	Number . . . . .	3,857	137	255	168	4,417
	Liabilities \$'000 . . . . .	93,388	5,460	14,554	14,249	127,651
	Assets \$'000 . . . . .	25,394	1,184	6,690	6,073	39,341



## Patents, Trade Marks and Designs

### Patents

Patents for inventions are granted under the *Patents Act 1952*, which applies to Australia and to the Territory of Norfolk Island and which is administered by the Commissioner of Patents.

#### PATENTS: AUSTRALIA

	1973	1974	1975	1976	1977	1978
Total applications . . . . .	16,460	15,950	14,082	14,117	14,246	15,229
Applications accompanied by provisional specifications . . . . .	4,354	4,036	4,250	4,214	4,248	4,319
Letters patent sealed . . . . .	11,670	12,828	12,161	11,074	9,636	9,038

### Trade marks and designs

Under the *Trade Marks Act 1955*, the Commissioner of Patents is also Registrar of Trade Marks. Provision is made for the registration of users of trade marks and for their assignment with or without the goodwill of the business concerned. Under the *Designs Act 1906* the Commissioner of Patents is also Registrar of Designs.

#### TRADE MARKS AND DESIGNS: AUSTRALIA

	1973	1974	1975	1976	1977	1978
Trade marks—						
Received . . . . .	10,026	9,209	9,046	10,195	10,888	11,001
Registered . . . . .	5,665	5,303	7,087	4,941	4,881	4,243
Designs—						
Received . . . . .	2,115	1,991	2,105	2,571	2,695	3,170
Registered . . . . .	1,732	1,570	1,733	1,519	2,290	2,336

### Copyright

Copyright is regulated by the Commonwealth *Copyright Act 1968-1973*, which came into force on 1 May 1969. On that date Australia ratified its adherence to the Brussels revision of the Berne Copyright Convention and to the Universal Copyright Convention whereby citizens of member countries are accorded protection by complying with the convention formality requiring proprietors to place on their works the symbol © together with their name and the year of first publication in such a manner and location as to give reasonable notice of their claim of copyright in the works so identified. The new legislation contains no provision for the registration of copyright, and the Copyright Office ceased to exist on 1 May 1969. Copyright is administered by the Attorney-General's Department.

