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CHAPTER VII.

PUBLIC JUSTICE.

§ 1. Police.

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

2. *Strength of Police Force*.—(i) *General*. The strength of the police force in each State during the five years ended 1937 is given in the table hereunder. It may be mentioned that the police forces (with the exception of the small body of Commonwealth police maintained in the Northern Territory and at the Australian Capital) are entirely under State control, but, by arrangement, the Commonwealth Government utilizes their services in various directions, such as the collection of particulars for Commonwealth electoral rolls, etc.

STRENGTH OF POLICE FORCES.

State or Territory.	Area of State in Sq. Miles.	1933.	1934.	1935.	1936.	1937.
New South Wales..	309,432	3,600	3,600	3,593	3,726	3,816
Victoria ..	87,884	2,148	2,170	2,247	2,289	2,280
Queensland (a) ..	670,500	1,275	1,320	1,325	1,363	1,390
South Australia (a)	380,070	762	766	817	837	882
Western Australia (a)	975,920	559	583	592	585	582
Tasmania (a) ..	26,215	260	281	284	282	283
Northern Territory (a)	523,620	40	41	41	41	43
Aust. Cap. Territory	940	13	14	14	15	15
Total ..	2,974,581	8,657	8,775	8,913	9,138	9,291

(a) 30th June of year following.

The figures for New South Wales for 1937 are exclusive of 12 "black trackers," i.e., natives employed in detection of offenders chiefly in outlying districts, 4 matrons and 2 relieving matrons, while the Victorian returns are exclusive of 3 matrons and 2 black trackers. For Queensland the figures exclude 39 native trackers, for South Australia 3 wardresses, and for the Northern Territory 34 black trackers. There are also 39 black trackers and 4 female searchers in Western Australia not included in the table. According to the returns, women police are employed in all the States, the respective numbers included in the table above being :—New South Wales 8, Victoria 7, Queensland 2, South Australia 14, Western Australia 6, and Tasmania 1. Their work is mainly preventive, and the importance and usefulness of their duties have been referred to in very high terms by the Chief Officers of Police. In his Report for the year 1937 the Inspector General of Police in New South Wales stated that "there is no doubt that the activities of the women Special Constables have resulted in the rescue of many girls from downfall." The Inspector-General also refers to the valuable assistance rendered by the women police to detectives and the ordinary police in connexion with crimes against women and children, and to the protection given to lost children at large public carnivals. They also carry out escort duties in respect of female prisoners. The experience in other States has been of a similar nature.

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

POLICE FORCES IN RELATION TO POPULATION.

State or Territory.	Number of Persons per Sq. Mile, 1933 Census.	Inhabitants to each Police Officer.				
		1933.	1934.	1935.	1936.	1937.
New South Wales	8.41	726	732	740	720	710
Victoria	20.71	849	847	820	809	816
Queensland (a)	1.41	753	733	740	728	722
South Australia (a)	1.53	762	763	718	703	672
Western Australia (a)	0.45	785	764	756	777	791
Tasmania (a)	8.68	875	814	809	825	827
Northern Territory (a)	0.01	120	125	130	133	134
Aust. Cap. Territory	9.52	712	707	666	652	683
Total	2.23	769	764	758	745	740

(a) 30th June of year following.

3. **Duties of the Police.**—In addition to the ordinary employment attaching to their office, the police are called upon to perform many duties which in other countries are carried out by various functionaries. Thus, in New South Wales, according to the Report of the Inspector-General, the time of one-fifth of the force was taken up during 1921 in extraneous duties unconnected with the protection of life and property, while the cash value of the services rendered to other Government departments was stated as over £200,000 per annum. The Queensland Commissioner refers to the circumstance that in 1937–38 no less than 54 important subsidiary offices were held by the police. In South Australia, the Commissioner alludes to the large number of subsidiary duties performed by police officers, and mentions that for the year ended June, 1938, 272,272 inquiries were made on behalf of other departments. While these special tasks doubtless involve some degree of sacrifice of ordinary routine duties, the fact that the general intelligence of the police is adequate for their performance, besides being most creditable, results in a large saving of the public money.

4. **Interstate Police Conferences.**—In February, 1921, a Conference of the chief officers of the police forces of the various States was held in Melbourne. In addition to the discussion of matters of common interest, arrangements were made for the interchange of detectives. The results were so satisfactory that it was decided to hold similar Conferences annually. Amongst other matters discussed at the Hobart Conference in 1927, particular attention was given to the subject of traffic regulation in view of the large and increasing number of motor vehicles. Conferences were held at Melbourne in 1928, and at Perth in 1929, but owing to the need for economy no further meetings have been held.

§ 2. Lower (Magistrates') Courts.

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

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

3. Cases Tried at Magistrates' Courts.—The total number of cases tried at Magistrates' Courts in each State is given below for the five years 1933 to 1937:—

CASES TRIED AT MAGISTRATES' COURTS.

State or Territory.	1933.	1934.	1935.	1936.	1937.
New South Wales ..	126,134	127,960	134,900	144,707	125,791
Victoria ..	58,406	57,070	65,973	82,118	74,222
Queensland (a) ..	28,259	28,922	31,909	34,359	33,467
South Australia ..	15,285	15,916	17,299	17,213	19,543
Western Australia ..	(b) 13,544	(b) 14,575	19,255	22,611	24,430
Tasmania ..	7,271	7,197	8,345	8,948	8,388
Northern Territory ..	353 ^a	401	308 ^a	370 ^a	461 ^a
Australian Capital Territory	166	210	135	165	216
Total ..	249,418	252,251	278,124	310,491	286,518

(a) Year ended 30th June following.

(b) Principal offence only counted in multiple charges.

Investigation of the returns shows that considerable variations in the figures for single States are occasioned by breaches of new Acts, or the more stringent enforcement of the provisions of existing Acts. Any deductions drawn from the total returns as to the increase or otherwise of criminality must, therefore, be largely influenced by a careful analysis of the detailed list of offences. Thus, the considerable increase in the total offences in Victoria for the year 1936 as compared with the previous year was chiefly due to a rise of 14,800 in the miscellaneous class, the bulk of which consisted of charges under the Motor Car, Education and Licensing Acts, and breaches of the Traffic Code which came into operation in June, 1936.

4. Convictions and Committals.—The figures given in the tabulation above include, of course, a number of people who were wrongly charged, and statistically are not of general importance. The actual number of convictions in connexion with the persons who appeared before the lower courts in each year from 1933 to 1937 is, therefore, given in the next table. A separate line is added showing the committals to higher courts.

CONVICTIONS AND COMMITTALS AT MAGISTRATES' COURTS.

State or Territory.		1933.	1934.	1935.	1936.	1937.
New South Wales ..	Convictions	100,075	104,018	110,135	117,490	103,272
	Committals	2,202	1,732	1,748	1,620	1,771
Victoria ..	Convictions	47,079	45,748	54,666	70,752	64,772
	Committals	1,404	1,531	1,587	1,482	1,545
Queensland (a) ..	Convictions	25,430	25,997	29,527	31,575	29,893
	Committals	367	256	209	238	251
South Australia ..	Convictions	13,060	13,728	14,838	14,920	17,297
	Committals	343	325	269	237	230
Western Australia ..	Convictions	12,244	13,585	17,966	21,120	22,777
	Committals	70	144	102	113	181
Tasmania ..	Convictions	6,849	6,464	7,658	8,347	7,927
	Committals	89	62	79	71	91
Northern Territory	Convictions	296 ^a	365	262 ^a	316 ^a	397 ^a
	Committals	17 ^a	9	8 ^a	10 ^a	16 ^a
Australian Capital Territory	Convictions	151	187	125	155	195
	Committals	2	..	1	4	3
Total ..	Convictions	205,184	210,092	235,177	264,675	246,530
	Committals	4,494	4,059	4,003	3,775	4,088

(a) Year ended 30th June following.

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

CONVICTIONS FOR SERIOUS CRIME AT MAGISTRATES' COURTS.

State or Territory.	1933.	1934.	1935.	1936.	1937.
NUMBER.					
New South Wales	11,104	11,920	12,069	13,220	12,468
Victoria	4,715	4,438	4,955	5,240	5,289
Queensland (a)	2,254	2,329	2,311	2,400	2,278
South Australia	1,343	1,434	1,382	1,121	1,246
Western Australia	1,316	1,404	1,691	1,741	2,011
Tasmania	713	856	936	963	1,007
Northern Territory	20(a)	26	15(a)	32(a)	26(a)
Australian Capital Territory	38	13	11	21	25
Total	21,503	22,420	23,370	24,738	24,350

PER 10,000 OF THE POPULATION.

New South Wales	42.67	45.43	45.62	49.55	45.99
Victoria	25.90	24.24	26.94	28.36	28.44
Queensland (a)	23.71	24.24	23.77	24.39	22.71
South Australia	23.11	24.58	23.62	19.08	21.08
Western Australia	(b) 29.99	(b) 31.79	37.97	38.69	43.99
Tasmania	31.21	37.35	40.76	41.68	42.14
Northern Territory	40.87(a)	52.71	29.41(a)	61.97(a)	45.07(a)
Australian Capital Territory	41.96	14.04	11.72	21.51	24.40
Total	32.43	33.57	34.75	36.50	35.41

(a) Year ended 30th June following.

(b) Principal offence only counted in multiple convictions.

6. *Rate of Convictions, 1881 to 1937.* Statistics of convictions reveal a consistent increase in the rate of serious crime from 1925 to 1931, when 37.1 convictions per 10,000 of the population were recorded. Following this comparatively high figure the rate declined to 32.43 in 1933 but has since risen

considerably. The rate of convictions over a series of years is included below; only the more serious offences particularized in the preceding sub-section have been taken into consideration.

**RATE OF CONVICTIONS FOR SERIOUS CRIME AT MAGISTRATES' COURTS,
1881 TO 1935.**

Year.							Convictions per 10,000 Persons.
1881 .. .. .	..	..	..	..	..	..	69.3
1891 .. .. .	..	..	..	..	..	..	44.8
1901 .. .. .	..	..	..	..	..	..	29.1
1911 .. .. .	..	..	..	..	..	..	24.6
1921 .. .. .	..	..	..	..	..	..	29.2
1931 .. .. .	..	..	..	..	..	..	37.1
1937 .. .. .	..	..	..	..	..	..	35.4

7. *Drunkness.*—(i) *Cases and Convictions.* The number of cases of drunkness and the convictions recorded in connexion therewith during the period 1933 to 1937 will be found in the following table:—

DRUNKNESS: CASES AND CONVICTIONS.

State or Territory.	1933.		1934.		1935.		1936.		1937.	
	Cases.	Convictions.	Cases.	Convictions.	Cases.	Convictions.	Cases.	Convictions.	Cases.	Convictions.
New South Wales ..	25,727	25,421	26,872	26,344	28,450	27,823	31,383	30,297	29,672	27,651
Victoria ..	9,240	7,975	8,666	7,244	10,221	9,217	10,390	10,247	10,433	10,296
Queensland (a) ..	6,697	6,662	7,583	7,531	8,383	8,362	10,436	10,409	10,450	10,183
South Australia ..	2,373	2,357	2,430	2,418	2,748	2,737	2,639	2,628	2,529	2,520
Western Australia ..	1,992	1,960	2,016	1,999	2,686	2,671	2,879	2,849	2,708	2,678
Tasmania ..	228	222	312	309	419	411	386	384	379	365
Northern Territory ..	133 ^a	133 ^a	159	154	134 ^a	134 ^a	87 ^a	87 ^a	145 ^a	145 ^a
Aust. Cap. Terr.	69	69	95	95	55	55	63	63	92	91
Total ..	46,459	44,799	48,133	46,094	53,096	51,410	58,263	56,964	56,408	53,929

(a) Year ended 30th June following.

Under the heading "drunkness" are included cases of ordinary drunkness, drunkness and disorderliness, and habitual drunkness. In the figures quoted for Western Australia, convictions for disorderliness attributable to drink were formerly included in the second category, but since 1929 the returns relate only to drunkness either as a single or concurrent offence.

The number of convictions is, as might naturally be expected, almost identical with the number of cases. Until 1936 this was not so in the case of Victoria for in this State offenders are generally discharged on a first appearance and no conviction is recorded, a similar procedure being also adopted in the case of those arrested on Saturday and detained in custody till Monday. Since 1936, however, these cases have been included as convictions.

(ii) *Convictions per 10,000 of Population.* The convictions for drunkenness per 10,000 of the population during each of the years from 1933 to 1937 are given hereunder:—

CONVICTIONS FOR DRUNKENNESS PER 10,000 INHABITANTS.

State or Territory.	1933.	1934.	1935.	1936.	1937.
New South Wales	97.7	100.4	105.2	113.5	102.0
Victoria	43.8	39.6	50.1	55.5	55.4
Queensland (a)	70.1	78.4	86.0	105.8	101.5
South Australia	40.6	41.5	46.8	44.7	42.6
Western Australia	44.7	45.3	60.0	63.3	58.6
Tasmania	9.7	13.5	17.9	16.6	15.3
Australian Capital Territory	76.2	102.6	58.6	64.5	88.8
Total	67.6	68.9	76.4	83.7	78.4

(a) Year ended 30th June following.

In the twenties the convictions for drunkenness averaged approximately 100 per 10,000 inhabitants, but the rate fell away considerably during the depression years and was only 57.1 in 1931; with the improvement in the social condition of the people following that year, the average rose steadily to 83.7 in 1936, but declined somewhat in 1937. Figures for the consumption of beer have followed a very similar course. From an average of 11½ gallons consumed per head of the population for some years prior to the depression the amount declined to 7.32 gallons in 1931, and thereafter rose each year to more than 11½ gallons in 1937-38.

The convictions for drunkenness taken by themselves are not an altogether satisfactory test of the relative sobriety of the inhabitants of each State, inasmuch as several important factors must be taken into consideration. The age and sex constitution of the people, for example, are by no means identical in all the States. (Owing to the smallness of the population the figures for the Northern Territory are, of course, abnormal and have not, therefore, been included in the above table.) The avocations of the people affect the result, since persons engaged in strenuous callings are, on the whole, more likely to indulge in alcoholic stimulants than those employed in less arduous ones. The distribution of the population is also a factor, the likelihood of arrest or summons for drunkenness obviously being greater in the more densely populated regions, while allowance must be made for the attitude of the magistracy, the police and the public generally in regard to the offence. Due account also must be taken of the effect of legislation dealing with the limitation of hours during which liquor may be sold in hotels.

(iii) *Consumption of Intoxicants.* The following table shows the consumption of spirits, wine and beer per head of the population in Australia during each year of the quinquennium 1933-34 to 1937-38:—

CONSUMPTION OF INTOXICANTS IN AUSTRALIA.

Year.	Consumption per Head of Population.		
	Spirits.	Wine.	Beer.
	Imp. Galls.	Imp. Galls.	Imp. Galls.
1933-34	0.19	} 0.82	8.02
1934-35	0.21		8.68
1935-36	0.21		9.60
1936-37	0.21		10.34
1937-38	0.22		11.62

(iv) *Treatment of Drunkenness.* (a) *General.* Though the problem of the correct method of dealing with dipsomania is by no means an easy one, it seems fairly clear that the present plan of bringing offenders before magistrates, and subjecting them to the penalty of imprisonment or fine, has little deterrent effect, as the same offenders are constantly reappearing before the courts. Further, the casting of an inebriate into prison and placing him in his weakened state in the company of professional malefactors certainly lowers his self-respect, and doubtless tends to swell the ranks of criminals. Examination of the prison records in New South Wales some years ago disclosed the fact that over 40 per cent. of the gaol population had commenced their criminal career with a charge of drunkenness. During the last few years the dangers of moral contamination in this way have been more accurately appreciated, and a system of classification of prisoners has been adopted whereby the petty offender is as far as possible kept from association with the more evilly-disposed.

(b) *Remedial.* Legislation has been passed in each State providing for the commitment of inebriates to special Government institutions. The laws in the various States are as follows:—New South Wales, Inebriates Act 1912; Victoria, Inebriates Act 1928; Queensland, Inebriate Institutions Act 1896; South Australia, Inebriates Act 1908 amended in 1920 and 1934, Convicted Inebriates Act 1913 amended in 1934; Western Australia, Inebriates Act 1912-19; Tasmania, Inebriates Act 1885, Inebriate Hospitals Act 1892. Curative work was first undertaken by the Government of New South Wales in 1907. In most cases the institutes are connected with the gaols, and, naturally, custodial measures are still a strong feature in their management; nevertheless, the results of remedial measures have been encouraging.

8. *First Offenders.*—In all the States statutes dealing with first offenders have been in force for many years. Existing legislation is as follows:—New South Wales, Crimes Act 1900 amended in 1924 and 1929, First Offenders (Women) Act 1919; Victoria, Crimes Act 1928; Queensland, Criminal Code Acts 1899 to 1931; South Australia, Offenders Probation Act 1913 amended in 1934; Western Australia, Criminal Code Act 1913; Tasmania, Probation of Offenders Act 1934. The method of procedure is practically the same in all cases, i.e., with regard to most first offenders the magistrate or judge is empowered to allow the offender to go free on recognizances being entered into for his good behaviour for a certain period. In practice, this humane law has been found to work excellently, very few of those to whom its provisions have been extended having been found to relapse into crime.

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

10. *Committals to Superior Courts.*—(i) *General.* In a previous paragraph it has been pointed out that comparisons of criminality based on a consideration of the total returns from magistrates' courts are somewhat inadequate, seeing that the figures include numbers of cases which are merely technical breaches of laws having in some instances a purely local significance. The committals to higher courts give a better basis of comparison, although even in this connexion allowance must be made for the want of uniformity in jurisdiction. The table below gives the number of committals in each year from 1933 to 1937, with the rate of such committals per 10,000 of the population :—

COMMITTALS TO SUPERIOR COURTS.

State or Territory.	1933.	1934.	1935.	1936.	1937.
NUMBER.					
New South Wales ..	2,202	1,732	1,748	1,620	1,771
Victoria	1,404	1,531	1,587	1,482	1,545
Queensland (a) ..	367	256	209	238	251
South Australia ..	343	325	269	237	230
Western Australia ..	70	144	102	113	181
Tasmania	89	62	79	71	91
Northern Territory ..	17 ^a	9	8 ^a	10 ^a	16 ^a
Australian Capital Territory	2	..	1	4	3
Total	4,494	4,059	4,003	3,775	4,088

PER 10,000 OF THE POPULATION.

New South Wales ..	8.5	6.6	6.6	6.1	6.5
Victoria	7.7	8.4	8.6	8.0	8.3
Queensland (a) ..	3.9	2.7	2.1	2.4	2.5
South Australia ..	5.9	5.6	4.6	4.0	3.9
Western Australia ..	1.6	3.3	2.3	2.5	4.0
Tasmania	3.9	2.7	3.4	3.1	3.8
Northern Territory ..	34.7 ^(a)	18.2	15.7 ^(a)	19.4 ^(a)	27.7 ^(a)
Australian Capital Territory	2.2	..	1.1	4.1	2.9
Total	6.8	6.1	6.0	5.6	5.9

(a) Year ended 30th June following.

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

RATE OF COMMITTALS: AUSTRALIA, 1881 TO 1937.

Year	1881.	1891.	1901.	1911.	1921.	1931.	1937.
Committals per 10,000 inhabitants ..	12	11	8	6	7	8	6

§ 3. Superior Courts.

1. **Convictions at Superior Courts.**—The number of convictions at superior courts and the rate per 10,000 of the population are given below for each of the years 1933 to 1937:—

CONVICTIONS AT SUPERIOR COURTS.

State or Territory.	1933.	1934.	1935.	1936.	1937.
NUMBER.					
New South Wales (a) ..	855	862	766	623	695
Victoria	594	550	569	533	565
Queensland (a) ..	206	129	222	154	173
South Australia ..	224	206	172	171	183
Western Australia ..	38	81	55	52	103
Tasmania	59	55	54	47	42
Northern Territory ..	4	4	6a	10a	14a
Australian Capital Territory	1	..	..	2	1
Total	1,981	1,887	1,844	1,592	1,771

PER 10,000 OF THE POPULATION.

New South Wales (a) ..	3.3	3.3	2.9	2.4	2.6
Victoria	3.3	3.0	3.1	2.9	3.0
Queensland (a) ..	2.2	1.3	2.3	1.6	1.7
South Australia ..	3.9	3.5	2.9	2.9	3.1
Western Australia ..	0.9	1.8	1.2	1.2	2.3
Tasmania	2.6	2.4	2.4	2.0	1.8
Northern Territory ..	8.2	8.1	11.8(a)	19.4(a)	24.2(a)
Australian Capital Territory	1.1	..	..	2.0	1.0
Total	3.0	2.8	2.7	2.3	2.6

(a) Year ended 30th June following.

The rate of convictions has improved during recent years, the figure for 1936 being the lowest on record. Owing to the smallness of the population and the particular conditions prevailing there the rates for the Territories naturally show considerable variation.

2. **Offences for which Convictions were recorded at Superior Courts.**—In the following table will be found a classification of the principal offences for which persons were convicted at the higher courts during each year of the period 1933 to 1937. Owing to lack of uniformity in the presentation of the returns the information is confined to the chief offences against the persons only.

**CONVICTIONS FOR OFFENCES AGAINST THE PERSON AT SUPERIOR COURTS :
AUSTRALIA.**

Offences.	1933.	1934.	1935.	1936.	1937.
Murder, and attempts at ..	21	17	25	13	20
Manlaughter	15	15	15	21	18
Rape, and attempts at ..	16	6	10	14	29
Other offences against females ..	130	134	143	140	127
" " " the person ..	216	191	188	182	227
Total	398	363	381	370	412

The total convictions for similar offences in 1901 amounted to 432. Stated according to the proportion per 10,000 of mean population, the rate in 1937 amounted to 0.6 as compared with a rate of 1.1 in 1901.

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

4. **Capital Punishment.**—The table below gives the number of executions in each State during the period 1933 to 1937 :—

EXECUTIONS.

State.	1933.	1934.	1935.	1936.	1937.
New South Wales (a)	2	..	1
Victoria	2	..
South Australia
Western Australia
Tasmania
Total	2	2	1

(a) Year ended 30th June following.

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

In the early days of the history of Australia the penalty of death was attached to a large number of offences, many of which at the present time would be dealt with in the lower or magistrates' court. With the growth of settlement, and the general amelioration in social and moral conditions, the list was, however, considerably curtailed, and the existing tendency is practically to restrict death sentences to cases of murder. It may be remarked in cases of rape, which is a capital offence in some of the Australian States, the penalty has been but sparingly inflicted during the last few years. Juries are reputed to be loth to convict on this charge, owing to the uncertainty whether sentence of death will be pronounced.

The average annual number of executions in Australia from 1861 to 1880 was 9; from 1881 to 1900, 6; from 1901 to 1910, 4; from 1911 to 1920, 2; while the average for the last ten years has fallen to one.

§ 4. Prisons.

1. Prison Accommodation and Prisoners, 1937.—The table below shows the number of prisons in each State, the accommodation therein, and the number of prisoners in confinement at the end of 1937:—

PRISON ACCOMMODATION AND PRISONERS, 1937.

State or Territory.	Number of Prisons.	Accommodation in—		Prisoners at End of Year.
		Separate Cells.	Wards.	
New South Wales (a)	22	(b) 2,369	..	1,176
Victoria	12	1,316	446	1,030
Queensland	6	544	94	276
South Australia	15	761	173	231
Western Australia	19	607	506	260
Tasmania	1	142	4	87
Northern Territory (a)	3	14	90	22
Total	78	5,753	1,313	3,082

(a) Year ended 30th June following.

(b) Total accommodation.

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

2. Prisoners in Gaol, 1933 to 1937.—The number of prisoners in gaol at the 31st December in each of the years 1933 to 1937 and the proportion per 10,000 of the population are given in the following table. The figures refer to prisoners under sentence and are exclusive of aborigines.

PRISONERS IN GAOL.

State or Territory.	1933.	1934.	1935.	1936.	1937.
NUMBER.					
New South Wales (a)	1,515	1,398	1,330	1,183	1,176
Victoria	1,347	1,225	1,159	1,092	1,030
Queensland	331	339	301	272	276
South Australia	296	294	260	242	231
Western Australia	229	249	264	264	260
Tasmania	104	100	104	114	87
Northern Territory (a)	20	28	25	20	22
Total	3,842	3,633	3,443	3,187	3,082

(a) 30th June of year following.

PRISONERS IN GAOL—*continued.*

State.	1933.	1934.	1935.	1936.	1937.
PER 10,000 OF THE POPULATION.					
New South Wales (a) ..	5.8	5.3	5.0	4.4	4.3
Victoria	7.4	6.7	6.3	5.9	5.5
Queensland	3.5	3.5	3.1	2.8	2.8
South Australia ..	5.1	5.0	4.4	4.1	3.9
Western Australia ..	5.2	5.6	5.9	5.9	5.7
Tasmania	4.6	4.3	4.5	4.9	3.6
Total	5.8	5.4	5.1	4.7	4.5

(a) 30th June of year following.

After remaining stationary at 6.5 per 10,000 for the four years ended 1932 the proportion of prisoners in gaol to the total population declined to 4.5 in 1937, which figure contrasts most favourably with that obtaining in 1891 when the proportion was as high as 16 per 10,000. Rates for the Northern Territory have not been included on account of the abnormal conditions prevailing there.

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

§ 5. Civil Courts.

1. **Lower Courts.**—The total number of plaints entered together with the amounts awarded to plaintiffs during 1937 are given in the table hereunder. Particulars for earlier years will be found in preceding issues of the Official Year Book.

CIVIL CASES AT LOWER COURTS, 1937.

State.	1937.	State or Territory.	1937.
New South Wales	{ Cases No. 64,741 Amount £ 345,241	Western Australia	{ Cases No. 26,950 Amount £ 162,438
Victoria	{ Cases No. 100,818 Amount £ 607,495	Tasmania	{ Cases No. 17,792 Amount £ 62,809
Queensland (a) ..	{ Cases No. 16,047 Amount £ 179,437	Australian Capital Territory	{ Cases No. 516 Amount £ 3,285
South Australia ..	{ Cases No. 24,991 Amount £ 163,639	Total	{ Cases No. 251,855 Amount £ 1,524,344

(a) Year ended 30th June, 1938.

Particulars in regard to the amount of judgments involved in the 419 civil cases in the Northern Territory during the year ended 30th June, 1938, are not available.

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

2. **Superior Courts.**—In the next table will be found the transactions on the civil side in the Superior Courts during the year 1937. The particulars given below include the number and amount of judgments entered by default or consent, and differ from those in issues of the Year Book prior to No. 29 which related in most States only to cases actually tried during the year.

The New South Wales returns refer to judgments in the District Courts only, and are exclusive of 2,132 judgments signed in the Supreme Court, for which the amount is not available.

CIVIL CASES AT SUPERIOR COURTS, 1937.

State.	1937.	State or Territory.	1937.
New South Wales	{ Causes No. 6,584 Amount £ 319,655	Western Australia	{ Causes No. 131 Amount £ 59,451
Victoria ..	{ Causes No. 3,257 Amount £ 225,497	(b) Tasmania ..	{ Causes No. 245 Amount £ 21,601
Queensland (a) ..	{ Causes No. 440 Amount £ 67,607	Australian Capital Territory	{ Causes No. 1 Amount £ 300
South Australia ..	{ Causes No. 297 Amount £ 33,926	Total ..	{ Causes No. 10,955 Amount £ 728,037

(a) Year ended 30th June, 1938.

(b) Judgments signed and entered.

3. **Divorces and Judicial Separations.**—The number of divorces and judicial separations in each State during the period 1933 to 1937 is shown below. The figures refer in the case of divorces to decrees made absolute in each year and include decrees for nullity of marriage.

DIVORCES AND JUDICIAL SEPARATIONS.

State.	1933.		1934.		1935.		1936.		1937.	
	Divorces.	Judicial Separations.								
New South Wales ..	1,014	22	1,092	13	1,133	15	1,160	12	1,272	11
Victoria ..	499	..	621	..	602	6	689	1	797	3
Queensland (a) ..	109	5	153	1	152	..	162	2	210	..
South Australia ..	163	2	189	1	212	1	213	..	207	3
Western Australia ..	121	..	157	..	159	..	192	..	236	..
Tasmania ..	42	..	60	..	86	1	61	1	30	..
Northern Territory (a)	2	..	4	..	4	..
Australian Capital Territory	10	..	11	..	2	..	3	..
Total ..	1,948	29	2,282	15	2,357	23	2,483	16	2,759	17

(a) Year ended 30th June following.

The average annual number of divorces and judicial separations in Australia at decennial periods from 1871 to 1930 and the proportion per 10,000 existing marriages were as follows:—

DIVORCES AND JUDICIAL SEPARATIONS: AUSTRALIA.

	1871-80.	1881-90.	1891-1900.	1901-10.	1911-20.	1921-30.
Averages ..	29	70	358	401	707	1,699
Per 10,000 existing marriages ..	0.98	1.74	6.86	6.15	8.13	15.45

The rapid increase of divorce during the period 1891-1900 occurred largely in New South Wales and Victoria where legislation passed respectively in 1899 and 1889 made the separation of the marriage tie comparatively easy.

4. Probates.—Information in regard to probates and letters of administration will be found in Chapter XXVI. "Private Finance."

5. Bankruptcies.—Particulars relating to bankruptcy in each State up to the end of the year 1927 were incorporated under this heading in preceding issues of the Official Year Book. Under the terms of the Bankruptcy Act 1924-1933 jurisdiction in bankruptcy and insolvency was taken over by the Commonwealth from 1st August, 1928. The Act makes provision for the declaration of districts, and each State (except Queensland) has been declared a bankruptcy district. The bankruptcy district of New South Wales includes the Australian Capital Territory, while Queensland has been divided into three districts corresponding to the three Supreme Court districts in that State. The Northern Territory was also declared a separate bankruptcy district. Operations under the Act for the year ended 31st July, 1938, are given in the following table. For the purposes of comparison, figures for each of the preceding two years have been appended to the table.

COMMONWEALTH BANKRUPTCY ACT RETURNS, 1937-38.

Heading.	N.S.W.	Vic.	Qld.	S. Aust.	W. Aust.	Tas.	Nor. Ter.	Australia	
Sequestration Orders and Orders for Administration of Deceased Debtors' Estates	Number ..	280	255	93	154	41	45	..	868
	Liabilities £	279,794	250,282	108,806	210,280	54,270	12,192	..	915,624
	Assets £	98,833	74,138	64,989	135,576	19,938	3,963	..	397,437
Compositions, etc., after Bankruptcy	Number ..	11	2	..	2	..	1	..	16
	Liabilities £	12,830	3,015	..	7,451	..	3,062	..	26,358
	Assets £	6,003	2,548	..	3,248	..	406	..	12,205
Compositions, etc., without Bankruptcy	Number ..	2	9	2	306	63	3	..	385
	Liabilities £	1,072	11,217	1,223	1,286,746	139,945	6,537	..	1,446,740
	Assets £	358	5,553	950	954,583	114,860	5,124	..	1,081,428
Deeds of Arrangement ..	Number ..	172	121	41	1	4	5	..	344
	Liabilities £	258,564	199,581	85,071	4,013	7,980	10,087	..	565,296
	Assets £	230,078	114,401	83,161	3,571	19,017	8,461	..	458,689
Total, 1937-38	Number ..	465	387	136	463	108	54	..	1,613
	Liabilities £	552,260	464,095	195,100	1,508,490	202,195	31,878	..	2,954,018
	Assets £	335,272	196,640	149,100	1,096,978	153,815	17,954	..	1,949,759
Total, 1936-37	Number ..	472	344	207	480	106	62	..	1,673
	Liabilities £	671,666	446,865	323,255	1,632,519	237,956	55,382	4,658	3,372,301
	Assets £	471,781	141,404	222,767	1,152,099	177,490	34,600	3,975	2,204,116
Total, 1935-36	Number ..	447	343	196	582	90	55	..	1,713
	Liabilities £	687,943	432,364	206,908	1,812,748	250,799	32,949	..	3,423,711
	Assets £	414,632	237,834	144,830	1,263,610	204,283	10,936	..	2,276,125

The Commonwealth Attorney-General's Report for the year ended 31st July, 1929, states that comparative tables have not been prepared in relation to State bankruptcy or insolvency for previous years, as the methods of collection and presentation do not afford a reliable common basis. It is also pointed out that the procedure

in certain States has been largely influenced by the procedure in force prior to the passing of the Commonwealth Act, and that, therefore, no particular significance attaches to the large number of compositions, etc., in South Australia and Western Australia. The Bankruptcy Act 1930 created a Federal Court of Bankruptcy and gave power to appoint two Judges thereto. In 1930 a Federal Judge in Bankruptcy was appointed to deal with bankruptcy work, in addition to the State Judges, in New South Wales and Victoria, the Courts in these States having been unable to cope with the business. All the bankruptcy cases in these States are now heard by the Federal Judge who sits in Sydney and Melbourne alternately.

6. **High Court of Australia.**—Under the provisions of section 71 of the Commonwealth Constitution Act, the judicial power of the Commonwealth is vested in a Federal Supreme Court, called the High Court of Australia, and in such other courts as the Parliament creates or invests with federal jurisdiction. The Federal High Court possesses both original and appellate jurisdiction. The powers of the Court are defined in Chapter III. of the Constitution Act and in the Judiciary Act 1903–1937. At present the Court consists of a Chief Justice and five other judges. Sittings of the Court are held in the capitals of the various States as occasion may require. The High Court functions as a Court of Appeal for Australia. The following statement shows the transactions of the High Court for the years 1937 and 1938. Figures for previous years are given in preceding issues.

TRANSACTIONS OF COMMONWEALTH HIGH COURT, 1937 AND 1938.

Original Jurisdiction.			Appellate Jurisdiction.		
	1937.	1938.		1937.	1938.
Number of writs issued	35	26	Number of appeals, set down for hearing..	118	101
Number of causes entered for trial ..	13	29	Number allowed ..	32	49
Verdicts for plaintiffs	9	15	Number dismissed ..	61	48
Verdicts for defendants	6	3	Otherwise disposed of	12	15
Otherwise disposed of	5	8			
Amount of judgments	£104,943	£6,656			

During the years 1937 and 1938 respectively the Court dealt also with the following : Appeals from Assessments under Taxation Assessment Act, 25, 24; Special cases stated for the opinion of the Full Court, 2, 8; Applications for Prohibitions, etc., 10, 9. The fees collected amounted to £910 in 1937 and £711 in 1938.

7. **Commonwealth Court of Conciliation and Arbitration.**—A more or less detailed statement regarding the operation of this Court, which was established under the provisions of the Commonwealth Conciliation and Arbitration Act of 1904–1934, will be found in the Chapter dealing with Labour, Wages, etc.

§ 6. Cost of Administration of Justice.

1. **Expenditure by the States.**—The table below shows the net expenditure from Consolidated Revenue during the year 1937–38 in connexion with the administration of justice in each of the States.

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

NET EXPENDITURE ON JUSTICE IN EACH STATE, 1937-38.

State.	Net Expenditure.			Per Head of Population.		
	Justice.	Police.	Prisons.	Justice.	Police.	Prisons.
	£	£	£	s. d.	s. d.	s. d.
New South Wales ...	162,668	1,446,209	190,932	1 2	10 8	1 5
Victoria ...	105,939	799,708	103,204	1 2	8 7	1 1
Queensland ...	63,162	557,944	34,005	1 3	11 3	0 8
South Australia ...	-17,632	254,107	34,300	0 7	8 7	1 2
Western Australia ...	-27,469	238,711	27,907	1 2	10 5	1 3
Tasmania ...	25,641	131,510	15,713	2 2	11 2	1 4
Total ..	312,309	3,428,189	406,061	0 11	10 0	1 2

2. Federal Expenditure.—The expenditure shown in the foregoing table is that incurred by the State Governments only, and does not include expenditure in connexion with the Commonwealth Attorney-General's Department, which is given hereunder for the period 1934-35 to 1937-38 :—

EXPENDITURE OF THE COMMONWEALTH ATTORNEY-GENERAL'S DEPARTMENT.

Year.	Gross Expenditure.	Receipts.	Net Expenditure.
	£	£	£
1934-35	223,258	95,742	127,516
1935-36	239,702	97,116	142,586
1936-37	252,158	102,613	149,545
1937-38	263,319	107,600	155,719

The totals for each year include expenditure in connexion with patents and copyright which amounted in 1937-38 to £67,686. As pointed out previously, the Commonwealth took over jurisdiction in bankruptcy in August, 1928, and the expenditure thereon in 1937-38 amounted to £42,249, including the salary of the Federal Judge, £2,500. Expenditure in connexion with the Australian Capital Territory police amounted in 1937-38 to £6,121, while £2,972 was expended on miscellaneous items including the Law Court, Titles Office and Industrial Arbitration Board. Revenue in connexion with the Attorney-General's Department amounted for the year to £107,600, comprising £61,435 for patents, copyright, trademarks and designs, £36,441 for bankruptcy and £9,724 miscellaneous including fees and fines.

In addition to the foregoing a sum of approximately £33,000 was expended in the Northern Territory by the Department of the Interior on the administration of justice including the costs of the police force and prisons.