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CHAPTER XVII

PUBLIC JUSTICE

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

- (a) Differences in the jurisdiction of courts;
- (b) Changes in the law in particular States and differences in the laws between States;
- (c) Differences in the methods of compiling the figures (e.g. in respect of persons convicted for more than one offence);
- (d) The attitude to laws such as those connected with liquor, vagrancy, gaming, and traffic offences;
- (e) The strength and distribution of the police force;
- (f) The proportion of various types of crimes reported and solved.

§ 1. The Australian Legal System

1. **Development of the System.**—The two major factors in the development of the Australian legal system have been its British origin and the Federal Constitution of 1900. When the various parts of Australia were first settled by British colonists, the common law and statutes of England were brought with them by the settlers. When local law-making bodies were established, the law so brought in was gradually modified and augmented by local legislation, but the Imperial Parliament in London also continued to legislate (to a lesser and lesser extent) in respect of Australia. The Federal Constitution of 1900, which is itself an Imperial Act, limited the legislative power of State Parliaments in some respects and created a federal legislature. Since the *Statute of Westminster Adoption Act* 1942, the Imperial Parliament can legislate for Australia only at Australia's request. The sources of Australian law of today are, therefore, found in Commonwealth and State legislation, in some Imperial legislation and in the common law. No significant attempt has been made at codification of the law, but three of the States (Queensland, Western Australia, and Tasmania) have Criminal Codes. However, separate consolidations of the statutes of the Commonwealth and of all States except Western Australia (which has adopted a system of reprinting of individual statutes at intervals) have been brought out from time to time.

There are few constitutional or other legislative guarantees of individual rights and liberties in Australia. These rights are nevertheless protected, because a basic feature of the Australian system is the "rule of law": no act, official or unofficial, however bona fide and apparently reasonable, which infringes the liberty or rights of an individual is justifiable unless it is authorized by law, and for any such unlawful act, by whatever authority commanded, the official or other person is personally liable in an action in the ordinary courts. In the case of subordinate legislation, and even in the case of Federal or State Acts, the validity of the law itself may be challenged in the courts. The remedy for the protection of the personal liberty of the individual is the writ of habeas corpus, which requires the person named therein to be produced in the court.

Australian law adheres to the principle that judicial control must in general be exercised by ordinary courts. There is no integrated system of administrative tribunals, but there is a great variety of such tribunals of various descriptions. The ordinary courts exercise supervision over administrative tribunals either by way of statutory appeal or by the use of prerogative writs of mandamus, prohibition, or *certiorari*, by which the administrative tribunals can be enjoined to perform a duty or to abstain from excess of jurisdiction, or can have their decisions set aside.

Independence of the judiciary is an essential part of the Australian legal system. Security of tenure of superior court judges is guaranteed, mostly by the Constitutions of the Commonwealth and the States, and they can be removed from office only by resolution of both Houses of Parliament of the Commonwealth or the States, as the case may be, for proven misbehaviour or incapacity. Their independence is further secured by relatively high salaries which, in the case of High Court judges, cannot be reduced during their tenure of office, and liberal (mostly non-contributory) pensions for the judges or their widows.

Civil judgments given in the courts of any part of Australia can be enforced in any other part of Australia under the *Service and Execution of Process Act* 1901-1963. Since 1st January, 1964, this applies also to fines imposed by courts of summary jurisdiction.

2. *State and Territory Courts.*—(i) *Civil jurisdiction.* Lower civil courts (i.e., Magistrates' Courts, Courts of Petty Sessions, Local Courts, Small Debts Courts, Courts of Request and Courts of General Sessions) are usually constituted or presided over by a stipendiary or special magistrate or a commissioner. In some limited instances, justices of the peace may exercise the jurisdiction of the court. Local Courts are sometimes constituted by a Judge. The powers of the magistrates in the various States and Territories are set out in § 2, pages 625-7. In most cases, unless the amount involved is very small, appeal may be made to a higher court against a magistrate's decision. In any case, the Supreme Court has a supervisory power, by means of prerogative writs, to examine whether a lower court has properly exercised its jurisdiction.

In the higher courts (i.e., District Courts, County Courts, and the Supreme Courts) actions are usually tried by a single judge, sitting with or without a jury, from whose judgment appeal lies to the bench of the Supreme Court. In certain cases, the appeal can be carried to the High Court of Australia. Appeals to the Privy Council are referred to on page 625.

(ii) *Criminal jurisdiction.* Criminal courts are of two kinds, namely, courts of summary jurisdiction and higher courts. Courts of summary jurisdiction, usually called Courts of Petty Sessions, may deal summarily with minor offences; higher courts, known as Courts of Sessions, Quarter Sessions or General Sessions (not to be confused with the lower court of civil jurisdiction of that name) and the Supreme Court, hear indictable offences. A court of summary jurisdiction consists of a stipendiary or police magistrate, or two or more justices of the peace; a higher court consists of a judge or chairman, sitting with a jury. The jury finds as to the facts of the case and the judge determines the applicable law and, within the limits of the law, the punishment of the convicted person.

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

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

3. *Federal Courts.*—(i) *General.* The judicial power of the Commonwealth is vested in the High Court of Australia (the Federal Supreme Court), in the Federal courts created by Parliament (the Federal Court of Bankruptcy and the Commonwealth Industrial Court), and in the State courts invested by Parliament with Federal jurisdiction, both civil and criminal. Further particulars regarding the judicial power of the Commonwealth will be found in Chapter III. (§§ 71-80) of the Commonwealth Constitution (*see* p. 16 of this Year Book).

Particulars concerning the Federal Court of Bankruptcy will be found in § 8 of this chapter. Information regarding the Commonwealth Industrial Court, which was established under the *Conciliation and Arbitration Act* 1904-1964, will be found in Chapter XIII. Labour, Wages and Prices (pp. 426-8).

(ii) *High Court of Australia.* The High Court of Australia consists of a Chief Justice and six other Justices. Its principal seat is in Melbourne, but sittings are held in every State capital as occasion requires. The High Court has both original and appellate jurisdiction. Its original jurisdiction is usually exercised by a single Justice, appellate jurisdiction by at least three Justices.

The 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, or a person suing or being sued on behalf of the Commonwealth, 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. In addition, Parliament may, under the Constitution, confer additional original jurisdiction on the High Court in certain classes of matters, and has in fact conferred original jurisdiction on the High Court in all matters arising under the Constitution or involving its interpretation and in trials of indictable offences against the laws of the Commonwealth. In matters (i) and (v) and in suits between the Commonwealth and a State or between States the jurisdiction of the High Court is exclusive of that of the State Courts, and in matters (other than trials of indictable offences) involving any question as to the limits *inter se* of the constitutional powers of the Commonwealth and those of the States, the jurisdiction of the High Court is exclusive of that of the Supreme Courts of the States.

Under the Constitution the High Court has jurisdiction, with such exceptions and subject to such regulations as the Parliament permits, 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) from the Supreme Court or other court of any State from which appeal lay to Privy Council at the establishment of the Commonwealth. In respect of (iii) the Parliament has prescribed that, generally, appeal can be brought only by special leave of the High Court. However, in the case of judgments affecting the status of any person under the laws relating to aliens, marriage, bankruptcy or insolvency, or in respect of any sum or matter at issue, or involving any claim, demand, or question, to or regarding any property or civil right, amounting to or of the value of £1,500, appeal may be brought as of right from final judgments, and by leave of the High Court or the Supreme Court from interlocutory judgments.

By Acts of Parliament and by subordinate legislation the High Court has also been given appellate jurisdiction in respect of the courts of the Territories under the control of the Commonwealth. Provision is also made in various enactments for appeal to the High Court on points of law from administrative determinations, such as decisions of the Commissioner of Taxation, Taxation Boards of Review, the Commissioner of Patents, or the Registrar of Trade Marks. Such proceedings, although called appeals, are in reality proceedings in the original jurisdiction of the High Court.

Transactions of the High Court are shown in § 6. p. 633.

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

§ 2. Lower (Magistrates') Courts

1. Powers of the Magistrates.—(i) *New South Wales*. The powers of the magistrates with regard to offences punishable summarily depend in each case on the statute which creates the offence and gives them jurisdiction. A magistrate may, with the consent of the accused, deal summarily with certain indictable offences under the Commonwealth Crimes Act and offences involving £250 or less under the State Crimes Act; offences under the Commonwealth Act and certain offences under the State Act may be disposed of summarily without such consent if the amount involved does not exceed £50. Except in the case of a very few statutes, and excluding cumulative sentences, the power of sentence is limited to twelve months. Imprisonment in default of fine is regulated by a scale limiting the maximum period according to the sum ordered to be paid, but in no case exceeding twelve months. Actions for debt and damage within certain limits also come within magisterial jurisdiction. In cases of liquidated debts, and damages whether liquidated or unliquidated, the amount is limited to £150 before a court constituted by a stipendiary magistrate. Where the amount claimed exceeds £50 the Court must transfer the action to the District Court when the defendant gives notice that he objects to the action being heard and determined by a Court of Petty Sessions. Magistrates have power to entertain claims of up to £500 under the *Money Lenders and Infants Loans Act 1941-1961*. The amount in actions of debt or damages before one or more justices of the peace ranges up to £30 in certain cases.

(ii) *Victoria*. The civil jurisdiction of magistrates is restricted as follows:—(a) ordinary debts, to £100; (b) any action in tort or contract, with the exception of a few torts such as breach of promise or illegal arrest (on which magistrates have no power to adjudicate), to £300; and (c) any action in tort arising out of any accident in which a vehicle is involved, to £500.

No definite limit is fixed to the powers of the magistrates on the criminal side and for some offences sentences of up to two years imprisonment may be imposed. The proportion of long sentences is, however, comparatively small.

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

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

(iv) *South Australia*. The power of special magistrates to impose fines and imprisonment is defined by the special Act creating the offence and conferring jurisdiction. In the case of minor indictable offences which are tried summarily, a maximum penalty of £100 fine or two years imprisonment is fixed by the Justices Act, 1921–1960. Magistrates also have power to hear certain civil actions in which the amount claimed is less than £1,250.

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

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

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

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

(vi) *Tasmania*. Magistrates are empowered to hear and determine in Courts of Petty Sessions all offences when an enactment expressly or by implication provides that the matter is to be determined summarily, or by or before justices, or that any offence is to be punishable upon summary conviction. In 1963, by an amendment to the *Justices Act* 1959, the categories of crimes triable summarily was extended to include crimes of a less serious nature. In the case of certain crimes the defendant has the option of electing summary trial or trial on indictment in the Supreme Court. However, the choice of election applies only where the property concerned exceeds the value of £10 but does not exceed £200. The defendant no longer has any right of election where the value of the property does not exceed £10. In the case of a charge of forgery or uttering, a right of election exists provided the complaint is in respect of a cheque for not more than £200. In the case of a charge of breaking into a building, other than a dwelling house, a defendant may elect to be tried summarily under certain conditions.

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

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

(vii) *Northern Territory*. Stipendiary and special magistrates constituting courts of summary jurisdiction try offences punishable summarily. The punishment that may be imposed depends on the law creating the offence. Where there is no magistrate available, the offence may be tried by two or more justices of the peace or, if all parties consent, by one justice. Proceedings for committal on indictable offences may be heard by either a

magistrate or a justice of the peace. Certain indictable offences under the Territory law may be tried summarily by a magistrate or two justices of the peace, who may impose a fine of up to £100 or imprisonment for up to two years.

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

(viii) *Australian Capital Territory.* Stipendiary and special magistrates have general jurisdiction to try offences punishable summarily and also where a person is made liable to a penalty or punishment and no other provision is made for trial. The punishment depends on the law which creates the offence. In addition to jurisdiction (possessed by stipendiary and special magistrates throughout Australia) to try summarily with the consent of the defendant offences indictable under the *Crimes Act 1914-1960* (in which case the magistrate cannot impose a fine exceeding £100 or imprisonment exceeding one year), under Territory law certain indictable offences may also be tried summarily by a magistrate, who may impose a fine not exceeding £50 or imprisonment for up to one year. Magistrates also hear proceedings for committal on indictable offences. In civil proceedings, magistrates try actions for amounts up to £200. Justices of the peace have no judicial functions.

2. **First Offenders.**—In all States and Territories statutes are in force for dealing with first offenders. For particulars of the relevant legislation, see Year Book, No. 46, page 632. Provisions are incorporated in the various Acts whereby courts may extend leniency to the offender by means such as: (i) dismissal of the charge without proceeding to a conviction; (ii) freeing the offender or suspending sentence with the requirement of a recognizance for good behaviour for a specified period; and (iii) by placing the offender under the supervision of a probation officer for a specified period.

3. **Children's Courts.**—Special provisions exist in all States and Territories for dealing with juvenile offenders in special courts. Particulars of the relevant legislation and the constitution and powers of these courts are given in Year Book No. 49, pages 665-6.

4. **Proceedings at Lower (Magistrates') Courts.**—Particulars of the differences in the jurisdiction of Lower Courts in the various States are given in para. 1, Powers of Magistrates, pages 625-7. The proceedings of these courts are summarized in this paragraph. In interpreting the statistics in the tables the factors affecting comparability listed at the beginning of this chapter should be borne in mind.

(i) *Criminal. (a) Total Cases.* The total numbers of cases dealt with at magistrates' courts in each State and Territory for the years 1959 to 1963 are shown in the following table.

CASES AT MAGISTRATES' COURTS: OFFENCES CHARGED

State or Territory	1959	1960	1961	1962	1963
New South Wales(a) ..	331,195	332,728	345,730	322,848	323,501
Victoria ..	287,622	(a)268,104	(a)259,268	(a)270,275	(a)290,332
Queensland(a)(b) ..	65,773	73,804	79,448	79,772	87,737
South Australia(a)(b) ..	38,003	47,427	59,534	61,276	68,707
Western Australia(a) ..	50,696	50,107	48,220	52,764	54,907
Tasmania(a) ..	21,355	24,047	27,227	30,415	34,728
Northern Territory ..	3,617	2,958	3,091	4,350	5,886
Australian Capital Territory ..	2,539	3,168	3,305	4,795	6,435
Australia ..	800,800	802,343	825,823	826,495	872,233

(a) Excludes minor traffic offences settled without court appearance.

(b) Year ended 30th June.

Differences in the figures in the table above between States, and within a State over a period of time, are influenced by the large number of traffic offences and the arrangements which have been introduced at various times for dealing with them. Provision exists in the States for settlement of parking and minor traffic offences by payment of fines without court appearance. The following table shows the number of such offences for the years 1959 to 1963.

MINOR TRAFFIC OFFENCES SETTLED WITHOUT COURT APPEARANCES

State	1959	1960	1961	1962	1963
New South Wales ..	321,157	351,685	370,688	443,689	389,395
Victoria ..	(a)	69,895	113,874	132,144	170,590
Queensland(b) ..	22,701	40,648	58,977	75,322	79,237
South Australia(b) ..	145,276	149,241	156,067	191,592	183,684
Western Australia ..	44,973	50,879	44,392	42,582	43,970
Tasmania ..	18,554	25,801	36,745	33,217	34,394
Total ..	552,661	688,149	780,743	918,546	901,270

(a) Not applicable.

(b) Year ended 30th June.

(b) *Cases in which Convictions were made.* Of the cases dealt with in Magistrates' Courts in 1963, the following table shows the number in which convictions were made.

CASES AT MAGISTRATES' COURTS IN WHICH CONVICTIONS WERE MADE, 1963

Class of offence	N.S.W.	Vic.	Qld (a)(b)	S.A. (a)	W.A.	Tas.	N.T.	A.C.T.	Aust.
Against the person ..	3,468	2,719	675	573	527	362	203	97	8,624
Against property ..	28,105	18,211	5,093	3,143	7,278	1,196	338	392	63,756
Forgery and offences against the currency ..	1,083	610	..	11	8	12	50	3	1,777
Against good order ..	106,167	36,522	31,172	9,335	6,983	1,373	3,096	340	194,988
Other ..	148,230	208,026	41,924	44,462	36,916	27,002	1,816	5,194	513,570
Total ..	287,053	266,088	78,864	57,524	51,712	29,945	5,503	6,026	782,715

(a) Year ended 30th June.

(b) A person convicted on several counts at the one hearing is included only once.

The following table shows the number of cases in which convictions were made in each year from 1959 to 1963.

CASES AT MAGISTRATES' COURTS IN WHICH CONVICTIONS WERE MADE

State or Territory	1959	1960	1961	1962	1963
New South Wales(a) ..	303,504	306,436	314,307	292,484	287,053
Victoria ..	265,214	(a)245,807	(a)235,581	(a)246,017	(a)266,088
Queensland(a)(b)(c) ..	60,212	67,508	71,642	71,702	78,864
South Australia(a)(b) ..	34,203	42,531	52,155	53,531	57,524
Western Australia(a) ..	47,579	47,462	45,773	49,691	51,712
Tasmania(a) ..	19,094	20,196	23,212	26,211	29,945
Northern Territory ..	3,212	2,664	2,812	3,968	5,503
Australian Capital Territory ..	1,787	2,280	2,613	4,089	6,026
Australia ..	734,805	734,884	748,095	747,693	782,715

(a) Excludes minor traffic offences settled without court appearance.

(b) Year ended 30th June.

(c) A person convicted on several counts at the one hearing is included only once.

(c) *Cases in which Convictions were made for Drunkenness.* The numbers of cases in which convictions were recorded during each of the years 1959 to 1963 are given in the following table.

DRUNKENNESS: CASES IN WHICH CONVICTIONS WERE MADE

State or Territory	1959	1960	1961	1962	1963
New South Wales	69,201	68,591	67,809	68,546	65,630
Victoria	29,334	29,116	27,212	28,529	27,606
Queensland(a)	26,918	28,538	26,136	26,293	28,580
South Australia(a)	4,439	5,273	5,438	6,178	7,485
Western Australia	5,587	5,144	5,333	5,320	4,877
Tasmania	660	512	534	575	562
Northern Territory	1,010	822	1,037	1,388	1,730
Australian Capital Territory	255	298	307	252	237
Australia	137,404	138,294	133,806	137,081	136,707

(a) Year ended 30th June.

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

The rate of convictions for drunkenness since 1901 is shown below.

RATE OF CONVICTIONS FOR DRUNKENNESS: AUSTRALIA

Year	1901	1911	1921	1931	1941	1951	1961	1963
Convictions per 10,000 persons	133	133	97	57	91	175	129	125

For particulars of legislation relevant to the remedial treatment of drunkenness and some details of the various institutions established for the treatment of inebriates, see Year Book No. 46, p. 632.

(ii) *Civil Proceedings.* Civil proceedings in the lower courts refer to those in the Small Debts Courts in New South Wales, Courts of Petty Sessions in Victoria, Magistrates' Courts in Queensland, Local Courts in South Australia and Western Australia, Courts of Requests in Tasmania, Local Courts in the Northern Territory and the Court of Petty Sessions in the Australian Capital Territory. Statistics of civil proceedings in the Lower Courts are given in § 5.

§ 3. Higher (Judges') Courts

1. *General.*—Higher courts are presided over by a judge, sometimes with a jury (see para. 2, page 624). Jurisdiction of the Higher Courts, which include District, County and Supreme Courts, includes appeals from the lower courts, cases of serious crime committed from lower courts, and civil cases involving Common Law, Commercial Causes, Equity, etc.

Under powers vested by the Commonwealth under the *Matrimonial Causes Act 1959* and the *Bankruptcy Act 1924-1960* separate courts within the jurisdiction of the Supreme Courts of the various States and Territories deal exclusively with matrimonial cases and bankruptcy cases respectively.

2. *Habitual Offenders.*—An account of the methods adopted in each jurisdiction in connexion with habitual offenders is given in Year Book No. 49, pages 668-9.

3. *Capital Punishment.*—There were seven executions in Australia during the period 1955 to 1964. Three took place in South Australia (in 1956, 1958 and 1964), and four in Western Australia (one in 1960 and 1961, two in 1964). In each case the offence was murder.

Under "*The Criminal Code Amendment Act of 1922*" capital punishment was abolished in Queensland, and in New South Wales the Crimes Act was amended in 1955, abolishing capital punishment for all offences except treason and piracy with violence. In the Australian Capital Territory the *Child Welfare Ordinance 1957-1962* provides that no death sentence is to be pronounced or recorded against a person under the age of 18 years, and sub-section (2.) of section 389 of the Tasmanian *Criminal Code Act 1924* as amended contains a similar provision.

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

The average annual number of executions in Australia from 1861 to 1880 was 9; from 1881 to 1900, 6; from 1901 to 1910, 4; from 1911 to 1920, 2; from 1921 to 1930, 2; from 1931 to 1940, 1; from 1941 to 1950, 0.5; and from 1951 to 1960, 0.7.

4. **Proceedings at Higher (Judges') Courts.**—Proceedings at higher courts comprise criminal, civil, divorce and bankruptcy proceedings. Separate details of each are given in § 4, paragraph 2, § 5, § 7, and § 8, respectively.

§ 4. Serious Crime

NOTE.—In interpreting the statistics in this section the factors affecting comparability listed at the beginning of the chapter should be borne in mind. As a step towards obtaining uniform and informative statistics of the more serious crime in Australia as a whole, a conference of Police Commissioners in 1963 recommended that a statistical collection be introduced to provide information on the incidence of, and trend in, certain selected categories of reported crime and also some detail of the involvement of persons according to age and sex. The statistics would be derived from police records. Definitions and procedural arrangements were to be determined which could be applied uniformly in all States as far as possible. The police in all States have made arrangements for the compilation of these figures and it is intended that figures in this series will be published in future issues of the Year Book.

1. **Lower Courts.**—(i) *Convictions for Serious Crime at Magistrates' Courts.* The figures given in the tables on pp. 627-9 refer to all convictions, and include offences of a technical nature, drunkenness, and minor breaches of good order, which come under the heading of crime in a very different sense from the more serious offences. The following table has therefore been prepared to show convictions at Magistrates' Courts for the years 1959 to 1963 for what may be regarded as the more serious offences, i.e., offences against the person, offences against property, forgery and offences against the currency.

CONVICTIONS FOR SERIOUS CRIME^(a) AT MAGISTRATES' COURTS

State or Territory	1959	1960	1961	1962	1963
New South Wales	30,769	31,529	31,696	32,320	32,656
Victoria	12,260	15,646	15,949	19,016	21,540
Queensland ^{(b)(c)}	4,422	4,678	4,736	4,833	5,768
South Australia ^(b)	2,554	2,604	3,552	3,693	3,727
Western Australia	5,423	5,764	5,256	6,814	7,813
Tasmania	1,634	1,788	1,636	1,704	1,570
Northern Territory	297	243	285	419	591
Australian Capital Territory ..	384	331	573	286	492
Australia	57,743	62,583	63,683	69,085	74,157

(a) Offences against the person, offences against property, forgery and offences against the currency.
 (b) Year ended 30th June. (c) A person convicted on several counts at the one hearing is included only once.

The numbers of convictions for serious crime at Magistrates' Courts per 10,000 of population for the same series of years for Australia were:—1959, 57.6; 1960, 61.1; 1961, 60.8; 1962, 64.6; 1963, 68.1.

(ii) *Committals to Higher Courts.* The following table shows the number of offences, classified according to the nature of the offence, which were committed to higher courts for each State and Territory for the year 1963.

COMMITTALS TO HIGHER COURTS, 1963

Class of offence	N.S.W.	Vic.	Qld (a)(b)	S.A. (a)	W.A.	Tas.	N.T.	A.C.T.	Australia
Against the person ..	1,604	1,235	319	290	68	85	18	16	3,635
Against property ..	6,341	2,610	1,012	275	432	554	76	74	11,374
Forgery and offences against the currency ..	419	414	9	17	17	16	12	2	906
Against good order ..	147	198	4	4	6	10	1	..	370
Other	27	849	10	14	..	40	..	..	940
Total	8,538	5,306	1,354	600	523	705	107	92	17,225

(a) Year ended 30th June. (b) A person committed on several counts at the one hearing is included only once.

The following table shows the number of committals to higher courts for each of the years 1959 to 1963.

COMMITTALS TO HIGHER COURTS

State or Territory	1959	1960	1961	1962	1963
New South Wales	7,522	8,212	8,294	7,414	8,538
Victoria	4,523	5,274	4,598	5,468	5,306
Queensland(a)(b)	954	1,211	1,527	1,295	1,354
South Australia(a)	558	542	671	712	600
Western Australia	447	362	298	450	523
Tasmania	529	475	725	643	705
Northern Territory	93	26	86	92	107
Australian Capital Territory..	65	97	65	110	92
Australia	14,691	16,199	16,264	16,184	17,225

(a) Year ended 30th June. (b) A person committed on several counts at the one hearing is included only once.

2. Higher Courts.—(i) *Offences for which Persons were convicted at Higher Courts, 1963.* The following table shows the number of persons convicted at higher courts in each of the States and Territories of Australia during 1963, classified according to the nature of the offence.

PERSONS CONVICTED AT HIGHER COURTS, 1963

Offence	N.S.W.	Vic.	Qld (a)(b)	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
Against the person—									
Infanticide .. .. .	..	1	..	..	..	1	..	..	2
Murder	15	6	5	2	4	..	..	..	32
Attempted murder	4	3	4	..	..	1	..	..	12
Manslaughter(c)	13	9	8	8	11	..	2	..	51
Culpable driving	21	..	16	6	..	..	..	..	43
Rape	23	20	19	11	6	4	..	..	83
Incest .. .. .	..	21	8	7	3	..	..	..	39
Other offences against females	262	382	84	166	1	11	5	8	919
Abduction	3	4	2	..	..	..	..	..	9
Unnatural offences	144	80	11	33	9	..	2	1	280
Abortion and attempt to procure	2	..	3	5	..	1	..	..	11
Bigamy	16	14	8	3	1	1	..	..	43
Malicious wounding	36	..	..	..	..	..	8	..	36
Aggravated assault	56	21	32	18	4	1	8	..	140
Common assault	22	7	5	2	5	4	..	..	45
Other offences against the person	8	59	4	..	2	5	..	2	80
Total	625	627	209	261	46	29	17	11	1,825
Against property—									
Burglary, breaking and entering	1,247	464	687	274	155	205	35	28	3,095
Robbery and stealing from the person	47	45	16	10	12	4	1	..	135
Livestock stealing .. .. .	..	15	6	13	..	..	..	..	34
Embezzlement and fraudulent misappropriation	125	27	7	18	13	..	3	..	193
Other larceny	642	111	29	19	43	..	21	2	867
Unlawfully using vehicles	2	29	136	..	..	..	..	..	167
Receiving	44	43	31	7	9	8	..	..	142
Fraud and false pretences	75	43	13	31	9	16	2	5	194
Arson	4	12	22	4	1	4	..	..	47
Malicious damage	24	7	..	1	..	..	4	..	36
Other offences against property	7	24	1	1	2	..	6	3	44
Total	2,217	820	948	378	244	237	72	38	4,954
Forgery and offences against the currency	37	59	9	30	5	8	3	2	153
Against good order	3	9	3	1	5	13	..	..	34
Other	25	431	18	75	..	6	..	..	555
Grand Total	2,907	1,946	1,187	745	300	293	92	51	7,521

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

(ii) *Persons Convicted at Higher Courts, 1959 to 1963.* The number of persons convicted at higher courts for the years 1959 to 1963 are given in the following table.

PERSONS CONVICTED AT HIGHER COURTS

State or Territory	1959	1960	1961	1962	1963
New South Wales	2,325	2,635	2,712	2,513	2,907
Victoria	1,799	1,996	2,307	2,329	1,946
Queensland(a)(b)	915	1,020	1,279	1,175	1,187
South Australia	499	580	606	718	745
Western Australia	216	183	203	228	300
Tasmania	290	295	304	270	293
Northern Territory	69	29	87	74	92
Australian Capital Territory	40	62	54	57	51
Australia	6,153	6,800	7,552	7,364	7,521

(a) Year ended 30th June. (b) A person convicted on several counts at the one hearing is included only once.

The numbers of persons convicted at higher courts in Australia per 10,000 of population for the years 1959 to 1963 were:—1959, 6.1; 1960, 6.6; 1961, 7.0; 1962, 6.9; 1963, 6.9.

§ 5. Civil Cases

In interpreting the statistics in the two tables in this section it should be borne in mind that there are factors which affect comparability between States and between courts.

The total number of plaints entered and amounts awarded plaintiffs in the lower courts, during 1963, are shown in the following table.

CIVIL CASES AT LOWER COURTS, 1963

Particulars	N.S.W.	Vic.	Qld (a)	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aus- tralia
Plaints entered No.	184,938	194,502	47,772	97,038	54,916	40,574	2,872	8,737	631,349
Amount awarded to plaintiffs £	2,919,886	3,699,899	1,645,176	2,041,932	1,091,112	287,057	40,321	148,576	11,873,959

(a) Year ended 30th June.

The following table shows the civil judgments (excluding those for divorce and bankruptcy) in the higher courts during 1963. The particulars given below include the number and amount of judgments entered by default or confession or agreement.

CIVIL CASES AT HIGHER COURTS, 1963

Particulars	N.S.W.	Vic.	Qld (a)	S.A.	W.A. (b)	Tas.	N.T.	A.C.T.	Aus- tralia
Judgments No.	48,201	24,841	542	274	509	n.a.	n.a.	232	n.a.
Amount awarded £	n.a.	9,606,669	1,853,395	798,300	741,669	n.a.	n.a.	245,373	n.a.

(a) Year ended 30th June.

(b) Judgments signed and entered.

§ 6. Transactions of the High Court

The following table shows the transactions of the High Court for 1963 and 1964.

TRANSACTIONS OF THE HIGH COURT OF AUSTRALIA

Original jurisdiction(a)	1963		1964		Appellate jurisdiction	1963		1964	
Number of writs issued ..	84		108		Number of appeals set down for hearing ..	118		107	
Number of cases entered for trial ..	42		51		Number allowed ..	33		31	
Judgments for plaintiffs ..	18		7		Number dismissed ..	62		88	
Judgments for defendants	4		15		Otherwise disposed of ..	23		16	
Otherwise disposed of ..	15		36						
Amount of judgments ..	£125,823		£29,622						

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

During 1963 and 1964, respectively, the High Court dealt also with the following:— appeals from assessments under the Taxation Assessment Act, 22, 52; special cases stated for the opinion of the Full Court, 13, 22; applications for prohibition, etc., 31, 14; The fees collected amounted to £3,289 in 1963, and £4,654 in 1964.

§ 7. Divorce and Other Matrimonial Relief

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

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

Until recently each State was primarily responsible for the provision of matrimonial relief. The law varied from State to State; for example, as to the period of desertion needed to obtain a decree for the dissolution of marriage.

In 1959, however, the Commonwealth Parliament passed the *Matrimonial Causes Act 1959* which came into force on 1st February, 1961. The Act establishes uniform grounds throughout the whole of the Commonwealth for the termination of marriage. While the Act displaces corresponding State law, it vests jurisdiction in existing State and Territorial Courts.

3. **Matrimonial Causes Act 1959.**—Under this Act a decree for the dissolution of marriage may be granted on one or more of fourteen grounds, which include adultery, desertion, separation for five years in certain circumstances, cruelty, drunkenness, and failure to comply with a restitution decree.

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

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

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

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

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

In the following tables the term "divorce" is used to cover dissolution of marriage, nullity of marriage and judicial separation.

4. **Number of Petitions Filed.**—The following table shows the number of petitions for dissolution of marriage, nullity of marriage and judicial separation filed in each State during 1964.

PETITIONS FILED FOR DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE AND JUDICIAL SEPARATION, 1964

Petition for—	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
Dissolution of marriage—									
Husband petitioner ..	1,748	993	511	420	313	149	28	53	4,215
Wife petitioner ..	2,736	1,364	610	614	340	173	25	71	5,933
<i>Total</i> ..	<i>4,484</i>	<i>2,357</i>	<i>1,121</i>	<i>1,034</i>	<i>653</i>	<i>322</i>	<i>53</i>	<i>124</i>	<i>10,148</i>
Nullity of marriage—									
Husband petitioner ..	8	5	..	..	1	..	..	..	14
Wife petitioner ..	9	10	4	5	1	..	..	1	30
<i>Total</i> ..	<i>17</i>	<i>15</i>	<i>4</i>	<i>5</i>	<i>2</i>	<i>..</i>	<i>..</i>	<i>1</i>	<i>44</i>
Dissolution or nullity—									
Husband petitioner ..	..	3	1	1	..	..	..	..	5
Wife petitioner ..	3	7	1	1	..	..	..	..	12
<i>Total</i> ..	<i>3</i>	<i>10</i>	<i>2</i>	<i>2</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>17</i>
Judicial separation—									
Wife petitioner ..	13	7	6	4	1	2	..	1	34
<i>Total</i> ..	<i>13</i>	<i>7</i>	<i>6</i>	<i>4</i>	<i>1</i>	<i>2</i>	<i>..</i>	<i>1</i>	<i>34</i>
Dissolution or judicial separation—									
Wife petitioner ..	..	1	..	..	..	..	..	..	1
<i>Total</i> ..	<i>..</i>	<i>1</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>1</i>
Total petitions—									
Husband petitioner No.	1,756	1,001	512	421	314	149	28	53	4,234
Per cent.	39	42	45	40	48	46	53	42	41
Wife petitioner No.	2,761	1,389	621	624	342	175	25	73	6,010
Per cent.	61	58	55	60	52	54	47	58	59
Grand Total ..	4,517	2,390	1,133	1,045	656	324	53	126	10,244

5. Number of Divorces Granted.—The following table shows the number of dissolutions of marriage, nullities of marriage and judicial separations granted in each State during 1964.

DISSOLUTIONS OF MARRIAGE, NULLITIES OF MARRIAGE AND JUDICIAL SEPARATIONS GRANTED, 1964

Decree for—	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
Dissolution of marriage—									
Husband petitioner ..	1,222	939	431	357	259	115	15	39	3,377
Wife petitioner ..	1,802	1,189	550	529	282	114	16	54	4,536
Granted on petitions of both ..	..	2	..	1	1	..	..	..	4
<i>Total</i> ..	<i>3,024</i>	<i>2,130</i>	<i>981</i>	<i>887</i>	<i>542</i>	<i>229</i>	<i>31</i>	<i>93</i>	<i>7,917</i>
Nullity of marriage—									
Husband petitioner ..	3	5	1	..	1	1	..	..	11
Wife petitioner ..	11	14	4	3	1	..	..	..	33
<i>Total</i> ..	<i>14</i>	<i>19</i>	<i>5</i>	<i>3</i>	<i>2</i>	<i>1</i>	<i>..</i>	<i>..</i>	<i>44</i>
Judicial separation—									
Wife petitioner ..	3	2	..	..	1	..	..	..	6
<i>Total</i> ..	<i>3</i>	<i>2</i>	<i>..</i>	<i>..</i>	<i>1</i>	<i>..</i>	<i>..</i>	<i>..</i>	<i>6</i>
Total decrees—									
Husband petitioner No.	1,225	944	432	357	260	116	15	39	3,388
Per cent.	40	44	44	40	48	50	48	42	43
Wife petitioner No.	1,816	1,205	554	532	284	114	16	54	4,575
Per cent.	60	56	56	60	52	50	52	58	57
Granted on petitions of both ..	..	2	..	1	1	..	..	..	4
Grand Total ..	3,041	2,151	986	890	545	230	31	93	7,967

(a) Decrees absolute.

(b) Final decrees.

6. Number of Divorces Granted, 1960 to 1964.—The following table shows the number of dissolutions of marriage, nullities of marriage and judicial separations granted in each State and Territory for each year from 1960 to 1964.

DISSOLUTIONS OF MARRIAGE, NULLITIES OF MARRIAGE AND JUDICIAL SEPARATIONS GRANTED

State or Territory	1960	1961	1962	1963	1964
DISSOLUTIONS OF MARRIAGE(a)					
New South Wales	3,243	3,156	3,113	3,293	3,024
Victoria	1,296	1,248	1,615	1,616	2,130
Queensland	696	779	920	910	981
South Australia	610	718	685	765	887
Western Australia	540	466	582	553	542
Tasmania	210	286	248	260	229
Northern Territory	5	23	38	38	31
Australian Capital Territory	33	36	44	41	93
<i>Australia</i>	<i>6,633</i>	<i>6,712</i>	<i>7,245</i>	<i>7,476</i>	<i>7,917</i>

NULLITIES OF MARRIAGE(b)					
New South Wales	27	18	18	13	14
Victoria	16	9	8	7	19
Queensland	7	2	5	6	5
South Australia	9	7	6	5	3
Western Australia	2	..	2	1	2
Tasmania .. .. .	..	..	1	..	1
Northern Territory	1	..	..	..	..
Australian Capital Territory	1	1	..	..	..
<i>Australia</i>	<i>63</i>	<i>37</i>	<i>40</i>	<i>32</i>	<i>44</i>

JUDICIAL SEPARATIONS					
New South Wales	5	1	..	..	3
Victoria	1	..	..	3	2
Queensland	2	..	3	3	..
South Australia .. .. .	..	..	1	..	..
Western Australia	5	1	1	..	1
Tasmania .. .. .	..	..	..	1	..
Northern Territory .. .. .	..	..	..	..	..
Australian Capital Territory .. .. .	..	..	..	..	..
<i>Australia</i>	<i>13</i>	<i>2</i>	<i>5</i>	<i>7</i>	<i>6</i>

TOTAL DIVORCES GRANTED					
Grand Total, Australia	6,709	6,750	7,290	7,513	7,967

(a) Decrees absolute.

(b) Final decrees.

7. Average Number of Divorces granted Annually.—The ten-year averages of the numbers of divorces (i.e., dissolutions, nullities and judicial separations) granted annually in Australia for the 80 years from 1881 to 1960 are as follows.

DIVORCES: AUSTRALIA

Decade	1881-90	1891-1900	1901-10	1911-20	1921-30	1931-40	1941-50	1951-60
Average	70	357	399	741	1,692	2,508	6,187	6,973

8. Grounds on which Divorces were Granted.—The grounds on which dissolutions of marriage, nullities of marriage and judicial separations were granted in each State and Territory during 1964 are shown in the following table. Some of the decrees granted during 1964 were for petitions lodged under the former, superseded legislation.

GROUND OF DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE AND JUDICIAL SEPARATION, 1964

Ground	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
DISSOLUTION OF MARRIAGE									
Single grounds—									
Desertion	1,423	1,004	506	268	134	95	11	27	3,468
Adultery	659	484	165	243	198	54	8	22	1,833
Separation	515	552	220	180	160	45	5	10	1,687
Cruelty	136	31	19	102	3	9	2	14	316
Drunkenness	32	10	8	13	4	6	2	6	81
Intoxication by drugs ..	1	1	..	1	1	..	..	..	4
Failure to pay maintenance ..	1	2	1	1	5	..	..	..	10
Non-compliance with restitution decree ..	15	..	..	..	2	..	..	..	17
Refusal to consummate ..	14	2	2	2	..	..	1	1	22
Insanity	5	2	5	3	1	..	..	..	16
Frequent convictions	3	4	2	..	3	..	..	..	12
Imprisonment	2	..	1	1	1	..	..	..	5
Other single grounds	3	1	2	2	..	..	..	..	8
Dual grounds—									
Desertion and adultery ..	27	13	8	8	10	7	..	..	73
Desertion and separation ..	70	9	21	34	13	8	..	4	159
Desertion and cruelty	30	2	2	6	1	..	2	1	44
Desertion and drunkenness ..	7	1	2	2	..	..	..	1	13
Desertion and failure to pay maintenance ..	2	2	..	1	..	..	..	..	5
Desertion and frequent convictions ..	2	1	1	..	..	..	..	..	4
Adultery and separation ..	3	1	2	1	1	..	..	1	9
Adultery and cruelty	4	..	2	5	..	..	..	..	11
Adultery and drunkenness ..	5	..	..	..	..	..	..	..	5
Separation and refusal to consummate ..	5	..	..	..	..	..	..	..	5
Cruelty and drunkenness ..	41	5	7	9	1	3	..	3	69
Cruelty and sodomy .. ..	..	..	3	1	..	..	..	..	4
Other dual grounds	7	3	1	1	2	..	..	2	16
Three grounds or more ..	12	..	1	3	2	2	..	1	21
Total	3,024	2,130	981	887	542	229	31	93	7,917

NULLITY OF MARRIAGE

Bigamy	7	7	1	..	1	..	..	..	16
Incapacity to consummate ..	6	10	4	3	..	..	..	..	23
Invalid marriage .. .. .	..	2	..	..	1	..	..	..	3
Other grounds	1	..	..	..	..	1	..	..	2
Total	14	19	5	3	2	1	..	..	44

GROUNDS OF DISSOLUTION OF MARRIAGE, NULLITY OF MARRIAGE
AND JUDICIAL SEPARATION, 1964—*continued*

Ground	N.S.W.	Vic.	Q'land	S.A.	W.A.	Tas.	N.T.	A.C.T.	Aust.
JUDICIAL SEPARATION									
Desertion	1	1	..	..	..	..	..	..	2
Adultery	1	..	..	..	..	..	..	..	1
Cruelty	1	..	..	..	1	..	..	..	2
Cruelty and drunkenness ..	..	1	..	..	..	..	..	..	1
<i>Total</i>	3	2	1	6

TOTAL DIVORCES GRANTED

Grand Total ..	3,041	2,151	986	890	545	230	31	93	7,967
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9. **Ages of Husband and Wife at Time of Marriage.**—The following table shows the ages at time of marriage of husbands and wives who were parties to marriages dissolved in 1964.

**DISSOLUTIONS: AGES OF PARTIES AT TIME OF MARRIAGE, AUSTRALIA,
1964**

Age of husband (years)	Age of wife (years)										Total husbands	
	Under 20	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60 and over		Not stated
Under 20 ..	397	91	9	..	..	..	..	..	..	..	..	497
20-24 ..	1,536	1,949	237	41	7	2	1	1	..	..	2	3,776
25-29 ..	426	1,045	408	99	36	3	6	..	..	..	1	2,024
30-34 ..	81	271	251	144	44	19	3	1	..	..	..	814
35-39 ..	21	84	79	81	81	29	5	..	..	..	..	380
40-44 ..	5	26	36	45	42	29	14	4	1	..	..	202
45-49 ..	..	4	11	23	21	21	17	4	2	..	..	103
50-54 ..	2	..	4	4	10	11	11	3	5	1	..	51
55-59 ..	..	2	3	2	4	2	7	5	2	..	..	28
60 and over ..	1	..	1	..	..	1	2	5	12	8	..	30
Not stated ..	..	..	..	..	1	1	1	..	..	..	9	12
Total Wives	2,469	3,472	1,039	439	246	118	67	23	22	10	12	7,917

10. **Ages of Husband and Wife at Time of Dissolution of Marriage.**—The following table shows the number of husbands and wives in each age group who were parties to marriages dissolved in 1964. Age is taken at the time the decree absolute was made.

DISSOLUTIONS: AGES OF PARTIES AT TIME OF DISSOLUTION OF MARRIAGE, AUSTRALIA, 1964

Age of husband (years)	Age of wife (years)										Total hus-bands	
	Under 20	20-24	25-29	30-34	35-39	40-44	45-49	50-54	55-59	60 and over		Not stated
Under 20 ..	..	..	..	..	..	..	..	..	..	..	..	..
20-24 ..	6	139	18	2	..	..	..	..	..	..	..	165
25-29 ..	3	318	527	58	3	3	..	1	..	..	..	913
30-34 ..	4	86	564	524	104	16	4	4	..	..	..	1,306
35-39 ..	..	19	142	578	540	130	23	4	4	1	1	1,442
40-44 ..	..	8	28	150	505	462	103	24	2	..	..	1,282
45-49 ..	..	1	9	39	142	398	344	67	11	6	1	1,018
50-54 ..	..	..	1	11	53	133	294	232	52	20	1	797
55-59 ..	..	..	1	..	15	43	92	162	145	40	..	498
60 and over ..	..	1	2	2	3	41	66	53	100	214	1	483
Not stated ..	..	..	..	..	..	1	..	1	..	1	10	13
Total Wives	13	572	1,292	1,364	1,365	1,227	926	548	314	282	14	7,917

11. Duration of Marriages Dissolved and Number of Children.—A table showing the number of dissolutions of marriage granted in 1964, classified according to the legal duration of the marriage (i.e., the period from the date of marriage to the date when the decree nisi was made absolute) and number of children, appears in the Appendix to this Year Book. Corresponding information for the year 1963 appeared on page 659 of Year Book No. 50.

12. Ages of Children of Dissolved Marriages.—The following table shows the ages of children of marriages dissolved in 1964. The children referred to are those under 21 years of age at the time of petition.

CHILDREN OF DISSOLVED MARRIAGES(a), BY AGE AT TIME OF PETITION: AUSTRALIA, 1964

Petitioner	Age of children at time of petition—																	Total number of children	
	Under 12 mths	1 yr	2 yrs	3 yrs	4 yrs	5 yrs	6 yrs	7 yrs	8 yrs	9 yrs	10 yrs	11 yrs	12 yrs	13 yrs	14 yrs	15 yrs	16-20 yrs		Not stated
Husband ..	23	70	139	185	218	231	276	250	241	248	229	222	203	225	190	184	720	2	3,856
Wife ..	45	102	235	324	349	376	380	415	364	392	361	373	392	320	296	325	1083	4	6,136
Petitions of both ..	..	..	..	..	..	..	..	..	..	2	2	..	1	..	..	..	..	..	5
Total ..	68	172	374	509	567	607	656	665	605	642	592	595	596	545	486	509	1803	6	9,997

(a) This table refers to children, under 21 years at time of petition, of marriages for which decrees absolute for dissolution have been granted in 1964.

13. Number of Divorced Persons at each Census, 1911 to 1961.—The following table shows the number and proportion of divorced persons in Australia as recorded from returns supplied at each census from 1911 to 1961. A classification of divorced persons by age, for the censuses from 1891 to 1947, appeared in earlier issues of the Year Book (see No. 39, p. 269). Prior to 1911 no record was made of divorced persons in South Australia, so comparisons cannot be made beyond that date.

DIVORCED PERSONS AT CENSUS DATES: AUSTRALIA

Sex	Number						Proportion per 10,000 of males or females, 15 years of age and over					
	1911	1921	1933	1947	1954	1961	1911	1921	1933	1947	1954	1961
Males ..	2,368	4,233	10,298	25,052	32,389	38,641	15	23	42	89	100	105
Females ..	2,140	4,304	10,888	27,516	36,650	43,339	15	24	46	96	115	119

§ 8. Bankruptcy

1. *General.*—Particulars of bankruptcy in each State to the end of 1927 were incorporated in issues of the Year Book prior to No. 23. On 1st August, 1928, the Bankruptcy Act of the Commonwealth, which is now the *Bankruptcy Act* 1924–1960, came into operation.

Under the *Bankruptcy Act* 1924–1960 the Commonwealth is divided into bankruptcy districts which coincide generally with State boundaries. A Federal Court of Bankruptcy has been established with jurisdiction throughout Australia, but it exercises this jurisdiction mainly in the bankruptcy districts of New South Wales, which includes the Australian Capital Territory, and Victoria. Certain State courts have been invested with federal jurisdiction in bankruptcy and, outside New South Wales and Victoria, usually exercise that jurisdiction in the appropriate bankruptcy district.

Any person unable to pay his debts may apply voluntarily for the sequestration of his estate, or his creditors may apply for a compulsory sequestration, if he has committed an act of bankruptcy. The act of bankruptcy usually relied on is non-compliance by a debtor with a bankruptcy notice which requires the debtor to whom it is addressed to pay within a specified time, to a creditor who has obtained a final judgment or order to pay, the amount of the debt, or satisfy the Court that he has a counter claim, set-off, or cross demand which equals or exceeds the judgment debt. If a bankruptcy notice is not complied with a creditor may thereupon present a petition against a debtor, provided that the debt or debts amount to £50, the act of bankruptcy relied on has occurred within the six months preceding the presentation of the petition, and the statutory requirements relating to domicile or residence are applicable to the debtor.

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

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

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

The Act provides for an Inspector-General in Bankruptcy. It also provides for a Registrar and an Official Receiver to be appointed for each bankruptcy district.

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

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

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

2. **Bankruptcy Proceedings.**—The following table shows the number of bankruptcies of the various types in each State, together with the assets and liabilities of the debtors, during the twelve months ended 30th June, 1964.

BANKRUPTCY PROCEEDINGS, 1963-64

State or Territory		Sequestration orders and orders for administration of deceased debtors' estates	Compositions and schemes under Part XI	Deeds under Part XI	Deeds of arrangement, Part XII	Total
N.S.W. (a)	Number ..	717	9	1	45	772
	Liabilities £	3,124,682	141,879	7,165	613,045	3,886,771
	Assets £	1,029,180	115,868	869	450,310	1,596,227
Vic. ..	Number ..	551	23	..	57	631
	Liabilities £	2,190,328	287,363	..	518,955	2,996,646
	Assets £	798,307	121,171	..	404,085	1,323,563
Q'land	Number ..	255	2	..	14	271
	Liabilities £	786,653	22,681	..	90,490	899,824
	Assets £	631,316	32,632	..	140,477	804,425
S. Aust.	Number ..	552	58	18	1	629
	Liabilities £	1,102,397	212,154	319,264	11,453	1,645,268
	Assets £	540,507	201,838	228,686	33,670	1,004,701
W. Aust.	Number ..	186	50	4	1	241
	Liabilities £	300,763	212,564	17,341	40,552	571,220
	Assets £	54,784	143,799	15,333	40,762	254,678
Tas. ..	Number ..	125	..	..	3	128
	Liabilities £	250,676	..	..	21,830	272,506
	Assets £	111,950	..	..	20,237	132,187
N.T. ..	Number ..	6	..	..	..	6
	Liabilities £	48,641	..	..	..	48,641
	Assets £	30,449	..	..	..	30,449
Australia	Number ..	2,392	142	23	121	2,678
	Liabilities £	7,804,140	876,641	343,770	1,296,325	10,320,876
	Assets £	3,196,493	615,308	244,888	1,089,541	5,146,230

(a) Includes the Australian Capital Territory.

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

BANKRUPTCY PROCEEDINGS: AUSTRALIA

Year		Sequestration orders and orders for administration of deceased debtors' estates	Compositions and schemes under Part XI	Deeds under Part XI	Deeds of arrangement, Part XII	Total
1959-60	Number ..	1,949	119	28	192	2,288
	Liabilities £	5,126,243	529,885	161,978	1,961,335	7,779,441
	Assets £	2,738,689	411,084	176,205	1,531,283	4,857,261
1960-61	Number ..	2,004	118	21	225	2,368
	Liabilities £	5,609,860	424,969	189,434	2,170,643	8,394,906
	Assets £	3,333,274	325,602	196,254	1,665,396	5,520,526
1961-62	Number ..	2,239	172	31	218	2,660
	Liabilities £	6,988,310	1,078,263	237,796	1,636,481	9,940,850
	Assets £	3,503,851	873,393	193,760	1,384,849	5,955,853
1962-63	Number ..	2,371	183	23	158	2,735
	Liabilities £	7,005,128	1,888,043	215,914	1,582,536	10,691,621
	Assets £	2,962,459	1,770,700	256,775	1,406,338	6,396,272
1963-64	Number ..	2,392	142	23	121	2,678
	Liabilities £	7,804,140	876,641	343,770	1,296,325	10,320,876
	Assets £	3,196,493	615,308	244,888	1,089,541	5,146,230

BANKRUPTCY PROCEEDINGS: STATES

Year		N.S.W. (a)	Vic.	Qld	S.A.	W.A.	Tas.	N.T.	Aus- tralia.
1959-60	Number ..	892	494	234	372	199	96	1	2,288
	Liabilities £	3,216,889	2,019,268	725,189	801,093	628,876	373,246	14,880	7,779,441
	Assets £	2,001,621	1,182,287	631,121	446,738	412,387	168,030	15,077	4,857,261
1960-61	Number ..	868	489	253	468	206	81	3	2,368
	Liabilities £	3,305,964	1,951,320	952,715	1,343,854	545,522	287,718	7,813	8,394,906
	Assets £	2,342,275	1,297,881	725,656	696,223	327,729	125,340	5,422	5,520,526
1961-62	Number ..	865	587	285	581	238	98	6	2,660
	Liabilities £	3,260,021	2,406,429	1,320,514	1,756,016	863,282	306,171	28,417	9,940,850
	Assets £	2,061,455	1,003,823	1,172,556	1,051,451	492,323	164,418	9,827	5,955,853
1962-63	Number ..	872	625	258	617	241	119	3	2,735
	Liabilities £	3,702,456	2,789,678	1,119,884	1,466,003	1,185,366	422,242	11,992	10,691,621
	Assets £	1,972,361	1,681,579	712,270	793,041	1,070,484	166,254	283	6,396,272
1963-64	Number ..	772	631	271	629	241	128	6	2,678
	Liabilities £	3,886,771	2,996,646	899,824	1,645,268	571,220	272,506	48,641	10,320,876
	Assets £	1,596,227	1,323,563	804,425	1,004,701	254,678	132,187	30,449	5,146,230

(a) Includes the Australian Capital Territory.

§ 9. Police

1. **General.**—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 Commonwealth Police Force (*see* next page) and the police in the Northern Territory and the Australian Capital Territory, the police forces of Australia are under the control of the State Governments, but their members perform certain functions for the Commonwealth Government, such as acting as aliens registration officers and policing various acts and regulations.

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

The strength of the police force in each State and Territory and the number of persons to each police officer are shown in the following table for the years 1960 to 1964. The figures include traffic and water police, probationers, cadets, special constables and women police, but exclude parking police, native trackers (Aboriginals employed in outlying districts in tracking lost persons and persons wanted by the police), female searchers, wardresses and interpreters.

STRENGTH OF POLICE FORCES

30th June—	N.S.W.	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T.	A.C.T.	Aus- tralia
TOTAL STRENGTH									
1960	5,378	3,867	2,647	1,498	1,142	550	103	79	15,264
1961	5,575	4,025	2,673	1,694	1,169	558	105	89	15,888
1962	5,687	4,127	2,748	1,727	1,164	579	125	101	16,258
1963	5,826	4,290	2,798	1,752	1,184	629	137	115	16,731
1964	5,977	4,389	2,818	1,830	1,260	598	149	135	17,156

POPULATION TO EACH POLICE OFFICER

1960	713	739	565	631	632	625	248	680	673
1961	703	728	568	572	630	628	258	661	661
1962	699	725	561	573	648	617	222	650	659
1963	695	712	560	576	652	574	215	639	653
1964	689	713	564	564	627	609	217	596	649

NUMBER OF POLICEWOMEN(a)

1960	54	55	9	34	13	10	..	2	177
1961	58	58	9	35	14	10	5	2	191
1962	57	60	8	39	14	10	2	2	192
1963	57	58	7	39	15	10	6	2	194
1964	58	60	8	45	15	9	7	4	206

NUMBER OF NATIVE TRACKERS(b)

1960	5	1	18	(c)	4	..	32	..	60
1961	5	1	17	(c)	4	..	31	..	58
1962	5	1	16	(c)	4	..	34	..	60
1963	5	1	14	(c)	4	..	30	..	54
1964	4	1	14	..	..	..	32	..	51

(a) Included in total strength shown above.

(b) Not included in total strength shown above.

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

2. The Commonwealth Police Force.—The Commonwealth Police Force commenced operations on 21st April, 1960, and is the principal agency for the enforcement of the laws passed by the Commonwealth Parliament. It is also responsible for the protection of Commonwealth property and interests at various buildings and establishments under the control of the Commonwealth. This force co-ordinates the work of other Commonwealth investigation and law enforcement agencies and acts on behalf of the United Nations Organization for the suppressing of traffic in women and the suppression of obscene literature.

Under the control of the force is the Australian Police College at Manly, N.S.W., 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 force at 31st December, 1964, was 621 policemen and 3 policewomen. Twenty-six guard dogs were available for use by the force and by State police forces as required.

§ 10. Prisons

1. Prisons and Prison Accommodation.—The table below shows the number of prisons in each State and the Northern Territory and the accommodation therein at 30th June, 1963.

PRISONS AND PRISON ACCOMMODATION, 1963

Particulars	N.S.W.	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T.	Australia
Prisons	18	12	7	14	19	1	2	73
Accommodation ..	3,100	2,281	969	1,018	1,026	404	91	8,889

There is no gaol in the Australian Capital Territory, but there is a lock-up attached to the police station at Canberra and another lock-up at Jervis Bay where offenders are held while awaiting trial or serving short sentences not exceeding one week imposed by a Magistrate's Court. Long-term prisoners from the Australian Capital Territory normally serve their sentences in New South Wales prisons.

2. Convicted Prisoners.—The number of convicted prisoners at 30th June of each of the years 1959 to 1963 and the proportion per 10,000 of the population are shown in the following table.

CONVICTED PRISONERS

30th June—	N.S.W. (a)	Vic.	Q'land	S. Aust.	W. Aust.	Tas.	N.T. (b)	Australia
NUMBER								
1959	2,895	(c) 1,539	868	577	477	223	28	6,607
1960	2,903	1,678	865	570	526	195	26	6,763
1961	3,090	1,827	877	592	526	237	41	7,190
1962	3,052	1,844	843	658	573	207	49	7,226
1963	3,050	1,942	879	688	640	228	48	7,475

NUMBER PER 10,000 OF POPULATION

1959	7.6	5.5	5.9	6.3	6.7	6.6	11.6	6.6
1960	7.5	5.9	5.8	6.0	7.3	5.7	10.2	6.6
1961	7.8	6.2	5.8	6.1	7.1	6.8	15.1	6.9
1962	7.5	6.1	5.4	6.6	7.6	5.7	17.6	6.7
1963	7.4	6.3	5.5	6.8	8.3	6.3	16.3	6.8

(a) Includes the Australian Capital Territory. (b) Excludes full-blood Aboriginals. (c) At 31st December.

§ 11. Patents, Trade Marks and Designs

1. **Patents.**—Patents for inventions are granted under the *Patents Act 1952–1962*, which applies to the Commonwealth of Australia and the Territories of Norfolk Island, Papua and New Guinea. The Act is administered by a Commissioner of Patents. The principal fees payable up to and including the grant of a patent amount to £19 10s. Renewal fees are payable as follows:—£5 before the expiration of the fourth year, and an amount progressively increasing by £1 before the expiration of each succeeding year up to the final fee of £16, payable before the expiration of the fifteenth year. An extension of time for six months for payment of a renewal fee may be obtained.

The number of separate inventions in respect of which applications were filed and the number of letters patent sealed during the years 1960 to 1964 are shown in the following table.

PATENTS: AUSTRALIA

Particulars	1960	1961	1962	1963	1964
Applications	11,828	12,901	13,026	13,051	14,134
Applications accompanied by provisional specifications ..	3,772	3,919	3,710	3,557	3,603
Letters patent sealed ..	4,857	4,940	3,866	5,361	5,456

2. **Trade Marks and Designs.**—Under the *Trade Marks Act 1955–1958* 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. A new classification of goods was adopted in 1958, and trade marks registered under repealed Acts are reclassified on renewal.

Under the *Designs Act 1906–1950*, the Commissioner of Patents is also Registrar of Designs.

The following table shows the applications for trade marks and designs received and registered during the years 1960 to 1964.

TRADE MARKS AND DESIGNS: AUSTRALIA

Particulars	1960	1961	1962	1963	1964
Trade marks—					
Received	6,083	6,209	5,920	6,411	6,280
Registered	3,203	4,592	3,558	4,224	3,606
Designs—					
Received	1,283	1,413	1,392	1,425	1,572
Registered	1,507	1,522	1,064	1,251	1,287

§ 12. Copyright

1. **Legislation.**—Copyright is regulated by the *Commonwealth Copyright Act 1912–1950* wherein, subject to modifications relating to procedure and remedies, the British Copyright Act of 1911 has been adopted and scheduled to the Australian law. The Act is administered by the Commissioner of Patents.

Reciprocal protection of unpublished works was extended in 1918 to citizens of Australia and of the United States of America, under which copyright may be secured in the latter country by registration at the Library of Congress, Washington. The Commonwealth Government promulgated a further Order-in-Council which came into operation on 1st February, 1923, and extended the provisions of the Copyright Act to the foreign countries of the Copyright Union, subject to the observance of the conditions contained therein.

2. **Applications and Registrations.**—The following table shows under the various headings the number of applications for copyright lodged and registered for the years 1960 to 1964.

COPYRIGHT: AUSTRALIA

Particulars	1960	1961	1962	1963	1964
Applications lodged—					
Literary	1,042	1,088	1,131	1,236	1,322
Artistic	53	65	31	29	38
International .. .. .	..	..	..	..	..
Applications registered—					
Literary	916	1,005	1,172	1,128	1,246
Artistic	61	37	52	18	29
International .. .. .	..	..	..	..	..

§ 13. Cost of Administration of Law and Order

1. **Expenditure by the States.**—The tables below show the net expenditure (i.e., gross expenditure less receipts from fees, fines, recoups for services rendered, etc.) from Consolidated Revenue during 1963-64 in connexion with the administration of justice, police and prisons in each State.

Because of differing legislative and administrative arrangements in the various States, the activities covered by the figures shown are not exactly the same in each State. Small differences also result from differing accounting practices. However, the figures shown for individual States are comparable from year to year.

NET EXPENDITURE ON LAW AND ORDER, 1963-64

State	Net expenditure			Per head of population		
	Justice	Police	Prisons	Justice	Police	Prisons
	£	£	£	<i>s. d.</i>	<i>s. d.</i>	<i>s. d.</i>
New South Wales	1,645,998	10,139,347	1,630,101	8 1	49 8	8 0
Victoria	760,259	8,559,829	1,146,686	4 11	55 5	7 5
Queensland	306,965	5,123,752	556,582	3 10	65 1	7 1
South Australia(a)	-409,132	2,963,166	487,207	-8 1	58 1	9 7
Western Australia	218,914	2,141,201	345,218	5 7	54 9	8 10
Tasmania	264,405	1,097,975	251,905	14 4	60 0	13 9
Total	2,787,409	30,025,270	4,417,699	5 1	55 0	8 1

(a) Receipts for legal fees and registrations exceed the expenditure under "Justice".

2. Commonwealth Expenditure.—(i) *Attorney-General's Department.* The expenditure shown in the previous table is that incurred by the State Governments. Since the functions of the Commonwealth Government in the administration of law and order differ considerably from those of the States, precise comparison between Commonwealth and State expenditure in this field is not possible. The following table, however, shows the gross expenditure by the Commonwealth Attorney-General's Department during the year 1963-64 on the main services it performs.

**EXPENDITURE BY THE COMMONWEALTH ATTORNEY-GENERAL'S
DEPARTMENT, 1963-64**
(£)

Particulars	Gross expenditure
Administration	469,041
Australian Police College	31,297
Bankruptcy	281,445
Commonwealth Police Force	425,922
Conciliation and arbitration	290,302
Crown Solicitor's Office	571,835
High Court	109,474
Judges' salaries and pensions	215,026
Legal Service Bureau	66,880
Matrimonial causes—grants to organizations	61,150
Patents, trade marks and designs	664,546
Rent	92,393
Repairs and maintenance	27,035
Court Reporting Branch	222,976
Territory courts	170,689
Total	3,700,011

In addition, £264,405 was spent by the Attorney-General's Department on capital works and services.

The items of expenditure shown in the table above are gross. Receipts of the Attorney-General's Department for 1963-64 aggregated £1,108,510, of which revenue on account of Patents, Trade Marks and Designs, and Copyright amounted to £640,414, Bankruptcy £202,418, Court Reporting Branch £157,645, Fees, Fines and Costs of Court £66,051, and Miscellaneous £41,982.

Expenditure and receipts of the Attorney-General's Department for the five years 1959-60 to 1963-64 are shown in the following table.

**EXPENDITURE BY THE COMMONWEALTH ATTORNEY-GENERAL'S
DEPARTMENT**
(£)

Year	Gross expenditure	Receipts	Net expenditure
1959-60	2,534,609	670,048	1,864,561
1960-61	2,699,095	812,493	1,886,602
1961-62	2,913,966	946,934	1,967,032
1962-63	3,249,249	1,039,207	2,210,042
1963-64	3,700,011	1,108,510	2,591,501

(ii) *Police and Prisons.* Expenditure (other than capital) by the Commonwealth Government on police in the Australian Capital Territory (excluding the Commonwealth Police Force shown above) and police and prisons in the Northern Territory for the five years 1959-60 to 1963-64 is shown in the following table.

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

(£)

Year				Northern Territory	Australian Capital Territory ^(a)
1959-60	..	..	..	262,261	168,952
1960-61	..	..	..	322,763	197,275
1961-62	..	..	..	335,485	215,921
1962-63	..	..	..	394,984	263,148
1963-64	..	..	..	451,488	304,973

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