

## JUSTICE AND THE ADMINISTRATION OF LAW

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### JUDICIAL SYSTEM

#### Courts

##### *High Court of Australia*

The Commonwealth of Australia Constitution provides that the judicial power of the Commonwealth should be vested in a 'Federal Supreme Court, to be called the High Court of Australia'. It requires that there shall be a Chief Justice and not less than two other Justices of the High Court. Today there are six other Justices. Originally Justices were appointed for life, however, following an amendment to the Constitution in 1977, Justices appointed after that date retire at seventy years of age.

The High Court was established in 1903 and was originally based in Melbourne. Since 1980, the principal seat of the High Court has been in Canberra, although the Court continues to visit the States regularly.

The Constitution vests two types of jurisdiction in the High Court: original, under sections 75 and 76, and appellate, under section 73. Original jurisdiction is conferred by section 38 of the Judiciary Act in respect of:

- (1) matters arising directly under any treaty;
- (2) suits between States, or between persons suing or being sued on behalf of different States, or between a State and a person suing or being sued on behalf of another State;
- (3) suits by the Commonwealth, or any person suing on behalf of the Commonwealth, against a State, or any person suing or being sued on behalf of a State;
- (4) suits by a State, or any person suing on behalf of a State, against the Commonwealth or any person being sued on behalf of the Commonwealth;
- (5) matters in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth or a Federal court. (However, the High Court shares some of its jurisdiction under this section with the Federal Court of Australia.)

The High Court is empowered by section 44 of the Judiciary Act to remit to another court any section 38 matters. In addition, the High Court is the Commonwealth Court of Disputed Returns under section 354 of the *Commonwealth Electoral Act* 1918.

The appellate jurisdiction of the High Court derives from the Judiciary Act, together with the Federal Court and Family Law Acts, and permits the High Court to grant leave to appeal from decisions of: State Supreme Courts; State courts exercising federal jurisdiction; the Federal Court of Australia; and the Family Court of Australia.

In considering whether to grant an application for leave to appeal from a judgement, the High Court may have regard to any matters that it considers relevant but it shall have regard to whether the application before it involves:

- (1) a question of law that is of public importance, or upon which there are differences of opinion within, or among different courts; or
- (2) should be considered by the High Court in the interests of the administration of justice.

The High Court is the final court of appeal in Australia. No appeal may be brought to the Privy Council from a decision of a Federal Court or from a decision of any State Court exercising Federal jurisdiction, but other decisions of State Courts may be taken on appeal to the Privy Council rather than the High Court (although legislation to abolish that right of appeal is pending). No appeal lies to

the Privy Council from any decision of the High Court given since 8 July 1975, but the Privy Council may determine a question certified by the High Court pursuant to section 74 of the Constitution. In the history of the Court only one such Certificate has been granted – in the matter of the *Colonial Sugar Refinery Co. Limited & Ors v. The Attorney-General for the Commonwealth & Ors* (1912) 15 CLR 182.

#### *Supreme Court*

The Supreme Court is the highest court of the State, having jurisdiction over all matters, civil and criminal, which have not been excluded by statute. It is established by the Constitution Act. The Act provides for the Supreme Court to consist of not more than thirty judges of whom one is the Chief Justice. All judges are appointed by the Governor on the advice of the Executive Council from the ranks of practising barristers of not less than eight years standing, and retire at the age of seventy-two years. At 30 June 1985 the Supreme Court consisted of a Chief Justice and twenty-two Puisne Judges (judges of the Supreme Court other than the Chief Justice are called Puisne Judges).

The Full Court (usually three, but sometimes five judges) hears and determines appeals from single judges of the Supreme Court and from the County Court, and criminal appeals from the Supreme Court and the County Court. There is no general right of appeal in civil matters, on the facts, from a decision of a Magistrates' Court. Nevertheless, a dissatisfied party may apply to a Supreme court judge to review a case on law.

The main activities of the Supreme Court are centred at Melbourne, and judges go 'on circuit' to Ballarat, Bendigo, Geelong, Hamilton, Horsham, Mildura, Sale, Shepparton, Wangaratta, and Warrambool.

Officers of the Supreme Court include the Senior Master, three other masters, the Listing Master, the Taxing Master, and the Registrar of Criminal Appeals, and all must be barristers and solicitors of five years standing.

The masters deal with various matters entrusted to them by Rules of Court made by judges, and the Senior Master is responsible for the investment of money ordered to be paid into Court. The Listing Master arranges the lists of civil cases for hearing, the Taxing Master fixes and settles bills of costs, and the Registrar of Criminal Appeals is the Registrar of the Full Court in respect of criminal appeals from decisions of the Supreme and County Courts.

Other officers of the court are the Prothonotary, the Sheriff, and the Registrar of Probates.

The Prothonotary is virtually the secretary of the Supreme Court. Writs are issued from his office, and he has the custody of documents filed therein. The Sheriff who, like the Prothonotary, is a Public Servant (the masters, the Listing Master, the Taxing Master, and the Registrar of Criminal Appeals are not under the Public Service Act), is responsible for the execution of writs, the summoning of juries, and the enforcement of judgements. There is a Deputy Prothonotary and a Deputy Sheriff at all Supreme Court circuit towns. The Clerk of Courts acts as such in each instance. The Registrar of Probates and the Assistant Registrar of Probates deal with grants of probate and administration of the estates of deceased persons in accordance with section 12 of the *Administration and Probate Act* 1958.

The following tables show particulars of Supreme Court business. In any comparison of the figures with those relating to earlier Victorian figures, other States, or other countries, consideration should be given to the factors described in the following paragraph.

Law in the places compared should be substantially the same, and it should be administered with equal strictness. Proper allowances should also be made for changes in the law, for differences in the age and sex composition of the population structure. Changes in the civil jurisdiction of the courts and in the number of cases settled out of court also result in fluctuations in court business.

#### VICTORIAN SUPREME COURT, RECEIPT OR DISPOSAL OF A CRIMINAL MATTER

Particulars	1979	1980	1981	1982	1983	1984
New court business –						
Net committals received	165	177	185	215	226	98
Judicial dispositions –						
Persons convicted	52	51	36	59	50	25
Persons acquitted	18	32	25	20	17	14
Plea of guilty	118	111	107	124	101	90
Accused found unfit to plead	1	–	3	2	–	–
Failure to appear for trial (absconders)	–	9	7	18	3	5

VICTORIAN SUPREME COURT, RECEIPT OR DISPOSAL OF A CRIMINAL MATTER – *continued*

Particulars	1979	1980	1981	1982	1983	1984
Total number of persons dealt with judicially	189	203	178	223	171	134
Total non-judicial dispositions	4	3	6	2	9	18
Total dispositions	193	206	184	225	180	152

SUPREME COURT, WRITS RECEIVED BY THE SHERIFF, VICTORIA

Year	Possession	<i>Fieri Facias</i>	<i>Venditioni Exponas</i>	Attachment	Order to arrest, including ships	Other	Total
1980	1,226	1,805	12	3	1	15	3,062
1981	1,265	1,441	23	—	4	11	2,744
1982	987	1,199	18	—	7	12	2,223
1983	906	1,180	23	2	6	17	2,134
1984	519	715	14	2	4	15	1,269
1985	558	656	12	3	16	48	1,293

*County Court*

The County Court has an extensive jurisdiction in civil and criminal matters and appeals from Magistrates' Courts and adoptions. The County Court has civil jurisdiction in personal injury actions where the amount claimed does not exceed \$100,000, and in all other actions where the amount claimed does not exceed \$50,000.

The County Court has criminal jurisdiction to hear all indictable offences (i.e. those in which the accused will generally be tried by a jury) apart from treason, murder, attempted murder, and certain other statutory exceptions.

In July 1985 the County Court comprised a Chief Judge (a position created in March 1975 in recognition of the increasing importance of the Court) and 41 judges. An appointee to the County Court bench must have practised as a barrister or solicitor for seven years before appointment and retires at the age of seventy-two years.

The County Court sits continuously at Melbourne and visits seven circuit towns as well as the ten towns also visited by the Supreme Court. County Court judges also preside over a number of tribunals, e.g. the seven divisions of the Workers Compensation Board, the Market Court, and the Police Service Board.

The principal officer of the County Court is the Registrar of the County Court at Melbourne, who occupies a position parallel to that of the Prothonotary of the Supreme Court. He is a Public Servant appointed from among senior Clerks of Courts. The Clerk of Courts at each circuit town is also Registrar of the County Court.

The following table shows particulars of County Court business. In any comparison of the figures with those relating to earlier Victorian figures, other States, or other countries, consideration should be given to the factors described in the following paragraph.

Law in the places compared should be substantially the same, and it should be administered with equal strictness. Proper allowances should also be made for changes in the law, for differences in the age and sex composition of the population, and for changes which may occur over time in the population structure. Changes in the civil jurisdiction of the courts and in the number of cases settled out of court also result in fluctuations in court business.

VICTORIAN COUNTY COURT, RECEIPT OR DISPOSAL OF A CRIMINAL MATTER

Particulars	1979	1980	1981	1982	1983	1984
New court business						
Net committals received	1,580	1,522	1,286	1,359	1,396	1,407
Judicial dispositions –						
Persons convicted	198	224	196	208	224	193
Persons acquitted	178	166	171	192	225	181

VICTORIAN COUNTY COURT, RECEIPT OR DISPOSAL OF A CRIMINAL MATTER – *continued*

Particulars	1979	1980	1981	1982	1983	1984
<i>Judicial dispositions – continued</i>						
Plea of guilty	936	950	893	927	897	880
Accused found unfit to plead	2	2	3	2	–	–
Failure to appear for trial (absconders)	84	74	79	85	64	62
Total number of persons dealt with judicially	1,398	1,416	1,342	1,414	1,410	1,316
Total non-judicial dispositions	78	72	82	96	94	103
Total dispositions	1,476	1,488	1,424	1,510	1,504	1,419

*Magistrates' Courts*

Magistrates' Courts, which are Courts of record and are open Courts, have civil as well as criminal jurisdiction.

They are held at Melbourne, in the metropolitan area, and at many country centres throughout Victoria and are presided over by Stipendiary Magistrates (until 1 June, 1984, also by Justices of the Peace). Two or more divisions of the Court may sit simultaneously at one location. At 30 June 1985, the Magistracy comprised a Chief Stipendiary Magistrate, his Deputy, and seventy-one other magistrates. In the past Stipendiary Magistrates were usually appointed from the ranks of legally qualified Clerks of Courts but the *Magistrates' Courts (Appointment of Magistrates) Act* 1984, which came into force on 17 October 1984, provided that appointments now be made from persons qualified to be admitted or who are admitted, to practice as a barrister and solicitor of the Supreme Court.

The Act also provides that magistrates are no longer subject to the provisions of the *Public Service Act* 1974 and are thus completely independent of the Executive, as are other members of the judiciary.

All Stipendiary Magistrates are appointed coroners and in districts outside the area of the City Coroner they exercise the functions of coroners and hold inquests. Clerks of Courts are officers of the Court who are appointed under the Public Service Act. They perform administrative duties on behalf of the Court and government departments.

Justices of the Peace are appointed from members of the community and act in an honorary capacity up to the age of seventy-two years. They are no longer entitled to hear and determine criminal matters and are limited to the attestation of documents, the issuing of certain types of legal process, and the hearing of bail applications.

A Metropolitan Industrial Court constituted by specially appointed Stipendiary Magistrates hears charges laid under the Victorian Labour and Industry Act and committed in the Melbourne metropolitan area. Outside that area these charges are dealt with by Stipendiary Magistrates in Magistrates' Courts.

The Civil Jurisdiction of Magistrates' Courts comprises causes of action, both contract and tort, up to \$5,000, and to \$10,000 in claims for property damage arising out of the use of a motor vehicle.

There are many other matters of a civil nature vested in Magistrates' Courts by both Commonwealth Acts (e.g. the Income Tax Act) and by Victorian Acts. The Maintenance Act empowers a Stipendiary Magistrate sitting in a Magistrates' Court to hear and determine complaints for maintenance of children of *de facto* relationships. Under the Family Law Act a Stipendiary Magistrate is able to hear and determine applications other than applications for 'principal relief' (i.e. dissolution, or nullity, or declarations as to the validity of marriages).

The criminal jurisdiction includes the hearing of summary offences and indictable offences triable summarily, as well as the conducting of preliminary examinations in regard to indictable offences. Further information on these matters can be found on pages 694-5 of the *Victorian Year Book* 1985.

Numerous statutes vest other powers in Magistrates' Courts or Stipendiary Magistrates, among them being the power to make ejectment orders and the granting of licences.

## MAGISTRATES' COURTS, CASES OF A CIVIL NATURE, VICTORIA

Particulars	1979	1980	1981	1982	1983	1984
Civil cases heard	139,812	141,970	186,747	189,489	169,485	155,639

*Children's Court*

Children's Courts were established in Victoria in 1906, being, in essence, separate proceedings in what are now Magistrates' Courts. Today, the jurisdiction of Children's Courts consists of criminal and welfare proceedings. All criminal offences, other than homicide, may be tried by a Children's Court if the defendant is under seventeen years of age at the time of the commission of the alleged offence and under eighteen years of age at the time of determination. Indictable offences, i.e. those triable before a judge and jury, may be heard with the consent of a defendant (if aged fifteen or more) or his/her parent(s) (if under fifteen). Even with consent to summary determination the Court, in appropriate cases, may remit matters for trial, in which event the Children's Court becomes the preliminary examination (committal) forum. Further information relating to the Children's Court can be found on pages 695-6 of the *Victorian Year Book* 1985.

CHILDREN'S COURT: FINAL APPEARANCES, BY MOST SERIOUS TYPE OF MATTER AND OUTCOME BY SELECTED PENALTY FOR MATTERS PROVEN (a), VICTORIA, 1984

Type of matter	Matters proven				Total	Total matters finalised (b)
	Detention	Recognisance/ bond/ probation	Fine	Total penalties		
Offences against the person	62	213	43	318	378	664
Robbery and extortion	16	21	3	40	41	45
Breaking and entering, fraud, and other theft	644	1,624	237	2,505	3,226	9,483
Property damage, environmental offences	22	126	41	189	256	743
Offences against good order	88	144	136	368	463	1,073
Drug offences	3	22	3	28	35	72
Other offences	—	1	—	1	2	9
<b>Total final appearances</b>	<b>835</b>	<b>2,151</b>	<b>463</b>	<b>3,449</b>	<b>4,401</b>	<b>12,089</b>

(a) This table records multiple penalties imposed for single proven matters.

(b) Includes matters not proven.

*Inquests*

Information regarding inquests can be found on pages 697-8 of the *Victorian Year Book* 1985.

MELBOURNE CORONER'S COURT,  
INQUESTS HELD

Year	Number of inquests held
1979	1,445
1980	1,278
1981	1,450
1982	1,525
1983	1,421
1984	1,277

**Victorian Judiciary**

SUPREME COURT AT 31 JULY 1985, VICTORIA

*Chief Justice*

The Hon. Sir John McIntosh Young, K.C.M.G.

*Puisne Judges*

The Hon. Sir John Erskine Starke  
 The Hon. Mr Justice William Charles Crockett  
 The Hon. Mr Justice William Kaye  
 The Hon. Mr Justice Peter Murphy  
 The Hon. Mr Justice Basil Lathrop Murray, C.B.E.  
 The Hon. Mr Justice Richard Kelsham Fullagar

SUPREME COURT AT 31 JULY 1985, VICTORIA – *continued*


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The Hon. Mr Justice Richard Elgin McGarvie  
 The Hon. Mr Justice Norman Michael O'Bryan  
 The Hon. Mr Justice Robert Brooking  
 The Hon. Mr Justice Kenneth Henry Marks  
 The Hon. Mr Justice Ian Gray  
 The Hon. Mr Justice Alfred Capel King  
 The Hon. Mr Justice Barry Watson Beach  
 The Hon. Sir James Augustine Gobbo  
 The Hon. Mr Justice Alec James Southwell  
 The Hon. Mr Justice Robert Clive Tadgell  
 The Hon. Mr Justice Alastair Bothwick Nicholson  
 The Hon. Mr Justice George Hampel  
 The Hon. Mr Justice William Frederick Ormiston  
 The Hon. Mr Justice John Harber Phillips  
 The Hon. Mr Justice Frank Hollis Rivers Vincent  
 The Hon. Mr Justice Howard Tomez Nathan

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## JUDGES OF THE COUNTY COURT AT 31 JULY 1985, VICTORIA

*Chief Judge*

Glenn Royce Donal Waldron

*Judges*

Clive William Harris	Francis Gilbert Dyett
Eric Edgar Hewitt	Paul Richard Mullaly
Gordon Just	Noel Stuart Tye Murdoch
Roland John Leckie	Alan Elmslie Dixon
Ivan Frederick Charles Franich	William Michael Raymond Kelly
Thomas Bernard Shillito	John King Nixon
Joseph Raymond O'Shea	Gay Vandeleur Tolhurst
James Galvin Gorman	Francis Walsh
Geoffrey Michael Byrne	Cairns William Villeneuve-Smith
Harold George Ogden	Graham Lewis Fricke
Nubert Solomon Stabey	Leonard Sergiusz Ostrowski
Bruce Finlay McNab	Alwynne Richard Owen Rowlands
Gordon Henry Spence	John Thomas Hassett
Stanley George Hogg	Warren Christopher Fagan
Martin Charles Ravech	James Thomas Duggan
John Frederick Bernard Howse	Leo Richard Hart
Leo Sydney Lazarus	Graeme Reuben Glover Crossley
John Leonard Read	Lynette Rochelle Schifitan
Peter Uno Rendit	Thomas Anthony Neesham
Eugene John Cullity	David Anthony Talbot Jones
John Ewen Raymond Bland	

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**Legal profession***Introduction*

Until 1891, the legal profession in Victoria was divided into two separate branches – barristers and solicitors – as it still is in England and New South Wales. Solicitors prepared wills, contracts, mortgages, and transfers of land, and generally instituted legal proceedings. Barristers appeared for litigants and accused persons in court and wrote opinions on legal questions in chambers. A litigant or

accused person could not approach a barrister directly, but only through a solicitor who instructed the barrister for him.

In 1891, the Victorian Parliament amalgamated the two branches, and since then every Victorian lawyer has been admitted to practice as a barrister *and* solicitor, and is entitled to do the work of both. Despite this compulsory legal fusion most lawyers voluntarily continued the segregation of the profession into two separate branches as before, although a few practitioners took advantage of their legal rights. These latter practitioners have their successors today, although most Victorian lawyers, on admission to practice, still choose to make their career in one or other of the two branches – not in both.

Information on the Victorian Bar and the Law Institute of Victoria can be found on pages 698-700 of the *Victorian Year Book* 1985.

#### **Professional committees and agencies**

Details relating to the Chief Justice's Law Reform Committee, the Council of Law Reporting in Victoria, the Council of Legal Education, and the Law Reform Commissioner appear on pages 700-2 of the *Victorian Year Book* 1985.

#### *Australian Institute of Criminology*

The Australian Institute of Criminology was established in 1973 under the provisions of the *Criminology Research Act* 1971-1973. As a statutory organisation its main functions are to undertake research and training activities in regard to crime prevention and correction requirements on both national and State government levels. For such purposes its Board of Management is composed of nominated members from the Commonwealth Government and State Governments. In addition to the publication of an annual report, the Institute issues two quarterly publications, *The Reporter* and an *Information Bulletin of Australian Criminology*. Research reports and proceedings on training activities are also published and distributed throughout Australia and overseas.

#### *Criminology Research Council*

This Council, established under the provisions of the *Criminology Research Act* 1971-1973, is a grant giving body specialising in research in the areas of crime prevention and correction. It is funded partly by the Commonwealth Government and partly by the State Governments, the contributions of the latter being determined on a pro-rata population basis. The Council publishes an annual report, copies of which are available from the Publications Branch of the Australian Institute of Criminology which also provides the Council with administrative and secretarial services.

#### *Commonwealth Legal Aid Council*

The Commonwealth Legal Aid Council established pursuant to the *Commonwealth Legal Aid Act* 1977 as amended, has taken over the research function previously conducted by the Commonwealth Legal Aid Commission which was abolished by the same legislation. The Council is required to ascertain and keep under review the need for legal assistance in Australia in respect of Commonwealth matters, and make recommendations to the Attorney-General as to the most effective, economical, and desirable means of satisfying that need. The Council is also required to make recommendations to the Attorney-General concerning the provision by the Commonwealth Government of financial assistance in respect of the cost of providing legal assistance and the effectiveness of arrangements for the application of that financial assistance provided by the Commonwealth Government. The Council may also make recommendations to the Attorney-General concerning any other matters relating to the provision of legal assistance, upon his request.

#### *Legal Aid Commission of Victoria*

A new system for providing legal aid in Victoria came into operation on 1 September 1981. On that date, the Legal Aid Commission commenced providing legal aid under the *Legal Aid Commission Act* 1978.

The Act defines legal aid as: education, advice, or information in or about the law; any legal services that may be provided by a legal practitioner; duty lawyer services; legal advice; and legal assistance. This is the first time legal aid has been defined by legislation in Victoria and the definition presents a broader concept of legal aid than was previously understood by the term.

Under the Act, duty lawyer services and legal advice are free. Legal services (legal assistance) may be provided to persons unable to pay ordinary legal costs either without charge or in payment of a contribution towards the Commission's costs of providing the services required. Persons are granted

free legal assistance if they have completed an application form and are assessed as being eligible for legal assistance on the basis of their financial situation and the reasonableness of providing assistance in the particular case.

In 1984-85, the Commission made 34,987 grants of legal assistance, gave legal advice to 28,209 people, and conducted 15,881 duty lawyer cases.

#### *Leo Cussen Institute*

The Leo Cussen Institute was incorporated by statute in 1972 at the request of the University of Melbourne, Monash University, the Victorian Bar Council, and the Law Institute of Victoria, for the purpose of providing continuing education for legal practitioners in Victoria and to perform certain functions in connection with legal education. Eight members, two being appointed by each of the founding bodies, comprise the Institute.

The Institute is the primary provider of continuing legal education for legal practitioners in Victoria, which it does mainly by seminars and workshops supplemented by audio tapes, video tapes, and publications. Its activities extend to include members of other professions, such as accountants, medical practitioners, psychologists, and social workers.

The other principal activity of the Institute is to conduct a course of practical training, as an alternative to articles of clerkship, for Law graduates. It is a full-time course of seven months, covering all major areas of practice and taught by practitioners with particular expertise in those areas.

#### *Victoria Law Foundation*

The Victoria Law Foundation was established by the *Legal Profession Practice (Victoria Law Foundation) Act 1967* and commenced operations in 1969. Its constitution is now to be found in the *Victoria Law Foundation Act 1978*. The members of the Foundation are: the Chief Justice (President), the Attorney-General of Victoria, the Chairperson of the Law Reform Commission of Victoria, the President of the Law Institute of Victoria, the Chairman of the Victorian Bar Council, nine other persons appointed by the Governor in Council – three on the nomination of the Attorney-General, three on the nomination of the Law Institute of Victoria, and up to three further persons appointed by co-option by the Foundation. (Of the nine to twelve appointed members, at least six must be lawyers; the remainder may be laymen.)

The activities of the Foundation are to:

- (1) promote legal research relating to law reform in Victoria;
- (2) promote legal education in Victoria;
- (3) establish, maintain, or improve law libraries in Victoria;
- (4) improve the administration of the law in Victoria;
- (5) promote or undertake, within Victoria, community education in law and the legal system, including programmes in schools;
- (6) communicate to legal practitioners and other persons information on the law and matters related to the law; and
- (7) publish or subsidise the publication of material connected with carrying out the objects of the Foundation.

### ADMINISTRATION OF LAW

#### **Law in Victoria**

##### *Law Department*

##### *Administration*

The political head of the Law Department is the Attorney-General under whose direction and control the Department functions. The administrative functions of the Law Department are the responsibility of the Secretary who is a public servant assisted by two Deputy Secretaries.

The following sections provide particulars of the various functions and responsibilities of branches of the Law Department.

##### *Appeal Costs Board*

This Board was established under the *Appeal Costs Fund Act 1964*. The Act makes provision with respect to the liability for costs of certain litigation, provides for payment from consolidated revenue to meet such liability, and makes provision for the appointment of an Appeal Costs Board.



### *Corporate Affairs Office*

The Corporate Affairs Office in conjunction with the National Companies and Securities Commission (NCSC) is responsible for the administration of laws relating to companies and the securities industry. The Office is responsible for the incorporation of companies, the examination and registration of takeover documents and prospectuses, and for conducting investigations. In relation to the securities industry, the Office licenses operators in the industry and conducts investigations.

The Companies Auditors and Liquidators Disciplinary Board was established by the *Companies (Administration) Act* 1981. The Board is responsible for the discipline of registered company auditors and liquidators.

The office is also responsible for the administration of the *Business Names Act* 1962, the *Associations Incorporation Act* 1981 and the *Trustee Companies Act* 1958. In that capacity, the Office registers business names, incorporates not-for-profit associations and oversees the operations of trustee companies. Legislation relating to business names, associations, and trustee companies does not come within the Co-operative Companies and Securities Scheme.

### *Court Reporting Branch*

The Court Reporting Branch arranges the reporting and, as required, the transcripts of proceedings in courts of all jurisdictions in Victoria.

### *Crown Solicitor's Office*

The Crown Solicitor is the solicitor to the Executive Government of Victoria, to some other statutory tribunals and authorities, and in some circumstances, acts as solicitor to officers employed in various government services. He provides a complete range of legal services to clients ranging from the provision of legal advice to the conduct of all manner of prosecutions and litigation and includes also the provision of drafting and conveyancing services. To provide these services, it has been necessary to arrange for the legal officers employed in this office to deal with particular services. In general terms there are now four branches or sections, i.e., an Advisory Branch, a Common Law Branch, a Conveyancing Branch, and a Summary Prosecutions Branch, and three separate office locations in particular departments which provide some, but not all, legal services to those departments.

### *Chief Parliamentary Counsel's Office*

The Chief Parliamentary Counsel's Office originated in Victoria in 1879. The primary work of the Office is to prepare legislation for the Victorian Government. The volume of legislation in Victoria has consistently increased over the last century. The range of subjects upon which legislation is sought has also consistently increased, partly because of developing technology and partly because the Victorian Parliament continually aims at updated and more sophisticated social objectives. The Office may also be called upon to advise the Victorian Government on a wide range of constitutional and parliamentary matters.

### *Patriotic Funds Council of Victoria*

This Council is established and empowered by the *Patriotic Funds Act* 1958 to administer the Act and to regulate fund raising and exercise supervisory control over Victorian patriotic funds, i.e. funds for any purpose in connection with any proclaimed war.

The Council is also required by the *Anzac Day Act* 1960 to recommend the method of distribution of the Anzac Day Proceeds Fund which comprises money raised each year from sporting functions held on Anzac Day.

### *Registrar-General and Registrar of Titles*

The Registrar-General registers memorials of deeds dealing with land alienated by the Crown before 2 October 1862 under the General Law, and which has not yet been converted to the Torrens System. The Registrar-General's Office is also the repository of a wide range of documents requiring registration under various Acts of the Victorian Parliament.

The Registrar-General also holds the office of Registrar of Titles. In that capacity he administers the system of land registration known as the Torrens System, the main feature of which is a certificate of title guaranteed by the Victorian Government. The Registrar of Titles has registered Crown grants of all land alienated by the Crown since 2 October 1862. He deals with the conversion of General Law titles to Torrens titles, by issuing certificates of title in place of the old title deeds. He also registers

transfers, mortgages, and other dealings with land under the Torrens System, in accordance with the provisions of the *Transfer of Land Act 1958*.

#### *Crimes Compensation Tribunal*

This Tribunal was established by the *Criminal Injuries Compensation Act 1972* and is continued by the *Criminal Injuries Compensation Act 1983*. One or more tribunals may be appointed, each consisting of a person of not less than seven years standing as a barrister and solicitor. The Tribunal continues to apply the provisions of the 1972 Act to govern applications arising after its implementation and arising before 21 March, 1984. A limit of \$10,000 in respect of such applications became operative on 28 October 1981.

Apart from this, the 1972 Act was repealed and replaced by the *Criminal Injuries Compensation Act 1983* and the *Criminal Injuries Compensation Regulations 1984* on 21 March 1984 which apply to claims arising on or after that date.

#### *Small Claims Tribunals*

Small Claims Tribunals, established under the *Small Claims Tribunals Act 1973*, provide a simple and inexpensive procedure for consumers to have their disputes settled outside the ordinary courts. They are administered by the registrar under the direction of the Minister for Consumer Affairs. These tribunals are constituted by referees, who are appointed from persons qualified as Stipendiary Magistrates or barristers and solicitors, and were established to hear applications by consumers in respect of claims for payment of amounts up to \$3,000.

Since the tribunals came into operation on 4 February 1974 until 30 June 1985, a total of 29,394 claims have been lodged for determination.

#### SMALL CLAIMS TRIBUNALS, NUMBER OF CLAIMS DETERMINED, VICTORIA

Classification	1983-84		1984-85	
	Number	Per cent	Number	Per cent
Food and beverages	5	0.1	1	—
Clothing, footwear, and drapery	203	5.2	225	5.7
Consumer durables	748	19.3	790	20.0
Motor vehicles and other transport equipment	890	23.0	924	23.4
Building and construction	984	25.4	1,043	26.4
Miscellaneous products	212	5.5	233	5.9
Transport and energy services	82	2.1	134	3.4
Insurance and finance	112	2.9	130	3.3
Real estate and accommodation	141	3.6	36	0.9
Miscellaneous services	500	12.9	433	11.0
<b>Total</b>	<b>3,877</b>	<b>100.0</b>	<b>3,949</b>	<b>100.0</b>

#### *Market Court*

The *Market Court Act 1978* was passed by the Victorian Parliament in December 1978 and introduced on 1 June 1979 as an additional means of preventing unfair trade practices in the market-place. The Court comprises a president, who is a judge of the County Court, and two advisory members — one representing the interests of traders and the other representing the interests of consumers.

Only the Director of Consumer Affairs is able to apply to the Court for an order against a trader who, in the course of his business, repeatedly engages in conduct that is unfair to consumers. The Court is able to make an order against a trader concerned in the application, either totally prohibiting him from engaging in unfair conduct, or prohibiting him from entering into contracts with consumers unless the contracts complied with the terms and conditions specified by the Court. Penalties of up to \$5,000 can be imposed on persons who fail to comply with an order. Provision is also made for the Director to enter into Deeds of Assurance with traders to ensure that they will refrain from engaging in conduct that is unfair to consumers.

#### *Estate Agents Board*

The Estate Agents Board is constituted under the *Estate Agents Act 1980*. It is responsible for the

licensing, monitoring, audit, discipline, and education of the estate agent profession. It investigates complaints from the public and other matters in breach of the Estate Agents Act, regulations, or rules.

The Board also controls the Estate Agents Guarantee Fund, from which financial reimbursement is made to persons who have suffered a pecuniary loss as a result of defalcation by an estate agent.

#### *Office of Finance Brokers, Money Lenders, and Auctioneers*

The Office of Finance Brokers, Money Lenders, and Auctioneers administers the *Finance Brokers Act 1969*, the *Money Lenders Act 1958*, and the *Auction Sales Act 1958*, and receives and investigates complaints about licensees under these Acts.

#### *State Classification of Publications Board*

The State Classification of Publications Board was established under a section of the *Police Offences Act 1958*. Where the Board classifies a publication as a restricted publication, that publication shall be subject to restrictions in relation to its sale, inspection, display, and advertisement.

#### *Office of the Public Trustee*

The Public Trustee, appointed pursuant to the *Public Trustee Act 1958*, manages the estates of mental patients and other persons incapable of managing their own affairs and may, on the order of a judge of the Supreme Court, deal with property of which the owner is unknown or cannot be found.

The Public Trustee may be appointed executor of the Will of any person, or subject to the provisions of the Public Trustee Act, may be appointed Administrator of the estate of any person who dies without leaving a Will. In such cases, he manages the estate and distributes the assets among the beneficiaries according to the law. The Public Trustee may also be appointed a trustee, receiver, guardian, committee, agent, or Attorney in any appropriate case. (Further information on the activities of the Public Trustee can be found in Chapter 21 of this *Year Book*.)

#### *Victorian Taxation Board of Review*

The Victorian Taxation Board of Review was established under the *Taxation Appeals Act 1972*. Its functions are to review decisions made by the following bodies: (1) Commissioner for Land Tax, (2) Controller of Stamp Duties, (3) Commissioner of Probate Duties, (4) Commissioner of Gift Duties, (5) Commissioner of Payroll Tax, and (6) Commissioner for Business Franchises.

#### *Licensing legislation*

The *Liquor Control Act 1968*, came into effect on 1 July 1968, and incorporated a number of recommendations of the Royal Commission of Inquiry on Liquor in Victoria.

The Licensing Court of three members was replaced by the Liquor Control Commission of four members, the chairman being a judge of the Liquor Control Commission. Numerous alterations were made in the licensing law and practice of the State, the new Act completely rewriting the law. All fees taken under the new Act and all fines, penalties, forfeitures, and money incurred or accruing under it are paid into the Licensing Fund into which was also paid the amount standing to the credit of the Licensing Fund established under the *Licensing Act 1958*.

#### *Racing legislation*

The *Racing Act 1958* regulates horse, harness, and greyhound racing. Under the Act the control of harness and greyhound racing is vested in the Harness Racing Board and the Greyhound Racing Control Board, respectively.

Additional legislation, relating to totalizators and the Totalizator Agency Board, is contained in the *Racing (Totalizators Extension) Act 1960*. Also, the *Stamps Act 1958* has provisions relating to the registration fees of bookmakers and bookmakers' clerks, and to the duty payable on betting tickets.

#### *Bankruptcies*

A Bankruptcy Act passed by the Commonwealth Parliament in October 1924, and amended in 1927, was brought into operation on 1 August 1928. It superseded the Bankruptcy and Insolvency Acts of the States, with the exception of any provisions relating to matters not dealt with in the Commonwealth Act. On 4 March 1968, the *Bankruptcy Act 1924-1965* was repealed and the *Bankruptcy Act 1966* came into operation.

Detailed statistics concerning bankruptcies are published in the annual report by the Commonwealth Attorney-General's Department on the operation of the *Bankruptcy Act 1966*.

## Victoria Police

### Introduction

The objectives of the Victoria Police are the preservation of the peace, protection of life and property, and the prevention and detection of crime. The Force provides a visible, State wide presence around the clock, offering assistance to citizens in need of help, whatever the cause. This is consistent with the need to provide an effective, professional service to the people of Victoria, in the fields of crime, traffic, public order, and social welfare.

The collective requirements of policing extend from many mundane matters to problems of a serious nature, and include the organising of, and participating in, search and rescue operations during times of fire, flood, and other major disasters.

### Organisation

The Chief Commissioner controls the operations of the Force and is responsible to the Minister for Police and Emergency Services. He is assisted operationally and administratively by two Deputy Commissioners, seven Assistant Commissioners, and the Director of Administration. The Assistant Commissioner and the Director are each responsible for a department of the Force, namely, operations, crime, traffic, services, personnel, research and development, internal investigations, and administration.

Recent changes in administration within the Force have included the establishment of a Major Incident and Planning Unit encompassing responsibility for co-ordination and maintenance of the State Disaster Plan (DISPLAN), as well as planning for police security operations on such occasions as visits by Royalty, heads of State, and other world dignitaries.

### VICTORIA POLICE, ACTUAL STRENGTH BY DEPARTMENT, 1985 (a)

Department	Strength	
	Number	Per cent
Operations	5,544	63.7
Crime	1,245	14.3
Traffic	742	8.5
Services	496	5.7
Personnel	427	4.9
Chief Commissioner's office	159	1.8
Internal investigations	45	0.5
Research and development	40	0.5
<b>Totals</b>	<b>8,698</b>	<b>100.0</b>

(a) At 30 June.

### Crime trends

There is now considerable evidence to support the view that drug abuse has a significant connection with the prevalence of serious crime. Narcotic addiction, heroin in particular, is expensive and users often resort to income-producing crime such as armed robbery, house burglary, fraud, and theft. The reality of the drugs crime link, and the associated cost to the community, has serious implications for law enforcement agencies.

### SUMMARY OF MAJOR CRIME, VICTORIA

Offence	Reported		Offences cleared		People proceeded against	
	1983-84	1984-85	1983-84	1984-85	1983-84	1984-85
Homicide	112	114	100	99	83	78
Serious assault	2,326	2,496	1,458	1,616	1,160	1,342
Robbery	1,687	1,595	451	481	356	405
Rape	496	527	404	437	129	148
Burglary	86,169	78,710	9,601	9,342	5,703	5,359
Theft	90,400	93,163	18,339	20,025	15,785	14,300
Motor vehicle theft	20,862	22,991	3,505	4,033	2,619	2,748
Fraud, etc.	10,487	23,228	9,016	19,554	2,114	2,476
Other offences	64,721	70,351	42,360	36,886	19,443	20,425

### *Road toll*

Although the primary objectives of the Traffic Department are to reduce the number and severity of vehicular collisions, improve and promote safety for all road users, facilitate the traffic flow, and enforce traffic laws, all operational members participate as their commitment to other policing duties permit. The effective use of available resources, media co-operation, and concentrated effort by police have assisted in making the public more aware of the trauma on the State's roads.

### *Recruitment*

The increase in the authorised strength of the Force to 8,700 necessitated the induction of 634 recruits during 1984-85. An 'open day' was conducted at the Training Academy during February and this was a successful initiative, with some 20,000 members of the public attending.

There was a slight increase in applications to join the Force during the year, although numbers were barely sufficient to offset the increase in authorised strength. Of the applicants called to the entrance examination, 13 per cent were inducted. The most significant area of failure was communication skills.

## **Office of Corrections**

### *Introduction*

The Office of Corrections administers the State's adult correctional services. The Department provides an integrated system of community based and secure custodial services for convicted and unconvicted prisoners in a humane manner.

The 1985 *Victorian Year Book*, page 714, explains in detail the events leading up to the establishment of the Office of Corrections in October 1983.

Emphasis in the first two years has been on developing strategies to update the State's correctional system. Plans have been prepared to redevelop or replace existing facilities and antiquated prisons.

The Office has concentrated on giving effect to the Victorian Government's policy to restrict the use of imprisonment to a sanction of last resort. For this reason community based corrections programmes were expanded State wide on 1 February 1985. The Court Advisory Service was extended and enhanced at the same time to assist sentencing judges and magistrates in choosing the most appropriate sentencing option.

In its third year of operation priority will be given to improving the conditions, quality, and range of services for prisoners and offenders while continuing to develop new facilities and to maintain existing services and institutions.

In particular, emphasis will be on increasing the amount of time prisoners spend out of their cell; improving catering, bedding, clothing, libraries, and furniture for prisoners as well as prisoner visits and hygiene kits. High priority will be given to developing programmes in health, education, drug and alcohol abuse, welfare, and recreation for prisoners and offenders.

### *Prison development and programmes*

#### *Out of cell hours*

A key objective of the Victorian Government is to reduce the time prisoners are confined to their cells from sixteen to ten hours as resources permit. The amount of time prisoners spend out of their cells was extended in J, A, and E Divisions as well as B Division Annexe, H.M. Prison Pentridge, in late 1985.

#### *Catering*

A catering officer was appointed in January 1985 to develop new catering systems and improve nutritional standards. As a result improvements have been made to the meat supply and work has begun on the updating of kitchen and food distribution facilities, particularly at Pentridge. A new menu planning system, designed to provide variety in a cost-effective manner is currently being developed.

#### *Bedding, furniture, and clothing*

During 1985 mattresses throughout the system were upgraded to fire resistant quality. Bed linen and blankets were also improved.

#### *Prisoner education and libraries*

Education services have been extended to all prisoners and induction courses have been held for teachers. Temporary leave has been extended to suitable prisoners for education related activities.

*Visiting*

Contact visits for prisoners have been extended in Pentridge and the Metropolitan Reception Prisons. In the Metropolitan Reception Prison this has been facilitated by the opening of a new contact visit centre. The centre provides a modern, private area for professional visits and more comfortable contact visits.

*Drug and alcohol abuse*

Pilot programmes have been developed for the treatment and assessment of convicted prisoners with substance abuse problems. They will operate in both Fairlea and Metropolitan Reception Prisons. Pilot programmes are also planned for offenders on community based programmes. They will operate initially from a metropolitan community corrections centre and a country centre.

*Welfare and premier orientation*

Welfare staff have been increased in a number of prisons and an out-of-hours welfare service has been established in the Metropolitan Reception Prison.

An orientation and reception programme was developed in 1985 to provide proper orientation of prisoners into the system and to help identify prisoners in distress.

*Recreation*

New activities officer positions have been created to provide special activities staff at all prisons in 1985-86.

*Further developments*

Computerisation has been a major force in the Department over 1985 with the implementation of the prisoner information and management system. Other systems will commence during 1986, the most significant of which is an information system on community based programme offenders.

Work has begun on improving inadequate staff facilities, particularly at Pentridge Prison.

The Office of Corrections is currently being restructured to meet these new priorities. A new Policy and Research Division will be established to work on the priorities mentioned and to provide a close link with the operational divisions. Other changes will be made to increase the efficiency of the Department. Detailed explanations of the functions of each Division, except the new Policy and Research Division, are in the 1985 edition of the *Year Book*.

The following table indicates trends in prisoner population from 1978 to 1985.

## TRENDS IN PRISONER LEGAL STATUS, VICTORIA

Year	Prisoners in custody (a)				
	Convicted		Unconvicted		Total
	number	per cent	number	per cent	
1978	1,454	92.5	118	7.5	1,572
1980	1,599	91.5	149	8.5	1,748
1982	1,577	90.0	176	10.0	1,753
1983	1,827	91.5	169	8.5	1,996
1984	1,665	90.2	180	9.8	1,845
1985	1,655	88.1	223	11.9	1,878

(a) At 30 June.

There are twelve community corrections regions. Prior to 1 February 1985 only six operated attendance centres and one operated the community service order scheme. All regions now provide the five community based orders.

OFFENDERS ON COMMUNITY  
CORRECTIONS PROGRAMME, VICTORIA

Programmes	Offenders for programme (a)		
	1984 (a)	1985 (a)	1986 (b)
Attendance Centre Orders	300	391	574
Probation Orders	3,303	3,731	3,810
Community Service Orders	42	226	516
Parole Orders	829	956	925
Parole Board Pre-Release Orders	150	252	247

(a) At 1 July.

(b) At 1 January.

There are currently twelve Victorian prisons, which are shown in the following table with capacity, prisoners in custody, and the daily average number of prisoners.

**PRISONER NUMBERS, VICTORIA**

Prison	Authorised maximum capacity	Prisoners in custody (a)	Daily average number of prisoners in custody (b)
Ararat	215	213	209
Beechworth	111	111	108
Bendigo	86	84	84
Castlemaine	95	94	91
Dhurringile	72	72	66
Fairlea	60	53	40
Geelong	124	124	119
Metropolitan Reception Prison	566	502	513
Morwell River	78	75	64
Pentridge	472	406	392
Sale	50	51	47
Won Wron	110	104	74

(a) On 1 January, 1986.

(b) During 1984-85.

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