

JUSTICE AND THE ADMINISTRATION OF LAW

INTRODUCTION

This chapter describes the operation of law in Victoria. The workings of the legal system are far-reaching and the relationships sometimes complex. In order to clarify the exposition of the main aspects of law in Victoria, the chapter is divided into three sections:

- (1) The main features of the judicial system, listing the members of the Victorian Judiciary, and outlining the workings of the courts and the legal profession;
- (2) the administration and enforcement of law in Victoria, showing the responsibilities of the main departments and agencies concerned, including the Victoria Police; and
- (3) a special article outlining a specific area of law in Victoria (workers compensation legislation in this edition of the *Victorian Year Book*).

JUDICIAL SYSTEM

Victorian Judiciary

VICTORIA—SUPREME COURT AT 31 JULY 1978

Chief Justice

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

Puisne Judges

The Hon. Sir John Starke
 The Hon. Sir Murray Vincent McInerney
 The Hon. Mr Justice George Hermann Lush
 The Hon. Mr Justice Clifford Inch Menhennitt
 The Hon. Mr Justice Kevin Victor Anderson
 The Hon. Mr Justice William Charles Crockett
 The Hon. Mr Justice William Kaye
 The Hon. Mr Justice Peter Murphy
 The Hon. Mr Justice William Oliver Harris
 The Hon. Mr Justice Basil Lathrop Murray, C.B.E.
 The Hon. Mr Justice Richard Kelsham Fullagar
 The Hon. Mr Justice Kenneth Joseph Jenkinson
 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. Mr Justice James Augustine Gobbo

VICTORIA—JUDGES OF THE COUNTY COURT AT 31 JULY 1978

Chief Judge

Desmond Patrick Whelan, C.B.E.

Judges

Norman Alfred Vickery, M.B.E., M.C., E.D.	Geoffrey Michael Byrne
Dermot William Corson	Harold George Ogden
James Herbert Forrest	Nubert Solomon Stabey
Clive William Harris	Bruce Finlay McNab
Eric Edgar Hewitt	Gordon Henry Spence
Gordon Just	John William Mornane
Roland John Leckie	Stanley George Hogg
Ivan Frederick Charles Franich	Martin Charles Ravech
Thomas Bernard Shillito	John Frederick Bernard Howse
John Philip Somerville	Leo Sydney Lazarus
William Joseph Martin	Victor Herbert Belson
Alec James Southwell	John Leonard Read
Joseph Raymond O'Shea	Peter Uno Rendit
James Galvin Gorman	Eugene John Cullity
Robert John Davern Wright	

Courts*High Court of Australia*

The High Court of Australia was created by the Commonwealth of Australia Constitution which provided for the vesting of the judicial power of the Commonwealth "in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction". The Constitution also provided that the High Court should consist of a Chief Justice and so many other Justices not less than two, as the Commonwealth Parliament prescribes.

In 1903, the High Court was first constituted by the appointment of Sir Samuel Griffith (Chief Justice) and Justices Barton and O'Connor who held the first sittings of the High Court in Melbourne in October 1903 and sat shortly afterwards in Sydney in the same year.

The number of Justices was increased from three to five in 1906 and was again increased in 1912 to seven. In 1933, the number was reduced to six and in 1946, the number of Justices was restored to seven. The Justices are all appointed for life* as is required by the Constitution as it has been interpreted by the High Court.

The Constitution provided for the High Court to have jurisdiction to hear and determine appeals from all judgments, decrees, orders, and sentences of Justices of the High Court exercising original jurisdiction of that Court, or of any other federal court. It also provided that the High Court has the like jurisdiction to hear appeals from the Supreme Court of a State. The High Court thus became part of the hierarchy in the judicial system of each State. The Constitution provided also for the High Court to exercise original jurisdiction in matters arising under any treaty; affecting consuls or other representatives of other countries; in which the Commonwealth or a person being sued on behalf of the Commonwealth is a party; and between residents of different States or between a State and a resident of another State, or in which a writ of mandamus† or prohibition or injunction is sought against an officer of the Commonwealth.

* A referendum was approved in May 1977 allowing legislation for a retirement age for Justices. This legislation means that future Justices appointed will retire at 70 years of age.

† A form of writ to compel a person or body to carry out the duty which they are required to perform by law.

The jurisdiction of the High Court has been exercised over the years to a considerable degree, in particular by the use of prerogative writs of prohibition and mandamus in relation to Commonwealth officers, and to control the jurisdiction of tribunals constituted under Commonwealth legislation, e.g., Commonwealth Court of Conciliation and Arbitration (before 1956), Commonwealth Conciliation and Arbitration Commission, and other bodies.

In addition, the Constitution provided that the Commonwealth Parliament may make laws conferring jurisdiction on the High Court in any matter arising under the Constitution or involving its interpretation, arising under any laws made by the Commonwealth Parliament, and in admiralty or in maritime matters. Pursuant to the last-named provision the Commonwealth Parliament has in section 38 of the *Judiciary Act* 1903 conferred exclusive jurisdiction upon the High Court in:

“(a) Matters arising directly under any treaty;

(b) 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;

(c) Suits by the Commonwealth, or any person suing on behalf of the Commonwealth, against a State, or any person being sued on behalf of a State;

(d) 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;

(e) Matters in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth or a federal court.”

As yet it has not conferred jurisdiction on the High Court in matters arising under any laws made by the Commonwealth Parliament but has done so in relation to a number of particular statutes such as the Patents Act, the Trade Marks Act, and the Life Insurance Act. However, this process is being reversed and jurisdiction in these areas transferred from the High Court to other Federal Courts and Tribunals and to State Courts exercising Federal jurisdiction. In addition, jurisdiction has been conferred on the High Court under the Commonwealth Electoral Act whereby a Justice of the High Court sits as a Court of Disputed Returns.

However, although original jurisdiction has been exercised to a considerable extent over the years, the primary functions of the High Court have been, first, interpreting the Commonwealth of Australia Constitution, and second, hearing and deciding appeals from judgments of the Courts of the States and the Courts of Territories.

The Constitution provided also that no appeals should be taken to the Privy Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth or those of any State or States or as to the limits *inter se* of the constitutional powers of any two or more States, unless the High Court decides that this question is one that should be determined by Her Majesty in Council. Under this particular section, over the years, a number of applications have been made to the High Court for such a certificate but in only one instance has a certificate subsequently been granted.

In 1968, the *Privy Council (Limitation of Appeals) Act* 1968 enacted that special leave to appeal to Her Majesty in Council from a decision of the High Court may be asked only in a matter where the decision of the High Court was given on appeal from the Supreme Court of a State otherwise than in the exercise of federal jurisdiction and did not involve the application or interpretation of the Constitution, or of a law made by the Commonwealth Parliament, or of an instrument made under a law made by the Commonwealth Parliament. The provisions of this Act do not apply in respect of a decision given in a proceeding commenced before the commencement of the Act, namely, 1 September 1968. Matters commenced after that date which involve federal jurisdiction may not be taken on appeal to the Privy Council.

The right of appeal has now been removed in these matters by the *Privy Council (Limitations of Appeals) Act* 1968 and the *Privy Council (Appeals from the High Court) Act* 1975 unless the proceedings were commenced before 8 July 1975.

Section 10 of the *Judiciary Act* 1903 provided that the principal seat of the High Court should be at the seat of government and that until such time as the seat of government was established the principal seat of the High Court should be at such place as the Governor-General from time to time appointed.

By minute dated 2 October 1903, the Governor-General ordered and declared that until the seat of government should be established or until otherwise ordered the principal seat of the High Court should be at Melbourne. In 1926, section 10 of the Judiciary Act was amended to provide that on and after a date to be fixed by proclamation the principal seat of the High Court should be at the seat of government and that until the date so fixed the principal seat of the High Court should be at such place as the Governor-General from time to time appointed. Since 13 August 1973, the principal seat of the High Court has been located at Sydney.

Supreme Court

The Supreme Court, as its name implies, is the supreme 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. It is the counterpart of the English Supreme Court of Judicature which embodies the Court of Appeal and the High Court. The latter is divided into three divisions—Queen's Bench, Chancery, and Family. The Constitution Act provides for the Supreme Court to consist of not more than twenty-one judges of whom one is the Chief Justice. All judges are appointed from the ranks of practising barristers of not less than eight years standing, and retire at the age of 72 years. The Supreme Court consisted of a Chief Justice and 20 puisne judges at 1 July 1978. (Judges of the Supreme Court other than the Chief Justice are called puisne judges.)

The Full Court (usually three, and 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 from 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 the case, *on the law*.

The main activities of the Supreme Court are centred at Melbourne, but judges go "on circuit" to Ballarat, Bendigo, Geelong, Hamilton, Horsham, Mildura, Sale, Shepparton, Wangaratta, and Warrnambool. Some of these circuit towns are visited three times a year, and every one of them is visited more than once a year.

The officers of the Supreme Court are the Masters (four in 1978), the Listing Master, the Taxing Master, the Prothonotary, the Sheriff, and the Registrar of Probates. The Masters deal with various matters entrusted to them by Rules of Court made by the judges, and are responsible for the investment of moneys ordered to be paid into court. The Listing Master arranges the lists of cases for hearing. The Taxing Master fixes and settles bills of costs. The Masters, the Listing Master, and the Taxing Master must be barristers and solicitors of five years standing, or, in the case of the Taxing Master, of equivalent experience. 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 and the Taxing Master are not under the Public Service Act), is responsible for the execution of writs, the summoning of juries, and the enforcement of judgments. 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*.

Civil proceedings in the Supreme Court are commenced by the plaintiff issuing, through the Prothonotary's office, a writ (properly called a writ of summons) against the defendant from whom he claims damages or other remedy. The writ is a formal document by which the Queen commands the defendant, if he wishes to dispute the plaintiff's claim, to "enter an appearance" within a specified time; otherwise judgment may be given in his absence. A defendant who desires to defend an action files a "memorandum of appearance" in the Prothonotary's office.

When the matter comes before the Supreme Court, it is desirable that the controversial questions between the two parties should be clearly defined. This clarification is obtained by each side in turn delivering documents, stating its own case, and answering that of its opponent. Such statements and answers are called "pleadings", and this method of

clarifying the issues has been practised in England from the earliest times, and is as ancient as any part of English procedural law.

Ultimately the action comes to trial before a judge alone, or a judge and jury. When a judge sits alone he decides questions of both law and fact. If there is a jury, the judge directs them on the law; the jury decides the facts. The judgment of the Supreme Court usually provides for payment by the loser of the opponent's legal costs. Normally these are assessed by the Taxing Master. The unsuccessful party in the action has the right of appeal to the Full Court. If a successful plaintiff fails to obtain from the defendant money which the latter has been ordered to pay, he may issue a writ of *feri facias*, addressed to the Sheriff and directing him to sell sufficient of the defendant's real and personal property to satisfy the judgment.

Criminal proceedings are commenced in the Supreme Court by the filing of a "presentment" in the name of the Attorney-General and signed by him or by the Solicitor-General or by one of the Crown Prosecutors.

In most cases an appeal lies as of right to the High Court of Australia from decisions of the Supreme Court, but in others it can only be taken with the leave or special leave of the High Court. In some cases an appeal may be taken to the Privy Council from a decision of the Supreme Court but the leave of the Court must first be obtained. (With respect to appeals to the Privy Council from the High Court, see page 661).

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 \$12,000, and in all other personal actions where the amount claimed does not exceed \$6,000.

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 1978, the County Court comprised a Chief Judge (a position created in March 1975 in recognition of the increasing importance of the Court) and 29 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 72 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 four divisions of the Workers Compensation Board, the Industrial Appeals Court, and the Police Service Board.

An indication of the distribution of the work performed by County Court judges in a typical month is as follows: criminal cases, 10 judges; civil juries, 2 judges; civil causes, 5 judges; appeals, 2 judges; chambers and adoptions, 1 judge; circuit, 5 judges; Workers Compensation Board, 4 judges; and other tribunals, 2 judges.

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.

Supreme and County Court statistics

The following tables show particulars of Supreme Court and 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.

VICTORIA—SUPREME COURT: CIVIL BUSINESS

Particulars	1973	1974	1975	1976	1977
Causes entered—					
For assessment of damages	28	22	25	22	36
For trial	2,215	1,596	1,575	1,243	1,299
Number of cases listed for trial—					
By juries of six	1,596	1,280	937	802	1,150
By a Judge	1,042	1,066	575	644	682
Verdicts returned for—					
Plaintiff	165	163	111	180	148
Defendant	26	21	19	15	18
Amount awarded (\$'000)	1,612	1,630	1,683	2,488	1,815
Writs of summons issued	4,735	5,214	6,407	6,264	7,327
Other original proceedings	109	152	190	175	137
Appellate proceedings (other than criminal appeals) heard and determined—					
By Full Court	66	47	73	82	76
By a Judge	87	99	140	155	120

VICTORIA—SUPREME COURT: WRITS RECEIVED BY THE SHERIFF

Year	Sovereign's writs against person and property	Subjects' writs against—		Total
		The person	Property	
1974	6	21	1,196	1,223
1975	1	8	1,398	1,407
1976	1	5	1,467	1,473
1977	19	9	1,849	1,877
1978	14	3	1,307	1,324

VICTORIA—COUNTY COURT: MELBOURNE BUSINESS

Particulars	1973	1974	1975	1976	1977
Summonses issued	26,402	30,517	31,180	32,669	39,611
Warrants of execution issued	7,691	8,771	10,289	10,261	14,559
Appeals from Magistrates' Courts lodged	3,448	3,498	3,653	3,768	4,003
Adoption applications filed	1,324	1,045	837	810	817
Civil trials heard	1,462	2,608	2,646	3,003	3,143
Criminal trials heard	2,076	1,674	1,792	(a) 460	1,352

(a) The number of trials heard in 1976 declined because of an unusual number of lengthy hearings.

VICTORIA—SUPREME AND COUNTY COURTS: NUMBER OF PERSONS CONVICTED: NATURE OF PENALTY

Result of hearing	1973			1974			1975		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
Fined	220	8	228	256	10	266	261	11	272
Imprisoned—									
Under 3 months	46	2	48	49	1	50	62	2	64
3 months and under 6 months	64	1	65	69	1	70	30	1	31
6 months and under 12 months	125	2	127	134	3	137	91	—	91
12 months	121	—	121	86	2	88	102	2	104
Over 12 months and under 2 years	81	1	82	67	—	67	36	—	36
2 years and over	214	6	220	213	1	214	216	3	219
Death sentence (a)	—	—	—	—	—	—	—	—	—
Placed on probation	303	32	335	212	25	237	204	26	230
Released on recognisance or bond	438	50	488	363	61	424	300	26	326
Other	124	3	127	97	1	98	61	—	61
Total	1,736	105	1,841	1,546	105	1,651	1,363	71	1,434

(a) The death sentence, which has not been carried out in Victoria since 1967, was repealed in April 1975.

VICTORIA—SUPREME AND COUNTY COURTS:
AGES OF PERSONS CONVICTED

Age group (years)	1973			1974			1975		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
Under 20	403	17	420	296	13	309	237	16	253
20-24	541	32	573	551	32	583	464	20	484
25-29	280	24	304	272	26	298	240	10	250
30-34	180	12	192	139	12	151	145	10	155
35-39	122	3	125	110	7	117	83	5	88
40-44	83	6	89	65	6	71	73	2	75
45-49	60	5	65	57	4	61	55	4	59
50-54	30	2	32	26	2	28	34	2	36
55-59	18	2	20	20	2	22	19	1	20
60 and over	19	2	21	10	1	11	13	1	14
Total	1,736	105	1,841	1,546	105	1,651	1,363	71	1,434

VICTORIA—SUPREME AND COUNTY COURTS: NUMBER OF PERSONS
CONVICTED OF SPECIFIC OFFENCES

Offence (a)	1973			1974			1975		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
Against the person—									
Murder	4	2	6	8	1	9	14	—	14
Attempted murder	3	2	5	3	—	3	3	—	3
Manslaughter	22	3	25	14	2	16	6	—	6
Manslaughter with motor vehicle	—	—	—	—	—	—	2	—	2
Culpable driving causing death	17	—	17	18	—	18	13	—	13
Assault with grievous bodily harm	92	2	94	63	5	68	70	3	73
Assault	37	1	38	21	1	22	30	—	30
Carnal knowledge (under 16 years)	170	—	170	154	—	154	141	—	141
Carnal knowledge (16 and under 18 years)	1	—	1	3	—	3	—	—	—
Incest	10	—	10	11	1	12	10	—	10
Rape	35	—	35	60	—	60	23	—	23
Indecent assault on female	44	—	44	40	—	40	44	—	44
Indecent assault on male	28	—	28	28	—	28	27	—	27
Unnatural offences	40	—	40	20	—	20	18	—	18
Bigamy	4	—	4	9	3	12	6	—	6
Other offences against the person	9	2	11	16	2	18	19	—	19
Total	516	12	528	468	15	483	426	3	429
Against property—									
Robbery	128	6	134	120	2	122	126	8	134
Breaking and entering—									
Houses	267	18	285	191	16	207	107	9	116
Shops	71	1	72	55	—	55	40	—	40
Other	73	3	76	56	2	58	36	—	36
Larceny (excluding motor vehicles and cattle and sheep)	110	18	128	114	20	134	80	14	94
Illegal use and larceny of motor vehicles	71	1	72	64	1	65	64	—	64
Cattle and sheep stealing	13	1	14	5	—	5	2	—	2
Other offences against property	94	8	102	90	8	98	99	9	108
Total	827	56	883	695	49	744	554	40	594
Fraud, forgery, and false pretences	128	21	149	118	27	145	118	18	136
Miscellaneous offences (b)	265	16	281	265	14	279	265	10	275
Grand total	1,736	105	1,841	1,546	105	1,651	1,363	71	1,434

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) Includes breach of bond, probation, etc.

**VICTORIA—SUPREME AND COUNTY COURTS: PERSONS CONVICTED
OF SPECIFIC OFFENCES: NATURE OF PENALTY, 1974**

Offence (a)	Fined	Im- prison- ed twelve months and under	Im- prison- ed over twelve months	Death sen- tence (b)	Sen- tence sus- pended on enter- ing a bond	Placed on pro- bation	Other	Total
Against the person—								
Murder	—	—	2	—	—	—	7	9
Attempted murder	—	—	1	—	—	2	—	3
Manslaughter	—	—	13	—	2	1	—	16
Manslaughter with motor vehicle	—	—	—	—	—	—	—	—
Culpable driving causing death	2	4	11	—	—	1	—	18
Assault with grievous bodily harm	12	9	23	—	16	7	1	68
Assault	2	6	3	—	4	3	4	22
Carnal knowledge (under 16 years)	45	16	3	—	60	25	5	154
Carnal knowledge (16 and under 18 years)	1	1	1	—	—	—	—	3
Incest	—	1	4	—	4	3	—	12
Rape	1	—	45	—	3	5	6	60
Indecent assault on female	6	5	4	—	17	7	1	40
Indecent assault on male	—	5	4	—	14	4	1	28
Unnatural offences	—	1	14	—	2	2	1	20
Bigamy	—	—	—	—	12	—	—	12
Other offences against the person	2	5	2	—	5	2	2	18
Total	71	53	130	—	139	62	28	483
Against property—								
Robbery	4	18	58	—	10	22	10	122
Breaking and entering—								
Houses	17	59	22	—	48	41	20	207
Shops	—	24	12	—	11	4	4	55
Other	9	14	6	—	13	10	6	58
Larceny (excluding motor vehicles and cattle and sheep)	27	27	8	—	57	14	1	134
Illegal use and larceny of motor vehicles	6	18	4	—	11	14	12	65
Cattle and sheep stealing	2	—	—	—	—	3	—	5
Other offences against property	29	16	4	—	28	19	2	98
Total	94	176	114	—	178	127	55	744
Fraud, forgery, and false pretences	19	37	13	—	58	18	—	145
Miscellaneous offences (c)	82	79	24	—	49	30	15	279
Grand total	266	345	281	—	424	237	98	1,651

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) The death sentence, which has not been carried out in Victoria since 1967, was repealed in April 1975.

(c) Includes breach of bond, probation, etc.

**VICTORIA—SUPREME AND COUNTY COURTS: PERSONS CONVICTED
OF SPECIFIC OFFENCES: NATURE OF PENALTY 1975**

Offence (a)	Fined	Im- prison- ed twelve months and under	Im- prison- ed over twelve months	Death sen- tence (b)	Sen- tence sus- pended on enter- ing a bond	Placed on pro- bation	Other	Total
Against the person—								
Murder	—	—	10	—	—	—	4	14
Attempted murder	—	—	1	—	—	—	2	3
Manslaughter	—	1	5	—	—	—	—	6
Manslaughter with motor vehicle	—	—	2	—	—	—	—	2
Culpable driving causing death	2	4	5	—	1	—	1	13
Assault with grievous bodily harm	5	12	30	—	16	7	3	73
Assault	16	5	2	—	3	3	1	30
Carnal knowledge (under 16 years)	51	16	8	—	35	30	1	141
Carnal knowledge (16 and under 18 years)	—	—	—	—	—	—	—	—
Incest	1	—	7	—	1	1	—	10
Rape	1	1	17	—	—	1	3	23
Indecent assault on female	11	9	2	—	14	8	—	44
Indecent assault on male	5	6	5	—	7	2	2	27
Unnatural offences	1	4	6	—	3	3	1	18
Bigamy	1	2	—	—	3	—	—	6
Other offences against the person	2	3	5	—	4	5	—	19
Total	96	63	105	—	87	60	18	429

VICTORIA—SUPREME AND COUNTY COURTS: PERSONS CONVICTED OF SPECIFIC OFFENCES: NATURE OF PENALTY 1975—*continued*

Offence (a)	Fined	Im- prison- ed twelve months and under	Im- prison- ed over twelve months	Death sen- tence (b)	Sen- tence sus- pended on enter- ing a bond	Placed on pro- bation	Other	Total
Against property—								
Robbery	5	13	75	—	11	11	19	134
Breaking and entering—								
Houses	11	32	13	—	24	32	4	116
Shops	7	17	5	—	8	3	—	40
Other	6	9	9	—	7	5	—	36
Larceny (excluding motor vehicles and cattle and sheep)	17	19	7	—	35	15	1	94
Illegal use and larceny of motor vehicles	1	15	7	—	15	22	4	64
Cattle and sheep stealing	1	—	—	—	—	1	—	2
Other offences against property	34	18	5	—	24	25	2	108
Total	82	123	121	—	124	114	30	594
Fraud, forgery, and false pretences	32	22	8	—	50	23	1	136
Miscellaneous offences (c)	62	82	21	—	65	33	12	275
Grand total	272	290	255	—	326	230	61	1,434

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) The death sentence, which has not been carried out in Victoria since 1967, was repealed in April 1975.

(c) Includes breach of bond, probation, etc.

VICTORIA—SUPREME AND COUNTY COURTS: AGES OF PERSONS CONVICTED OF SPECIFIC OFFENCES, 1974

Offence (a)	Persons convicted—age group (years)							Total
	17 and under	18—19	20—24	25—29	30—34	35—39	40 and over	
Against the person—								
Murder	—	1	1	2	2	2	1	9
Attempted murder	1	—	1	—	—	1	—	3
Manslaughter	1	—	5	2	5	—	3	16
Manslaughter with motor vehicle	—	—	—	—	—	—	—	—
Culpable driving causing death	—	—	9	4	3	—	2	18
Assault with grievous bodily harm	2	6	26	13	6	3	12	68
Assault	1	5	9	4	1	1	1	22
Carnal knowledge (under 16 years)	2	65	67	15	2	1	2	154
Carnal knowledge (16 and under 18 years)	—	—	—	—	2	1	—	3
Incest	—	—	1	1	1	2	7	12
Rape	4	10	30	9	3	2	2	60
Indecent assault on female	—	7	11	8	1	5	8	40
Indecent assault on male	—	—	8	5	5	2	8	28
Unnatural offences	2	1	8	2	1	2	4	20
Bigamy	—	—	1	1	4	3	3	12
Other offences against the person	—	4	4	4	1	3	2	18
Total	13	99	181	70	37	28	55	483
Against property—								
Robbery	2	21	60	19	9	3	8	122
Breaking and entering								
Houses	13	56	76	30	11	11	10	207
Shops	1	7	18	16	3	8	2	55
Other	—	15	22	7	2	6	6	58
Larceny (excluding motor vehicles and cattle and sheep)	—	13	34	34	23	7	23	134
Illegal use and larceny of motor vehicles	1	19	25	13	2	2	3	65
Cattle and sheep stealing	—	2	2	—	—	1	—	5
Other offences against property	3	5	26	18	14	9	23	98
Total	20	138	263	137	64	47	75	744
Fraud, forgery, and false pretences	1	3	29	33	23	24	32	145
Miscellaneous offences (b)	3	32	110	58	27	18	31	279
Grand total	37	272	583	298	151	117	193	1,651

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) Includes breach of bond, probation, etc.

VICTORIA—SUPREME AND COUNTY COURTS: AGES OF PERSONS
CONVICTED OF SPECIFIC OFFENCES, 1975

Offence (a)	Persons convicted—age group (years)							Total
	17 and under	18—19	20—24	25—29	30—34	35—39	40 and over	
Against the person—								
Murder	—	2	3	3	2	3	1	14
Attempted murder	—	—	1	1	—	—	1	3
Manslaughter	—	—	3	1	1	—	1	6
Manslaughter with motor vehicle	—	—	—	1	—	1	—	2
Culpable driving causing death	—	2	4	1	4	—	2	13
Assault with grievous bodily harm	1	7	24	20	4	5	12	73
Assault	1	4	10	4	3	3	5	30
Carnal knowledge (under 16 years)	9	45	62	13	4	3	5	141
Carnal knowledge (16 and under 18 years)	—	—	—	—	—	—	—	—
Incest	—	—	1	1	—	2	6	10
Rape	—	5	11	4	1	2	—	23
Indecent assault on female	—	3	15	4	4	3	15	44
Indecent assault on male	—	2	5	4	4	2	10	27
Unnatural offences	—	1	2	1	5	3	6	18
Bigamy	—	—	—	1	2	—	3	6
Other offences against the person	—	1	10	1	1	2	4	19
Total	11	72	151	60	35	29	71	429
Against property—								
Robbery	3	32	58	22	10	5	4	134
Breaking and entering—								
Houses	2	21	53	20	6	3	11	116
Shops	—	3	13	15	3	2	4	40
Other	—	8	9	9	6	2	2	36
Larceny (excluding motor vehicles and cattle and sheep)	—	10	20	20	16	2	26	94
Illegal use and larceny of motor vehicles	1	22	22	10	5	2	2	64
Cattle and sheep stealing	—	—	1	—	1	—	—	2
Other offences against property	1	26	37	12	12	11	9	108
Total	7	122	213	108	59	27	58	594
Fraud, forgery, and false pretences	—	7	25	29	27	13	35	136
Miscellaneous offences (b)	3	31	95	53	34	19	40	275
Grand total	21	232	484	250	155	88	204	1,434

(a) With the exception of murder, for which separate figures of attempted murder are shown, all offences include attempts.

(b) Includes breach of bond, probation, etc.

Magistrates' Courts

Magistrates' Courts are held at Melbourne, in most suburbs, and at most country centres throughout Victoria. They are presided over by stipendiary magistrates sitting without justices, or by two or more justices of the peace, but not exceeding five. Two or more divisions of the Court may sit simultaneously. Stipendiary magistrates are appointed from the ranks of Clerks of Courts. They must have passed qualifying examinations and have had practical experience as such clerks for ten years. In certain circumstances, barristers or solicitors may also be appointed. They are members of the Victorian Public Service and as such retire on or before the age of 65 years but are completely independent of the Executive, as are other members of the judiciary.

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 act in an honorary capacity and are appointed from members of the community, are either male or female, and may exercise judicial functions up to the age of 72 years.

There are more than 60 stipendiary magistrates throughout Victoria, but a much larger number of justices, and some 49 circuits over which stipendiary magistrates officiate, comprising over 200 courts which they visit periodically. A number of stipendiary magistrates are stationed in Melbourne at the Magistrates' Court. 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.

In addition, three Traffic Courts have been established in the Melbourne metropolitan area to hear traffic charges laid by members of the Mobile Traffic Branch, and Magistrates' Courts are set aside for that purpose. 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.

Magistrates' Courts which are Courts of Record and are open courts have civil as well as criminal jurisdictions.

The civil jurisdiction comprises the ordinary jurisdiction, i.e., generally complaints for causes of action based on simple contracts up to \$1,000, which may be heard by courts consisting of justices as well as stipendiary magistrates. The special jurisdiction exercised by stipendiary magistrates is much wider, comprising causes of action in both contract and tort up to \$3,000 (with a few exceptions). These are called "causes of action determinable summarily". The procedure is somewhat similar to that of the County Court.

In both jurisdictions proceedings may be instituted by ordinary complaint or by way of default summons (except that in special jurisdictions this is limited to a liquidated amount). Default summonses provide a simpler, more convenient, and readier procedure in that orders may be made without the appearance of the complainant or the hearing of any evidence unless the defendant gives a notice of defence.

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 as 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.

Summary offences, the largest part of the criminal jurisdiction, comprise all offences under any Act, or breaches of any Act, which in the statute are stated to be prosecuted summarily or before justices, etc., or where no means of enforcement is provided in any Act. This excludes offences declared to be felonies, misdemeanours, or indictable offences. Some of these may only be heard by stipendiary magistrates. In addition, Commonwealth laws have vested Federal jurisdiction in Magistrates' Courts constituted by stipendiary magistrates and those courts so vested hear offences against Commonwealth Acts and also conduct preliminary examinations for indictable offences against Commonwealth laws. Some summary offences, such as parking and some traffic offences, may be dealt with by what is called "alternative procedure" which empowers a stipendiary magistrate in certain circumstances to deal with them in chambers on an affidavit of evidence without the appearance of the informant if the defendant does not elect to appear.

With regard to indictable offences triable summarily, Magistrates' Courts have been given power to deal summarily with a number of the less serious indictable offences including theft and kindred offences up to a value of \$2,000 and some charges of wounding and assault. The procedure laid down ensures that the defendant shall not be deprived of the right to trial by jury if he so desires, as the Court cannot deal with them summarily unless he consents. The preliminary examination of an indictable offence may be held either in the Magistrates' Court or by one or more justices out of court. It is not deemed to be an open court, and publication of the proceedings may be prohibited if it is considered that publication would prejudice the trial. All the evidence is put into writing or recorded and if the court or a justice is satisfied there is sufficient evidence to warrant the defendant being tried or raises a strong or probable presumption of guilt it shall direct him to be tried in either the Supreme Court or the County Court, and may commit him to gaol or release him on bail, or if not so satisfied, shall discharge him. Children's Courts (see pages 671-4) hear all offences by juveniles under the age of 17 years.

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

The following tables show particulars of Magistrates' Courts 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.

VICTORIA—MAGISTRATES' COURTS: CASES OF A CIVIL NATURE

Type of case	1971	1972	1973	1974	1975
Civil cases—					
Number heard	213,640	213,167	184,761	174,329	174,903
Other cases—					
Garnishee	15,382	11,785	10,102	5,284	4,418
Fraud orders	9,480	10,479	10,195	7,392	6,572
Maintenance orders	10,014	10,141	11,390	12,454	12,703
Licences and certificates	27,453	28,557	28,773	27,052	26,990
Show cause summonses	38,847	34,123	26,549	24,623	23,110
Landlord and tenant	4,878	4,671	4,295	3,351	2,674
Miscellaneous	52,739	46,564	37,725	31,384	28,477

VICTORIA—MAGISTRATES' COURTS: ARREST CASES SUMMARILY DISPOSED OF: NUMBER OF CHARGES AND NATURE OF OFFENCE

Nature of offence	1974				1975			
	Convicted		Dismissed, withdrawn, or struck out		Convicted		Dismissed, withdrawn, or struck out	
	Males	Females	Males	Females	Males	Females	Males	Females
Against the person	3,496	124	2,137	57	3,280	124	2,068	86
Against property	10,780	2,434	1,515	232	11,276	2,821	1,475	276
Fraud, forgery, and false pretences	1,838	626	127	25	2,213	560	161	49
Against good order (a)	7,101	598	1,665	114	7,036	717	1,636	111
Driving offences	10,255	126	2,359	33	19,562	330	2,965	64
Miscellaneous (b)	2,772	327	486	81	3,499	400	619	82
Total	36,242	4,235	8,289	542	46,866	4,952	8,924	668

(a) This table excludes arrests for drunkenness. In 1975, 30,662 persons were charged with drunkenness; the corresponding figure for 1974 was 31,518. In most cases the result of the hearing was a fine, with the alternative of imprisonment for default.

(b) Includes escaping from legal custody, offences concerning drugs, bribery, conspiracy, breach of bond, probation, etc.

NOTE. Statistics in this table have been compiled from records of the Victoria Police. (See footnote to summons cases table on page 671.)

VICTORIA—MAGISTRATES' COURTS: ARREST CASES SUMMARILY CONVICTED: NUMBER OF CHARGES AND NATURE OF PENALTY

Nature of penalty	1973		1974		1975	
	Males	Females	Males	Females	Males	Females
Fined	20,755	1,973	20,784	2,211	30,404	2,707
Imprisoned for—						
Under 1 month	1,871	138	1,899	129	1,945	65
1 month and under 6 months	3,919	107	3,711	98	3,665	127
6 months and under 12 months	763	10	885	35	615	7
1 year and over	196	1	196	5	304	4
Released on probation	2,370	399	2,236	292	2,467	333
Adjourned for a period without probation	1,300	196	916	164	1,083	193
Released on recognisance or bond	4,094	997	4,520	1,260	5,264	1,477
Other	1,298	43	1,095	41	1,119	39
Total	36,566	3,864	36,242	4,235	46,866	4,952

See footnotes to preceding table.

**VICTORIA—MAGISTRATES' COURTS: SUMMONS CASES SUMMARILY
DISPOSED OF: NUMBER OF CHARGES AND NATURE OF OFFENCE**

Nature of offence	1974		1975	
	Convicted	Dismissed, withdrawn, struck out	Convicted	Dismissed, withdrawn, struck out
Against the person	1,370	1,669	1,591	1,818
Against property	4,558	1,692	5,029	2,086
Against good order	2,378	627	1,935	715
Driving offences	211,436	18,602	198,633	16,204
Miscellaneous (a)	49,343	10,846	49,826	10,359
Total	269,085	33,436	257,014	31,182

(a) Miscellaneous offences are generally breaches of Commonwealth and Victorian Acts of Parliament.

NOTE. Details of the sex of offenders are not available for Magistrates' Courts summons cases.

Statistics in this table have been compiled from records of the Victorian Law Department. (See footnote to preceding arrest cases tables.)

Children's Court

The Children's Court, which began in Victoria in 1906, is held in the Melbourne metropolitan area and in various country towns and cities. Beyond the Melbourne metropolitan area, the Children's Court is usually held on the same day as the Magistrates' Court and presided over by the same stipendiary magistrate, but honorary Children's Court magistrates are appointed for some Children's Courts.

In the Melbourne metropolitan area, three stipendiary Children's Court magistrates are appointed and they visit ten Children's Courts at regular intervals; all metropolitan Children's Courts are administered from the Melbourne Children's Court.

The Children's Court's jurisdiction is normally restricted to children under the age of 17 years. A child may be brought before the Court for an offence committed before his seventeenth birthday provided the appearance takes place before his eighteenth birthday. Two types of cases come before the Court, namely, offences and applications under the Social Welfare Act. The Court has no jurisdiction in civil matters, adoption, maintenance, or custody.

The Children's Court follows the practice and procedure of Magistrates' Courts, with two main exceptions. The first of these exceptions is that the Court is not bound to observe legal formalities and ceremonies. The second is that the Court is always closed to the public and the media is forbidden from reporting any proceedings. The Court has considerably wider powers than Magistrates' Courts and may deal with any offence except homicide. The child (or the parent if the child is under the age of 15 years) must always consent to the Court dealing with an indictable offence in a summary manner, otherwise the matter would be tried by a jury in a higher court. Consent is given in almost all cases.

The police and certain others may apply to the Children's Court for an order declaring a child "in need of care and protection". The Social Welfare Act lists the categories which make such an application possible.

The *Children's Court Act 1973* states that the Court shall first have regard to the welfare of the child. The Court attempts to reform and rehabilitate offenders. A common method of dealing with a child is by releasing him on probation for a period not exceeding three years. Most terms of probation are for twelve months. A probation officer is expected to assist and guide the child during that period. If probation is not considered necessary a case may be adjourned without supervision for a specified period not exceeding two years.

Instead of releasing a child on probation, a Court may impose a supervision order. This is similar to a probation order with the important distinction that the supervising probation officer is able to impose reasonable conditions and directions on the parents or guardians, as well as on the child.

Probation officers also assist the Court by furnishing reports on children's backgrounds. Stipendiary probation officers are employed by the Social Welfare Department and usually handle those cases requiring special expertise. Their ranks are augmented by a large number of honorary probation officers throughout Victoria. Some honorary probation officers are employed by the churches.

An important provision provided for in the *Children's Court Act 1973* empowers a Court to release a child on a good behaviour bond or to impose a monetary penalty up to a maximum of \$100 without necessarily recording a conviction against the child.

As a last resort, children under the age of 15 years may be admitted to the care of the Social Welfare Department and those aged 15 years or over may be detained in a youth training centre for a specified period not exceeding two years or, if more than one charge is proved, not more than three years in all. The *Children's Court Act 1973* empowers a Court to fix an aggregate period of detention rather than a specific sentence on each separate charge.

The *Social Welfare Act 1970* has vested in the Youth Parole Board the authority to parole children who are serving periods of detention.

Allied to the Children's Court is the Children's Court Clinic which is staffed by a team of psychiatrists, psychologists, and social workers. The Clinic undertakes detailed investigations of problem cases referred to it by the Court and makes recommendations on its findings. In some cases the Clinic will offer counsel to parents and children after a court appearance.

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES AND NATURE OF OFFENCE

Nature of offence	1974			1975		
	Males	Females	Persons	Males	Females	Persons
Against the person	1,281	23	1,304	1,124	56	1,180
Against property	13,308	853	14,161	11,137	774	11,911
Fraud, forgery, and false pretences	212	38	250	256	60	316
Against good order	1,036	66	1,102	1,159	69	1,228
Driving offences	1,062	5	1,067	1,110	11	1,121
Miscellaneous offences (a)	302	62	364	382	53	435
Total	17,201	1,047	18,248	15,168	1,023	16,191

(a) Breaches of Acts of Parliament and by-laws of statutory bodies, escaping from legal custody, breach of bond, probation, etc.

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES AND NATURE OF PENALTY

Nature of penalty	1974			1975		
	Males	Females	Persons	Males	Females	Persons
Fined	1,167	46	1,213	1,234	54	1,288
Placed on probation	5,420	293	5,713	4,736	281	5,017
Social Welfare Department (a)	4,353	162	4,515	3,358	145	3,503
Adjudged without probation	3,619	351	3,970	3,865	371	4,236
Other	1,313	126	1,439	804	91	895
Total convictions	15,872	978	16,850	13,997	942	14,939
Dismissed, withdrawn, or struck out	1,329	69	1,398	1,171	81	1,252
Total	17,201	1,047	18,248	15,168	1,023	16,191

(a) Includes "admitted to care" and "placed in custody" of the Social Welfare Department.

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF
NUMBER OF CHARGES: NATURE OF OFFENCE AND
NATURE OF PENALTY, 1974

Nature of offence	Nature of penalty					
	Dis- missed, with- drawn, etc.	Otherwise dealt with				
		Fined	Placed on probation	Social Welfare Department (a)	Ad- judged without probation	Other
Against the person— Assault and grievous bodily harm	309	81	141	147	130	89
Sex offences	94	7	103	60	86	57
Total	403	88	244	207	216	146

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES: NATURE OF OFFENCE AND
NATURE OF PENALTY, 1974—*continued*

Nature of offence	Nature of penalty					
	Dis- missed, with- drawn, etc.	Otherwise dealt with				
		Fined	Placed on probation	Social Welfare Depart- ment (a)	Ad- jour- ned without probation	Other
Against property—						
Robbery	22	3	29	56	9	7
Breaking and entering	149	61	2,184	1,692	1,228	319
Larceny (excluding motor vehicles)	226	166	1,506	917	1,223	489
Motor vehicles (larceny and illegal use)	167	119	800	862	370	178
Wilful damage	55	104	174	134	160	58
Other offences against property	69	42	188	118	228	49
Total	688	495	4,881	3,779	3,218	1,100
Fraud, forgery, and false pretences	10	7	127	39	40	27
Against good order—						
Indecent behaviour, etc.	11	5	29	12	39	11
Other offensive behaviour	22	38	15	8	31	15
Obscene and insulting language	11	64	17	14	24	17
Firearms	32	48	19	8	58	18
Other offences against good order	102	62	117	72	146	37
Total	178	217	197	114	298	98
Driving offences	96	353	213	221	131	53
Miscellaneous offences (b)	23	53	51	155	67	15
Grand total	1,398	1,213	5,713	4,515	3,970	1,439

(a) Includes "admitted to care" and "placed in custody" of the Social Welfare Department.

(b) Breaches of Acts of Parliament and by-laws of statutory bodies, escaping from legal custody, breach of bond, probation, etc.

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES: NATURE OF OFFENCE AND
NATURE OF PENALTY, 1975

Nature of offence	Nature of penalty					
	Dis- missed, with- drawn, etc.	Otherwise dealt with				
		Fined	Placed on probation	Social Welfare Depart- ment (a)	Ad- jour- ned without probation	Other
Against the person—						
Assault and grievous bodily harm	272	118	142	87	164	55
Sex offences	59	13	88	64	91	27
Total	331	131	230	151	255	82
Against property—						
Robbery	15	4	51	20	16	9
Breaking and entering	155	39	1,663	1,287	1,105	170
Larceny (excluding motor vehicles)	194	157	1,366	738	1,227	265
Motor vehicles (larceny and illegal use)	122	117	748	560	578	155
Wilful damage	60	102	125	65	174	30
Other offences against property	59	26	171	112	190	36
Total	605	445	4,124	2,782	3,290	665
Fraud, forgery, and false pretences	15	5	134	97	52	13
Against good order—						
Indecent behaviour, etc.	18	3	36	6	42	6
Other offensive behaviour	21	45	22	8	32	5
Obscene and insulting language	9	76	29	13	26	11
Firearms	29	66	38	37	61	19

VICTORIA—CHILDREN'S COURTS: CASES SUMMARILY DISPOSED OF:
NUMBER OF CHARGES: NATURE OF OFFENCE AND
NATURE OF PENALTY, 1975—*continued*

Nature of offence	Nature of penalty					
	Dis- missed, with- drawn, etc.	Otherwise dealt with				
		Fined	Placed on probation	Social Welfare Depart- ment (a)	Ad- jour- ned without probation	Other
Other offences against good order	80	81	134	70	175	30
Total	157	271	259	134	336	71
Driving offences	103	371	194	196	219	38
Miscellaneous offences (b)	41	65	76	143	84	26
Grand total	1,252	1,288	5,017	3,503	4,236	895

(a) Includes "admitted to care" and "placed in custody" of the Social Welfare Department.

(b) Breaches of Acts of Parliament and by-laws of statutory bodies, escaping from legal custody, breach of bond, probation, etc.

Police warnings for juvenile first offenders

A system for warning juvenile first offenders operates in Victoria to prevent many children from having to make an appearance in a Children's Court. Police are instructed not to proceed against children who have committed minor offences, if an alternative course of action is available. Warnings are given in the presence of parents or guardians who are told of the probable underlying reason for the offence, and both the offender and his parents or guardian are expected to ensure the avoidance of a repetition of the offence.

Offenders are not normally given a second chance and divisional officers believe that only a very small proportion of those warned offend again. The reporting member may continue to take an interest in the child, and in most cases co-operation is received from both the offender and his parents or guardians.

VICTORIA—POLICE WARNINGS

Offence group (a)	1971		1972		1973		1974		1975	
	Males	Females	Males	Females	Males	Females	Males	Females	Males	Females
Assault (b)	10	6	35	5	26	8	44	7	51	8
Robbery with violence	1	—	—	—	—	—	—	—	1	—
Sex	35	2	32	2	34	—	66	1	71	3
Breaking and larceny (c)	1,290	656	1,416	771	1,708	655	2,067	884	2,373	1,249
Other offences	362	33	481	27	494	48	612	73	789	86
Total	1,698	697	1,964	805	2,262	711	2,789	965	3,285	1,346

(a) Based on Major Crime Index prepared by the Victoria Police.

(b) Includes grievous bodily harm.

(c) Includes larceny and/or illegal use of a motor vehicle.

VICTORIA—POLICE WARNINGS: AGE OF OFFENDER, 1974

Offence group (a) and sex	Age last birthday (years)					Total		
	10 and under	11, 12	13, 14	15, 16	17 and over			
Assault (b)		Males	4	2	14	16	8	44
		Females	—	1	3	3	—	7
Robbery with violence		Males	—	—	—	—	—	—
		Females	—	—	—	—	—	—
Sex		Males	—	4	11	36	15	66
		Females	—	—	—	1	—	1
Breaking and larceny (c)		Males	247	495	786	458	81	2,067
		Females	45	146	365	283	45	884
Other offences		Males	56	107	159	215	75	612
		Females	4	14	21	23	11	73
Total			356	769	1,359	1,035	235	3,754

(a) Based on Major Crime Index prepared by the Victoria Police.

(b) Includes grievous bodily harm.

(c) Includes larceny and/or illegal use of a motor vehicle.

VICTORIA—POLICE WARNINGS: AGE OF OFFENDER, 1975

Offence group (a) and sex	Age last birthday (years)					Total	
	10 and under	11, 12	13, 14	15, 16	17 and over		
Assault (b)	Males	1	10	20	15	5	51
	Females	—	—	2	6	—	8
Robbery with violence	Males	—	—	—	1	—	1
	Females	—	—	—	—	—	—
Sex	Males	1	6	27	30	7	71
	Females	—	1	1	—	1	3
Breaking and larceny (c)	Males	189	460	916	670	138	2,373
	Females	57	181	504	433	74	1,249
Other offences	Males	60	121	238	270	100	789
	Females	3	5	40	31	7	86
Total		311	784	1,748	1,456	332	4,631

(a) Based on Major Crime Index prepared by the Victoria Police.

(b) Includes grievous bodily harm.

(c) Includes larceny and/or illegal use of a motor vehicle.

Inquests

A coroner has jurisdiction to hold an inquest concerning the manner of death of any person who is slain or drowned or who dies suddenly or in prison or while detained in any mental hospital and whose body is lying dead within the district in which such coroner has jurisdiction, and subject to certain conditions, to hold an inquest into the cause and origin of any fire whereby property has been destroyed or damaged.

A 1970 amendment to the *Coroners Act* 1958 made provision for the holding of an inquest where a coroner believes that a death has occurred in or near the area of his jurisdiction and that the body cannot be recovered or has been destroyed. The coroner must first report the facts to the Attorney-General who may direct the inquest to be held.

A coroner's duties in relation to this are regulated by the Coroners' Acts and there are special provisions relating to inquests in other Acts, such as the Social Welfare Act and the Registration of Births, Deaths, and Marriages Act. Coroners and deputy coroners are appointed by the Governor in Council, every stipendiary magistrate being appointed a coroner for the State of Victoria. Deputy coroners have jurisdiction in the districts for which they have been appointed. In addition, a justice of the peace has jurisdiction to hold an inquest, but only if requested to do so by a police officer in charge of a station, or by a coroner.

In the majority of cases a coroner acts alone in holding an inquest, but in certain cases a jury is empanelled. This is done when:

- (1) The coroner considers it desirable;
- (2) in any specified case a law officer so directs;
- (3) it is expressly provided in any Act that an inquest shall be taken with jurors;
- (4) a relative of the deceased person so requests;
- (5) any person knowing the circumstances leading up to the death of the deceased person so requests; or
- (6) any member of the Victoria Police so requests.

Amending legislation in 1953 provided that the viewing of the body is not essential and is necessary only when the coroner or jury deem it advisable.

VICTORIA—MELBOURNE CORONER'S COURT: INQUESTS HELD

Year	Number of inquests held
1973	1,560
1974	1,305
1975	1,574
1976	1,457
1977	1,497

Committals by Coroners

When a person is arrested and charged before a justice or court with murder, manslaughter, arson, infanticide, or culpable driving, those proceedings are adjourned from time to time pending the holding of the inquest. If the inquest results in a finding against that person of murder, manslaughter, arson, infanticide, or culpable driving, the coroner issues a warrant committing him for trial, the other proceedings being then withdrawn.

VICTORIA—COMMITTALS BY CORONERS

Year	Murder			Manslaughter			Culpable driving		
	Males	Females	Persons	Males	Females	Persons	Males	Females	Persons
1973	39	6	45	7	2	9	42	—	42
1974	49	2	51	11	3	14	16	—	16
1975	30	1	31	3	1	4	30	—	30
1976	22	3	25	8	1	9	27	—	27
1977	21	6	27	9	4	13	36	—	36

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.

Victorian Bar

The basic traditions of the Victorian Bar came from England, although the early influence of prominent Irish barristers remains strong. Since 1891 Victorian legislation has provided that every admitted practitioner may practise as a barrister and solicitor. Admission to practice requires a law school qualification and either service under articles or completion of the Leo Cussen Institute for Continuing Legal Education's professional practice course.

Most Victorian practitioners choose to specialise either as barristers or as solicitors. The Victorian Bar, an unincorporated association formed in 1900, consists of those who sign the Victorian Bar roll after undertaking to practise exclusively as barristers. In July 1978 there were 610 members of the Bar, including 21 women, in full-time active practice. Three had chambers in Ballarat or Bendigo. Barristers appointed to the Bench remain members of the Bar.

Barristers spend the first six months reading as a pupil in the chambers of an experienced barrister, receiving practical instruction and guidance in the work and ethics of a barrister. After two months of reading, the pupil may take work of his or her own. Readers must attend lectures by senior barristers on ethics and workmanship. After reading, the barrister takes a tenancy of chambers provided by the Bar-owned company in premises close to the main courts. New barristers usually pay lower rents than more senior barristers.

Solicitors' clients are members of the public. Barristers are engaged by solicitors on behalf of the solicitors' clients. Barristers specialise in conducting and appearing in civil

litigation and criminal trials, in giving opinions on legal questions, and in preparing documents involving difficulties of law.

Barristers wear wigs and gowns in the higher courts. Besides appearing in courts, barristers frequently appear before specialised tribunals dealing with issues of economics and public interest such as trade practices, prices justification, industrial arbitration, the environment, and town planning.

Senior barristers may be appointed Queen's Counsel, who specialise in cases requiring more than one counsel and appear with a junior. There were 51 Queen's Counsel practising at the Victorian Bar in July 1978.

In July 1978, eight barristers' clerks acted for varying numbers of practising barristers, ranging from about 31 to about 105 in number. Clerks and their staff inform solicitors of the availability of barristers, negotiate fees, render accounts, and provide telephone and delivery services for the barristers for whom they act. Barristers pay their clerks a percentage of fees received.

The Victorian Bar Council represents the Bar and administers its affairs. Its rulings on ethics and professional conduct bind all members. Its eighteen members are elected each October. Three members are of less than six years standing as barristers and another four of less than fifteen years standing. The Bar Council elects its chairman and other officers, and its affairs are administered by a full-time executive officer. Under the Bar Council, three administrative committees of members of the Bar Council are empowered to make recommendations to the Bar Council or to make decisions on its behalf—the Executive, Ethics, and Law Reform Committees.

A Young Barristers' Committee, elected by barristers of less than six years standing, investigates and makes recommendations to the Bar Council on questions concerning young barristers and in particular those involving practice in Magistrates' Courts.

The Victorian Bar, often acting jointly with the Law Institute of Victoria, helps to provide legal aid, to supervise legal education and training, to contribute to the reform of the law, and the practices and procedures of courts and tribunals. It has, or has representatives on, about sixty committees doing such work. The Victorian Bar is a member of the Law Council of Australia, which represents the whole Australian legal profession, and of the Australian Bar Association which represents barristers.

Law Institute of Victoria

The Law Institute of Victoria is the professional body of those members of the legal profession who practise as solicitors in Victoria. It was established in 1859 and incorporated by an Act of the Victorian Parliament in 1971. The relevant statutory provisions are now included as Part III of the *Legal Profession Practice Act 1958*. All persons admitted to practise as a barrister and solicitor of the Supreme Court of Victoria are eligible for membership of the Law Institute of Victoria, whether they are practising as solicitors or not.

The Institute is governed by a Council consisting of the Attorney-General, the president of each of the nine Country Law Associations, and eighteen members elected by all the members of the Institute. The Council operates through standing committees and committees appointed to deal with specific matters which after detailed consideration submit recommendations to the Council. The Institute is also represented on a number of outside bodies associated with the law.

Apart from the services which the Institute provides for its members, it also performs important public duties. It has a statutory obligation to control solicitors' trust accounts, to issue annual practising certificates, to administer the Solicitors' Guarantee Fund, and to consider claims for compensation out of the Fund by persons who allege they have suffered pecuniary loss as a result of a defalcation committed by a solicitor. The Institute also prescribes standards of professional conduct and insists on all solicitors maintaining a high ethical standard, investigating all complaints concerning the conduct of a solicitor, and in appropriate cases instituting disciplinary action. The Institute endeavours to maintain and improve the public image of the legal profession and to educate the public about the services which a solicitor can provide and the occasions on which it is desirable to consult a solicitor. It is active in law reform. Three committees meet regularly to consider anomalies or omissions in the law or practice and the Council makes

representations to the Attorney-General or other appropriate authority for the amendment of the law.

Professional committees and agencies

Chief Justice's Law Reform Committee

This Committee was founded in 1944 by the then Chief Justice to consider making recommendations to the Victorian Parliament for the reform of the law on matters of a non-contentious nature, including the abolition of obsolete and useless rules. Since then it has made some one hundred such recommendations, many of which have been given effect to in legislation.

The Committee consists of members of the judiciary, from both the Supreme and County Courts, the Bar, solicitors, and the law faculties of the University of Melbourne and Monash University. The usual number of members is about twenty, who meet in full committee two or three times each year. Much of the work of the Committee is done by the sub-committees comprising members of each branch of the legal profession, who are not necessarily members of the full committee, but who have some expertise in the area under investigation. The reports of the sub-committees are then considered by the full committee; if the Committee considers that a change in the law is desirable, a recommendation is forwarded to the appropriate Victorian Government department.

Suggestions of matters to be considered by the Committee often emanate from the Attorney-General, but the Committee does consider matters suggested by other sources, provided any reforms proposed are likely to be politically non-contentious and the Committee has the resources to undertake the particular inquiry. All the work done by members of the Committee is voluntary.

An example of legislation resulting from a recommendation of the Committee is the *Crimes (Theft) Act 1973*, which replaced many outdated and technical rules of the law of larceny with a modern law of theft. Other legislation has occurred in areas such as evidence, torts, and wills.

Council of Law Reporting in Victoria

The Council of Law Reporting in Victoria is a body corporate established by the *Council of Law Reporting in Victoria Act 1967*. It consists of a judge of the Supreme Court appointed by the Chief Justice as chairman, the Attorney-General, the Solicitor-General, the librarian of the Supreme Court, two members appointed by the Victorian Bar Council, and two members appointed by the Law Institute of Victoria. The Council has a registrar and an honorary secretary.

The Council has arranged for the publication by a publishing company of the Victorian reports which contain decisions of the Supreme Court of Victoria.

Under the Act, it is not lawful to publish a new series of reports of judicial decisions of any court in Victoria except with the consent of the Council. The Council has given limited consents for the publication of restricted categories of decisions in certain specialised reports with an Australia-wide circulation.

Council of Legal Education

The Council of Legal Education was established by an Act of the Victorian Parliament in 1903 and is presently governed by the provisions of the *Legal Profession Practice Act 1958* as amended. The Council consists of the judges of the Supreme Court, the Attorney-General, the Solicitor-General, and representatives of the law faculties of the University of Melbourne and Monash University, the Law Institute of Victoria, and the Victorian Bar Council. The Chief Justice of Victoria is the president of the Council.

The functions of the Council are to make and alter rules:

- (1) Relating to the courses of study and examination and service of articles and other qualifications of candidates to practise as barristers and solicitors and for the admission of such candidates to practise; and
- (2) for the admission to practise in Victoria of persons admitted to practise in any State or Territory of the Commonwealth of Australia or in England, Scotland, Northern Ireland,

the Republic of Ireland, or any part of Her Majesty's Dominions or the British Commonwealth of Nations.

The rules of the Council are included in the statutory rules published by the Government Printer.

Further reference: Legal education, *Victorian Year Book* 1971, pp. 571-3

Law Reform Commissioner

The office of Law Reform Commissioner was established by an Act of the Victorian Parliament in 1973. Mr T. W. Smith, Q.C., served as Commissioner from 1 January 1974 to 31 December 1976. Sir John Minogue, Q.C., was appointed Commissioner on 28 June 1977. The functions of the Commissioner are to advise the Attorney-General on the reform of the law in Victoria, including in particular: (1) The simplification and modernisation of the law, having regard to the needs of the community; (2) making the administration of justice generally more economical and efficient; (3) the elimination of anomalies, defects, and anachronisms; (4) the repeal of obsolete or unnecessary enactments; (5) the consolidation, codification, and revision of the law; and (6) the investigation and reporting to the Attorney-General on any matter relating to law reform referred to him by the Attorney-General.

Under the Act, provision is made for the appointment of a Law Reform Advisory Council of five members. The Council consists of representatives of the Law Institute of Victoria, the Victorian Bar Council, academic lawyers, and the public.

The following table shows details of the reports issued by the Law Reform Commissioner during the period from August 1974 to June 1978:

VICTORIA—LAW REFORM COMMISSIONER: REPORTS ISSUED, AUGUST 1974 TO JUNE 1978

Date of report	Title of report	Matters on which legislation was recommended
August 1974	Report No. 1—Aspects of the Law of Murder	Abolition of the doctrines of constructive murder; consequential increase in penalty for manslaughter; and amendment of Section 40 of the <i>Crimes Act</i> 1958
October 1974	Report No. 2—Criminal Procedure—Miscellaneous Reforms	Creation of a right of appeal from insanity verdicts; legal aid for bail applications; notice of alibi defences; order of addresses in criminal trials; and taking other admitted offences into consideration on sentencing
January 1975	Report No. 3—Criminal Liability of Married Persons—Special Rules	Coercion; accessories after the fact; misprision of felony; receiving stolen goods; and conspiracy
January 1976	Report No. 4—Delays in Supreme Court Actions	Changes in the Supreme Court Act and Rules directed to promoting earlier settlements of actions, and the reduction of delays in procedures for bringing actions to trial
June 1976	Report No. 5—Rape Prosecutions (Court Procedures and Evidence)	Reforms in court procedures and rules of evidence affecting rape trials
December 1976	Report No. 6—Spouse Witnesses (Competence and Compellability)	Compellability of spouse witnesses to give evidence
June 1978	Report No. 7—Innocent Misrepresentation	Classification of the remedies available where a contract is induced by innocent or negligent misrepresentation.

Australian Legal Aid Office

The Australian Legal Aid Office was established by the Commonwealth Government in July 1973. It provides a general problem-solving service of legal advice for persons with an

element of need. Each person seeking help from the Office is seen by a lawyer, the problem identified, and advice given. Further assistance, including assistance in litigation, is available to all persons in matters arising under Commonwealth law, including family law, and in matters arising under State law to persons for whom the Commonwealth Government has a special responsibility, such as those in receipt of social security, Aboriginals, ex-servicemen, students, and newcomers to Australia. The assistance is provided by lawyers of the Australian Legal Aid Office or by referral to private legal practitioners.

The criteria for the provision of further assistance are, first, the merit of the applicant's case and, second, the financial position of the applicant—whether he satisfies the means and needs test of the Office. In considering the merits, regard is had to all the circumstances, particularly to any advantage the applicant might gain from the provision of assistance and any disadvantage he might suffer if assistance was refused, and the likelihood that the proceedings will be terminated by a decision, settlement, or otherwise so as to result in a proper and just advantage to the applicant. The means and needs test is the inability of the applicant to afford the cost of representation in the particular case. An applicant who can afford to contribute towards the cost of his case is asked to do so.

The policy of the Commonwealth Government is to rationalise legal aid throughout Australia by the establishment, under State or Territorial legislation, of independent statutory legal aid commissions in each State and Territory that will absorb the functions of the Australian Legal Aid Office and the legal aid schemes operated by State Governments and by law societies. Western Australia, South Australia, Queensland, and the Australian Capital Territory have passed legislation to establish commissions. At August 1978, legal aid commissions were in operation in Western Australia and the Australian Capital Territory.

The Australian Legal Aid Office continues to operate in each State and Territory, other than in Western Australia and the Australian Capital Territory, and there is a branch office in each of the relevant capital cities with regional offices located in metropolitan and country centres. In Victoria, offices are situated in Melbourne, Brunswick, Geelong, Glenroy, and Sunshine.

The Australian Legal Aid Office employed, in Victoria, 20 lawyers and 38 supporting administrative staff during 1977-78, and conducted 17,760 personal interviews.

Further reference: *Victorian Year Book 1976*, pp. 768-71

Legal Aid Committee

The Legal Aid Committee was established pursuant to the *Legal Aid Act 1961*, as amended by the *Legal Aid Act 1969*. The Committee comprises four representatives from each of the Law Institute of Victoria and the Victorian Bar Council, who usually serve for a period of one year on an honorary basis.

Legal assistance to persons who are unable to pay ordinary legal costs is given in all criminal and civil matters involving State laws, other than those criminal matters referred to in Part I of the *Legal Aid Act 1969*. There is no fixed means test, each application being treated on its merits. Assistance may be granted either without charge or on condition that a periodical contribution is made towards the costs incurred by the Committee on behalf of the assisted person. When assistance has been approved, a solicitor in private practice is assigned to act for the applicant, and is authorised to brief a barrister when necessary. Out of pocket expenses incurred by the appointed solicitor are reimbursed in full, and accounts from solicitors and barristers are paid at the rate of 80 per cent of the normal fee, in accordance with the Act.

VICTORIA—LEGAL AID COMMITTEE: BUSINESS

Type of case	Number of applications				Number actually assisted			
	1974	1975	1976	1977	1974	1975	1976	1977
Divorce	4,363	1,265	384	226	2,716	75	2	—
Maintenance	4,565	4,115	1,306	1,351	2,921	2,506	770	838
Custody	421	597	233	374	274	225	67	97
Affiliation	422	286	216	226	264	181	120	151

VICTORIA—LEGAL AID COMMITTEE: BUSINESS—*continued*

Type of case	Number of applications				Number actually assisted			
	1974	1975	1976	1977	1974	1975	1976	1977
Motor accident damages claims	1,072	766	513	418	542	329	299	304
Criminal (Magistrates' Courts and County Court appeals)	2,922	4,803	5,913	6,131	1,984	2,703	2,815	3,166
Civil causes	2,666	2,754	2,620	2,913	978	761	631	923
Workers compensation	331	317	265	303	209	147	127	162
Probate and testators family maintenance	286	122	72	56	75	23	15	12
Others	1,410	1,749	1,418	1,419	465	358	228	288
Total	18,458	16,774	12,940	13,417	10,428	7,308	5,074	5,941

Further reference: Voluntary legal aid, *Victorian Year Book* 1975, pp. 850-1

Leo Cussen Institute for Continuing Legal Education

The Leo Cussen Institute for Continuing Legal Education was established by an Act of the Victorian Parliament in 1972, and consists of representatives of the Victorian Bar Council, the Law Institute of Victoria, the University of Melbourne, and Monash University. The Institute is concerned with two areas of legal education, namely, practical training for law graduates before admission and the continuing education of the legal profession.

Several experimental courses of practical training have been held, culminating in 1975 in a full-time six months legal practice course attended by 65 law graduates as part of their qualification for admission to practise as barristers and solicitors of the Supreme Court of Victoria. In addition, members of the legal profession who have been absent from practice for some time have attended the course or parts of it as a refresher course. A number of different courses are conducted for the legal profession, some in Melbourne and others in the country. It is proposed that this activity will be considerably expanded in the future.

Victoria Law Foundation

The Victoria Law Foundation was established by the *Legal Profession Practice (Victoria Law Foundation) Act* 1967. It comprises ten members. The Chief Justice, the Attorney-General, the President of the Law Institute of Victoria and, under a provision of the *Law Reform Act* 1973, the Law Reform Commissioner, are all *ex officio* members; the Chief Justice is the president of the Foundation. The two *ex officio* members first named, together with the Law Institute of Victoria, each nominate two additional members—"duly qualified legal practitioners"—who are then appointed by the Governor in Council.

The activities of the Foundation encompass:

- (1) Promotion of legal research relating to law reform in Victoria;
- (2) promotion of legal education in Victoria;
- (3) assistance to law libraries in Victoria; and
- (4) improvement of the administration of the law in Victoria.

Further reference: *Victorian Year Book* 1975, pp. 860-1

ADMINISTRATION OF LAW

Law in Victoria*Introduction*

Law is the body of rules, whether proceeding from formal enactment or from custom, which a particular state or community recognises as binding on its members or subjects, and enforceable by judicial means. It has been said that "substantially speaking, the modern world acknowledges only two great original systems of law, the Roman and the English".

English law came to Australia with Governor Phillip in 1788, although for many years in a severely attenuated and autocratic form. Immediately before Federation, the law operative in Victoria consisted of the laws enacted by its legislature up to that time; the

law of England applicable to the Colony up to 1828; the laws of New South Wales up to 1851; and certain Imperial statutes since 1828 applicable as of paramount force, or adopted by the local legislature since. In addition, the common law applied.

In 1901, the Commonwealth of Australia was established by an Imperial Act under which certain powers were conferred upon the newly created Commonwealth Parliament, and the remaining powers were left to the Parliaments of the six States. Subject to that proviso, State law in Victoria continues as it did before Federation, and Victoria, like the other States, retains some sovereign powers.

Law Department

Administration

The political head of the Law Department is the Attorney-General under whose direction and control the Department functions. The Solicitor-General, who advises the Victorian Government and appears for the Crown in important constitutional, criminal, and civil cases, is a practising barrister, appointed under the provisions of the Solicitor-General Act, by the Governor in Council, from among Queen's Counsel.

The administrative tasks of the Law Department are the responsibility of the Secretary, who is a public servant. Included in the Department is the Crown Solicitor, who gives legal advice to government departments, and acts as solicitor for the Crown in all its cases, both criminal and civil. In the former, he is the instructing solicitor to the prosecutors for the Queen, who appear for the Crown in criminal matters in the Supreme and County Courts. There was a Crown Counsel as well as thirteen prosecutors for the Queen in 1978 who, like the Solicitor-General, are not public servants, but barristers.

The following notes 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, establishes an Appeal Costs Fund to meet such liability, and makes provision for the appointment of an Appeal Costs Board.

The Board consists of three members appointed by the Attorney-General of whom one shall be appointed as chairman, one shall be nominated by the Council of the Law Institute of Victoria, and one shall be nominated by the Victorian Bar Council. The term of office of the members is three years, but on expiration of the term a member is eligible for re-appointment. The Attorney-General may remove any member at any time.

The Act sets up a Fund for the payment of costs in respect of appeals and aborted hearings, and some adjournments, in such circumstances as are provided for in the Act. Payments are made to cover, for example, the costs incurred in having corrected a wrong decision on a point of law or the costs incurred in respect of a hearing adjourned through illness of a judge. No monies are paid out of the Fund unless the Board certifies that payment is authorised by the Act. There is no provision in the Act for an appeal from a decision of the Board.

Corporate Affairs Office

The Corporate Affairs Office is responsible for the administration of the *Companies Act 1961*, the *Business Names Act 1962*, and the *Securities Industry Act 1975*.

The functions of the Office include the registration of companies and business names, the examination and registration of takeover documents and prospectuses, the making available of documents lodged at the Office for public search, the licensing of dealers in securities and their representatives, the licensing of investment advisers and their representatives, and the conduct of investigations into the affairs of companies and persons involved in the securities industry.

Corporate affairs legislation commenced in Victoria with the Companies Statute of 1864. There have been continuing changes in the legislation to meet community expectations and a recent significant amendment to the Companies Act was to give effect, from 1 July 1974, to the Interstate Corporate Affairs Agreement. Under this Agreement, the Interstate Corporate Affairs Commission was established and includes the States of

Queensland, New South Wales, Victoria, and Western Australia. The objectives of the four participating States are to:

- (1) Achieve increased uniformity in the law relating to companies and the regulation of the securities industry and trading in securities;
- (2) establish reciprocal arrangements and common standards and procedures in the administration of that law;
- (3) co-ordinate administration and avoid unnecessary duplication for the better convenience of the public and improved efficiency in the overall administration; and
- (4) increase the protection the law affords to the investing public.

Court Reporting Branch

The Court Reporting Branch has reported proceedings before the Supreme Court, County Court, and Magistrates' Courts since 1924. All personnel directly engaged in reporting are licensed shorthand writers, or licensed tape recorder operators, under the provisions of the *Evidence Act 1958*.

The principal duties performed in the Supreme Court are Court of Criminal Appeal; Full Court; Crime; Civil Juries; Causes; Miscellaneous Causes; The Practice Court; Divorce, both defended and undefended; Land Valuation; and De Bene Esse cases.

Only criminal proceedings are reported in the County Court. Committal proceedings in Magistrates' Courts are generally reported, particularly if there are many witnesses or if the matter is of an extremely serious nature. All inquests which, *prima facie*, may appear to lead to a committal for trial of the person charged are reported.

Discharged Servicemen's Employment Board

Established by section 5 of the *Discharged Servicemen's Preference Act 1943*, this Board has three main functions:

- (1) It assists discharged servicemen to find employment and advises the Victorian Government on employment opportunities and the incidence of unemployment among discharged servicemen;
- (2) it is required to examine and report to the Victorian Government on alleged contraventions of the Preference Act by which employers are required to give preference in placement, re-instatement, and retention in employment of Victorian discharged servicemen who served in a theatre of war and who are clearly suitable and competent for the particular position; and
- (3) it provides a business advisory and investigation service in Victoria for any person who has served in the Australian or Allied military forces and employs qualified accountants for that purpose. This service is free of charge.

Metropolitan Fair Rents Board and Rental Investigation Bureau

Fair Rents Boards consist of a stipendiary magistrate sitting alone and have the function of determining fair rents of prescribed premises, i.e., premises subject to control under the *Landlord and Tenant Act 1958*. The matters to which a Fair Rents Board has regard in determining a fair rent are set out in section 64 of the *Landlord and Tenant Act*. The Fair Rents Board constituted for the Melbourne metropolitan area is known as the Metropolitan Fair Rents Board.

The Rental Investigation Bureau investigates complaints in relation to alleged excessive rentals of premises not subject to control under the *Landlord and Tenant Act*. When rentals are considered to be unreasonably excessive, the Bureau may attempt to negotiate a more reasonable rental.

Parliamentary Counsel's Office

The Parliamentary Counsel's Office is a small office which 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 new 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.

Apart from the work done for the Victorian Government, it is the tradition in Victoria that Parliamentary Counsel should be available to assist private members of any political party who wish to promote legislation. Parliamentary Counsel are also available to advise ministers and government instrumentalities on the validity of subordinate legislation that it is proposed to promulgate. They examine and report to the Subordinate Legislation Committee on the validity and form of all statutory rules.

The Office is responsible for the preparation of the annual volumes of statutes and statutory rules and for the preparation of the various tables and indices of the Acts and statutory rules that are published by the Victorian Government. In recent times, Parliamentary Counsel have been actively engaged in the preparation of uniform legislation and the negotiation of agreements between the different levels of government in Australia. (See also pages 88-9).

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. These funds (approximately 760 in number with net assets exceeding \$19m and annual income and expenditure of more than \$5m) are used principally to provide welfare assistance, aged persons homes, and clubrooms for the benefit of ex-service persons and their dependants.

The main functions of the Council are to:

- (1) Sanction the establishment of all patriotic funds in Victoria;
- (2) regulate and control fund raising;
- (3) assist and control the trustees and officers of each patriotic fund;
- (4) obtain and examine audited statements each year to ensure that funds are properly administered and used in accordance with the objects; and
- (5) advise the Victorian Government on legislation and policy relating to patriotic funds.

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.

Public Solicitor

The office of the Public Solicitor is controlled by the Attorney-General as head of the Law Department through the Public Solicitor who is a barrister and solicitor of the Supreme Court of Victoria.

Legal assistance is provided by the State of Victoria through the Public Solicitor only in the following criminal matters:

- (1) Where any person has been committed for trial or has received notice of trial for an indictable offence against the laws of Victoria;
- (2) where any person has been charged with treason, murder, or manslaughter; and
- (3) to an appellant to the Full Court of the Supreme Court upon any appeal with respect to an indictable offence.

The Attorney-General may grant an application for legal assistance if he is of the opinion that it is desirable in the interests of justice that an applicant should have legal representation on any such proceedings and that the applicant is without adequate means to provide legal assistance for himself.

VICTORIA—PUBLIC SOLICITOR'S OFFICE: CRIMINAL CASES DEALT WITH

Year	Applications—				
	Number	Investigated and reports submitted	Not finalised	Approved	Not approved
1973	1,112	1,014	98	793	221
1974	1,271	1,131	140	909	222
1975	1,385	1,215	170	1,085	130
1976	1,318	1,249	69	1,096	153
1977	1,191	1,107	84	1,013	94

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, e.g., bills of sale, liens on crops or wool, stock mortgages, assignments of book debts, and powers of attorney, which require registration under the provisions of the *Instruments Act 1958*.

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*.

Chief Secretary's Department—regulatory functions

The functions of the Chief Secretary's Department have altered considerably over the years as the increasing complexity of government administration has necessitated the establishment of additional departments to deal almost exclusively with functions that had previously been the responsibility of the Chief Secretary. In this respect, the dual portfolio of Chief Secretary and Premier was divided in 1883; the Factory Inspectorate which operated in the late nineteenth century grew into the Department of Labour and Industry; the Social Welfare Branch became a separate department; the Weights and Measures Branch was transferred to the Local Government Department; and the Gas and Explosives Branch was transferred to the Mines Department. Responsibility for the control of horse racing, for the State Library and the National Gallery, and for fisheries and wildlife was transferred on the formation of new departments. The Archaeological and Aboriginal Relics Office, the Science Museum, the National Museum, the Registry of Estate Agents, the Workers Compensation Board, and the Public Record Office were subsequently transferred to these newer departments. The Chief Secretary's Department, however, continues to play a large and important role in the administration of Victoria, retaining an extensive range of functions in both regulatory and other areas of activity.

The Department can be viewed as exercising its regulatory functions in two main ways: by prohibiting certain activities, unless those activities are licensed or registered, and by imposing controls over certain other types of activities.

A wide variety of business activities require licensing under the Acts administered by the Chief Secretary, including second-hand dealers, marine dealers, and private agents. In addition, the sale of liquor and the use of firearms is prohibited without an appropriate licence issued under the provisions of Acts administered by the Chief Secretary.

A further range of activities require registration with the Chief Secretary and these include friendly societies and benefit associations, trade unions, and the commercial producers, distributors, and exhibitors of films. A branch of the Chief Secretary's Department, the Office of the Government Statist, is responsible for the registration of all births, deaths, and marriages occurring in Victoria.

Other types of activities are specifically controlled under various Acts and Regulations administered by the Chief Secretary, including the use of motor vehicles and boats, raffles, bingo, lotteries, gaming and betting, and a wide range of criminal activities referred to in the Summary Offences Act and the Police Offences Act. The Chief Secretary administers restrictions on the availability of certain types of publications imposed after the consideration of reports prepared by the State Advisory Board on Publications. The Office of the Chief Commissioner of Police is the major enforcement agency under the control of the Chief Secretary. The Victoria Police are responsible for detecting and prosecuting offences against all Acts of the Victorian Parliament, whether or not those Acts are administered by the Chief Secretary. The most notable of these is the Crimes Act.

In addition to its regulatory functions, the Department exercises what could be termed social benefit functions. These include the administration of legislation relating to motor vehicle insurance, compensation for persons injured as a result of criminal violence or in assisting police, and compensation for persons injured in motor vehicle accidents.

A further field of responsibility held by the Chief Secretary is the exercise of "protective" functions. These include the protection of animals and the administration of the Metropolitan Fire Brigades Board, the Country Fire Authority, and the State Emergency Service.

Additional functions of this "omnibus" Department include responsibility for the maintenance of road safety, primarily through the Road Safety and Traffic Authority and the Victoria Police, the conduct of Victorian parliamentary elections, the preparation of electoral and jury rolls, the publication of the *Victoria Government Gazette*, and the provision of shorthand writers for Royal Commissions, Boards of Inquiry, and the like.

Crimes Compensation Tribunal

The *Criminal Injuries Compensation Act 1972* established the Crimes Compensation Tribunal consisting of a person of not less than seven years standing as a barrister and solicitor. The present appointment was made on 20 June 1973, and the first applications under the Act were heard eight days later. The Tribunal administers a scheme designed to compensate persons who have suffered physical injury or nervous shock as a result of a criminal act. Dependants of a person who has died as a result of a criminal act may also be entitled to compensation.

VICTORIA—CRIMES COMPENSATION TRIBUNAL: SUMMARY OF PROCEEDINGS AT 30 JUNE 1977

Item	Particulars
Applications—	
Pending at 1 July 1976	233
Further applications received to 30 June 1977	865
Determinations—	
Final awards made	854
Applications refused	16
Applications withdrawn	—
Applications pending at 30 June 1977	218
Orders made for advance payments of compensation	25
Appeals from refusal of applications	1
Analysis of final awards—	
Total compensation awarded	\$754,918
Average award of compensation	\$884

Further reference: *Victorian Year Book 1975*, pp. 851-2

Small Claims Tribunals

Small Claims Tribunals, established under the *Small Claims Tribunal Act 1973*, provide a simple and inexpensive procedure for consumers to have their disputes settled outside the ordinary courts. They are administered 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 under \$1,000.

Consumers are defined as persons, other than corporations, who buy or hire goods not for resale or for whom services are supplied. They may apply, on payment of a small fee, to the registrar in the Melbourne metropolitan area, or to the clerk of a Magistrates' Court outside that area who shall forward the application to the registrar. The registrar, who keeps all the records of the tribunals, gives notice of the application to the respondent, the trader concerned, and shall fix a date for the hearing of the claim. Lodgement of the application with any money claimed to be owed to the trader by the consumer precludes the issue in dispute being heard in any court unless proceedings have already been commenced.

The primary function of the referee is to effect a settlement acceptable to all parties, but if this is impossible, he shall either make an order or dismiss the claim; his order shall be

final and without appeal. No costs are allowable and each party conducts its own case without the services of an agent except in the case of corporations or because of necessity. No practising barrister or solicitor is generally allowed to appear. Hearings are in private and sworn evidence, either verbal or in writing, is given, but tribunals are not bound by the rules of evidence and may inform themselves in any way they think fit. At 1 August 1978, there were one part-time and two full-time referees.

Since the tribunals came into operation on 4 February 1974, a total of 8,500 claims have been lodged for determination by the tribunals. Approximately 30 per cent of claims lodged involve the purchase and servicing of motor vehicles and approximately 25 per cent of claims lodged involve disputes against the building industry.

Licensing legislation

After nearly one hundred years operation of the system of Licensing Magistrates or of the Licensing Court, the Licensing Act was repealed and the Licensing Court abolished by the *Liquor Control Act* 1968, which came into effect on 1 July 1968. This Act 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 re-writing the law. All fees taken under the new Act and all fines, penalties, forfeitures, and moneys 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. A complete new code of compensation payable to owners and occupiers of licensed premises deprived of licences is set out in the Act, and provision is made for all payment of compensation out of the Licensing Fund, as well as all costs incurred in connection with the administration of the Act. Where the moneys remaining in the Licensing Fund on 30 June in any financial year are greater than the moneys therein on 1 July in that financial year, the surplus is to be transferred into the Consolidated Fund.

VICTORIA—NUMBER OF LIQUOR LICENCES AT 30 JUNE

Type of licence	1973	1974	1975	1976	1977
Hotel keeper	1,448	1,444	1,441	1,442	1,441
Club	390	409	423	437	452
Retail bottled liquor	675	692	714	727	728
Wholesale liquor merchant	101	101	100	101	102
Australian wine	15	14	14	14	13
Vigneron	21	28	39	41	51
Brewer	7	7	7	7	7
Restaurant	214	229	253	266	269
Cabaret	16	17	22	24	26
Ship	1	1	—	—	—
Theatre	3	3	5	5	5
Cider tavern	—	1	1	1	1
Residential	—	—	1	2	3
Tourist facility	—	—	—	1	6
Total	2,891	2,946	3,020	3,068	3,104

NOTE. The above table details licences on hand at 30 June each year under the *Liquor Control Act* 1968, according to the annual report of the Liquor Control Commission.

Racing legislation

The *Racing Act* 1958 regulates horse and pony racing and trotting, and dog racing. Under the Act the control of trotting and dog racing is vested in the Trotting Control Board and the Dog 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.

VICTORIA—RACING AND TROTTING MEETINGS

Particulars	Year ended 31 July—				
	1974	1975	1976	1977	1978
RACING					
Number of meetings—					
Metropolitan courses	68	76	76	82	84
Other courses	373	379	390	393	389
Number of events—					
Metropolitan courses	565	654	626	655	698
Other courses	2,779	2,775	2,987	2,986	3,003
Amount of stakes—					
Metropolitan courses	(\$'000) 3,994	4,343	5,303	5,662	6,118
Other courses	(\$'000) 2,338	2,615	3,227	3,457	3,526
TROTTING					
Number of meetings—					
Metropolitan courses	43	43	44	53	55
Other courses	218	230	240	261	267
Number of events—					
Metropolitan courses	342	343	352	415	430
Other courses	1,839	2,010	2,140	2,281	2,335
Amount of stakes—					
Metropolitan courses	(\$'000) 979	1,150	1,450	1,801	1,981
Other courses	(\$'000) 1,357	1,828	1,915	2,341	2,406

Further reference, *Victorian Year Book 1966*, pp. 319-20

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 Minister for Business and Consumer Affairs on the operation of the *Bankruptcy Act 1966*. The eleventh edition of this report was released in the latter part of 1978.

VICTORIA—BANKRUPTCIES

Year	Bankruptcies	Orders for administration of deceased debtors' estates	Arrangements with creditors without sequestrations	Total
NUMBER				
1973-74	270	..	74	344
1974-75	407	1	93	501
1975-76	344	2	84	430
1976-77	393	..	82	475
1977-78	583	2	122	707
LIABILITIES (\$'000)				
1973-74	2,915	..	2,507	5,422
1974-75	4,862	82	5,218	10,162
1975-76	19,943	42	3,586	23,571
1976-77	7,555	..	10,479	18,034
1977-78	14,890	43	5,466	20,399
ASSETS (\$'000)				
1973-74	825	..	1,459	2,284
1974-75	1,430	14	2,681	4,125
1975-76	1,408	5	3,533	4,946
1976-77	2,354	..	9,120	11,474
1977-78	4,750	14	2,794	7,558

Victoria Police

Introduction

The Victoria Police Force is charged with the responsibility of maintaining the peace, protecting the lives and property of all citizens, and generally enforcing the laws of the State. The main functions of the Victoria Police may be summarised as:

- (1) Maintaining law and order;
- (2) protecting the community and its property;
- (3) prevention of crime;
- (4) detection of offenders;
- (5) controlling road traffic, including the alleviation of traffic congestion, prevention of road accidents and, where necessary, the investigation of accidents; and
- (6) assisting anyone in need, particularly in times of emergency.

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

The Chief Commissioner, who controls the operations of the Force, is responsible to the Chief Secretary. He is assisted operationally and administratively by two Deputy Commissioners, five Assistant Commissioners, and the Director of Administration. The Assistant Commissioners and the Director are each responsible for a department of the Force, namely, crime, operations, personnel, traffic, services, and administration.

Victoria is divided into police districts and divisions which facilitate the administration and the provision of services. The main concept of team policing ensures that resources are utilised to their fullest capacity. In an emergency, operational units can ignore the district and divisional boundaries and be deployed by the police radio control system, which ensures that all available mobile units can be directed to areas of need.

To support the team policing concept, each metropolitan police district has its own group of personnel formed into a crime car squad of twenty-six members providing an effective anti-crime patrol capability. These members also contribute to the visible police presence as they perform duty in uniform and in marked police vehicles.

The Independent Patrol Group supports the crime car squads; it has now been formalised and authorised to increase its operational strength. Development of this group will enable it to lend effective support to all branches and departments.

Prahran system

Recently, an integrated community policing system was commenced in the Prahran district and this experiment will continue for twelve months. The scheme was initiated as part of a philosophy of maximising the visible police presence and optimising police sensitivity to community issues. This experiment has led to a rationalisation of police services in Prahran.

The community has been asked to become involved in a number of ways: local residents and groups have been asked to suggest ways in which police patrols may better assist with community problems and crime prevention; and persons calling for police service in Prahran will be asked about police response time, satisfaction with the police service, and related matters.

Should the Prahran policing experiment prove successful in terms of education in offences known to the police, increased apprehension of criminals, and improved sense of public security and satisfaction with the police service, the strategies will be provided in other police areas of Victoria.

The conduct of members and the internal affairs of the Force are controlled by the Police Regulation Act and its Regulations and Police Standing Orders. Two statutory bodies, the Police Service Board and the Police Discipline Board, have jurisdiction in aspects of police control.

Specialised squads

Within the general framework of police activities there are specific areas which, because of the extent and nature of the work involved, require special squads. Squads have been established to deal with homicide, company fraud, licensing, gaming, vice, arson, drugs,

and armed robbery. Special squads have also been formed to utilise dogs, horses, boats, and aircraft in operational areas of police activities.

The Search and Rescue Squad provides assistance in emergency-type situations and the Accident Investigation Squad investigates and analyses serious motor vehicle accidents.

Recruitment and training

The authorised strength of the Force at 30 June 1978, was 7,500. Increases in authorised strength are effected by increasing the number of squads in training.

The Victoria Police Force is constantly seeking additional recruits. To assist in attracting recruits, a junior police corps now known as police cadets was formed in 1955. Cadets are accepted at 16 years of age and undergo a period of training at the Cadet Academy in Spencer Street, Melbourne, until they are eligible to undertake recruit training. Persons between 18½ years and 35 years of age who are accepted as recruits undergo a five months course of training at the Police Training Academy, Glen Waverley.

The Academy is progressively being developed to provide additional educational, training, and accommodation facilities. As well as providing for additional recruits, the Academy's development is being planned to include all facilities for cadet, sub-officer, and detective training.

Police in-service training and promotional examinations are conducted by the Police Department for members wishing to advance in their career. Ex-members of the Force between 31 years and 65 years of age may be recruited as reservists for the performance of limited police duties.

Crime prevention and detection techniques

Several interesting features of police work have been developed in recent years. An on-line computer system code named PATROL provides information on stolen and wanted motor vehicles. The computer forms an integral part of a system which will eventually encompass all police records of criminal histories, stolen property, fingerprints, and the *modus operandi* used by criminals.

The use of aircraft by the Police Air Wing provides valuable assistance in traffic control, the combating of serious crime such as armed robbery, and the transportation of police personnel and prisoners.

The crime beat patrols continue. The Victoria Police policy of getting the uniformed policeman back on to the streets began in 1973 when regular foot patrols were instituted in the principal shopping areas of each suburb. This project was implemented to show a visible police presence and to establish personal communications with local residents and business people of the area.

A number of important innovations include the Crime Collator System, which is proving an effective law enforcement aid, and the Road Traffic Co-ordinator who provides information on road hazards and traffic accidents.

Communications are constantly being improved. The Communications Centre in Russell Street, Melbourne, has grown from a small 2kW transmitter to the present D24 complex connecting all parts of Victoria. The increasing use of personal radio communication by the policeman on the beat has also improved efficiency. In addition to radio communications, twenty telex machines have now been installed throughout the State, as well as radio monitors in all metropolitan stations with a 24 hour patrol capacity.

Women police perform special duties and assist male police as required in the performance of normal police duties.

The greatest problem confronting the Victoria Police is the road toll, a task which absorbs more manpower and time than any other function of the Force.

Forensic science now plays a significant role in the detection of criminal offenders. The Police Forensic Science Laboratory is equipped to provide information on drugs, poisons, flammable liquids, paints, fabrics, soils, and many other substances which by analysis may give some clue to assist in the solving of a crime. Blood samples taken from motor vehicle accident victims admitted to hospital are analysed at the Laboratory for alcoholic content. The findings may result in prosecutions. A Document Examination Section is equipped to examine handwriting and documents suspected of being forged, and there is a Ballistics

Section which provides information on firearms. The Laboratory also has a mobile workshop used in on-site investigations.

The Mounted Branch provides assistance in patrol work and crowd control at sporting venues, public gatherings, and demonstrations.

Co-ordination is the main concept of police operations. As a result of recent changes the improved organisational structure will enable more effective co-ordination of administrative and operational activities. All departments are now working to provide a co-ordinated blueprint for these activities and the Force's requirements during the next five to ten years. The attainment of planned objectives will be determined, to a great extent, by the success of the Personnel and Services Departments in providing the trained manpower and equipment necessary for the various tasks.

Expenditure

The provision of a police force involves heavy expenditure. The operational expenses of the Victoria Police Force during 1977-78 were \$136.5m and the expenditure on capital and maintenance works was \$8.7m. The Police Training Academy at Glen Waverley, when completed, will have cost the Victorian Government about \$30m. Victorian Government expenditure on the operations of the Victoria Police Force represents a significant element of the annual Victorian Budget allocations to government departments.

VICTORIA—POLICE FORCE AT 30 JUNE

Particulars	1973	1974	1975	1976	1977
Authorised strength	5,572	6,000	6,250	6,500	6,750
Actual strength (a)	5,510	5,743	6,018	6,320	6,663
C.I.B., etc. (b)	794	846	846	865	898
Police-women	163	202	248	300	332
Cadets	217	244	252	284	265
Reservists	48	53	57	105	133

(a) Includes police-women but excludes cadets and reservists.

(b) Criminal Investigation Bureau, plainclothes police, and scientific section.

Further reference: *History of the Victoria Police, Victorian Year Book 1961, pp. 318-21*

WORKERS COMPENSATION LEGISLATION *

History

Workers compensation legislation was first enacted in Victoria in 1914. Its object was similar to that of contemporary legislation in Great Britain and New Zealand, namely, to provide for compensation regardless of fault to a worker who sustained injury at work. The legislation remained substantially unchanged, apart from variations in benefits, until 1937, when the Workers Compensation Board was established to determine disputes which previously had been dealt with by a County Court Judge or a Police Magistrate. The Board comprises a County Court Judge as chairman, sitting with two lay members appointed by the Governor in Council. One of these members is nominated by authorised insurers and the Victorian Employers Federation, the other by the Melbourne Trades Hall Council.

Subsequent legislation has added further "boards", or more strictly divisions of the Board, to cope with increasing work loads.

Substantial changes in the Act occurred in 1946. In particular, the definition of "injury" was widened so as to include virtually any disabling event occurring at work, regardless of any causal association. This change was reversed in 1965, since when the disjunctive formula "injury arising out of or in the course of the employment" has remained, but is limited in the case of disease to conditions contributed to by the employment.

In 1946, the benefits of the Act were also extended to persons travelling between their home and work, even if the journey had been interrupted. So, too, virtually all limitations

* This article is the latest in a series of special articles outlining specific areas of law in Victoria. Previous articles in this series, and the *Victoria Year Book* in which they appeared, are listed at the end of the article. An article on the Board of Inquiry into Workers Compensation can be found in Chapter 9 of this *Year Book*.

on the categories of workers protected by the Act were removed, apart from the remuneration limit, and this also was abolished in 1972.

In 1953, an important provision was introduced to enable claimants to be paid compensation from the Workers Compensation Board Fund if their employer was uninsured and without assets.

Ambit of present legislation

Compensation is payable at fixed rates for all absences from work due to employment injury, and in a lump sum for death due to injury and for specified maims due to injury. In recent years the amounts have been adjusted to correspond with changes in the community average weekly earnings index. The amounts bear no relationship to an individual's weekly earnings. Payments are made from the first day of absence. The list of maims includes injuries involving loss of use of limbs, or digits, or the faculties of sight or hearing. Any injury arising out of or in the course of the employment is subject to compensation. A disease, or its aggravation, to which the employment contributes is treated as an injury.

The "worker" entitled to benefits is virtually every person who works for another, except the clear case of a person carrying on a business of his own. Unlike many overseas systems, Victoria protects, for example, the casual labourer, the farm hand, and the policeman. The length of the engagement is, with a minor exception, immaterial. So, too, is the remuneration, except for purposes of fixing the minimum weekly compensation rate.

Dependants of a worker are recognised whether they have legal ties to the injured person or not. The sole criterion is the extent of the actual dependency.

A few "grey" areas remain, e.g., in the typically Australian relationship of the share farmer. The Harris report (1977) has indicated a solution here. In certain circumstances contractors can be "workers", particularly in the timber industry.

The financial basis of the system is compulsory insurance by all employers with insurers authorised by the State. Private insurance companies and the State Insurance Office share this business. The form of insurance policy is specified by legislation, and the policy also provides for indemnity against claims for damages at common law. The receipt of workers compensation benefits is not a bar to such claims, whether made against the employer or a third party.

Procedure

The injured person makes the claim against the employer. There is no particular formality for this. The employer arranges with the insurer either to pay the claim and obtain reimbursement, or to have the insurer handle the payment.

If the worker's claim is disputed, the matter is taken to the Workers Compensation Board. Each year there are between 200,000 and 250,000 claims on employers by workers. Barely 8,000 of these are disputed. If there is a dispute, the worker usually obtains help from his union in engaging a solicitor to prepare the case for hearing by the Board.

Most of the disputed cases are settled by compromise at some stage before the actual hearing. Settlements are facilitated by a thorough system of pre-trial discussion and investigation under the auspices of the Workers Compensation Board. In those cases that go to trial, evidence is heard on oath, and the parties are usually represented by Counsel. The Chairman of the Board alone decides questions of law, but each member has a vote on questions of fact. The Board's decision on questions of fact is final. On questions of law the aggrieved party can have the Board state a case for decision by the Full Court of the Supreme Court. There are usually only about three or four such cases in any one year.

Types of cases

The principal types of cases dealt with by the Board are:

- (1) Claims for injury, where the occurrence of the injury, or the employment-relationship, or the extent of the incapacity, is disputed;
- (2) claims by widows or children for compensation in respect of the death of the worker. The money under this type of award is paid into the custody of the Board, and administered by the Board for the benefit of the dependants;

- (3) claims by workers alleging wrongful termination of payments, and by employers seeking termination of payments on the ground that the worker is fit for work. These are given priority, according to the apparent urgency of the situation;
- (4) claims by minors for injury. Liability is usually admitted in these claims, but the Board must exercise a supervisory function, and where a lump sum for a permanent disability is awarded, the money is administered by the Board as above;
- (5) claims by workers for lump sums for certain specified (table) injuries, notably loss of use of fingers, toes, limbs, etc., loss of sight, or loss of hearing. These are usually assessed on medical reports and informal interview with the claimants;
- (6) compromises arrived at between the parties in cases where matters have been in dispute or where a lump sum redemption (commutation) is proposed of an admitted entitlement to compensation. The Board's approval is required in every instance, and the procedure involves an examination of the circumstances said to justify any variation from the basic right to continued weekly payments;
- (7) claims for payment out of the Workers Compensation Board Fund, where the employer is alleged to be without insurance and without means to satisfy the award; and
- (8) claims for injuries within the ambit of various statutes — e.g., Country Fire Authority (Casual Firefighters), Jurors, Volunteer Civil Defence Workers, Education Department (Volunteer Workers), and the Police Assistance Act.

Board administration

The head office of the Board is at 570 Bourke Street, Melbourne, where there are facilities for all divisions of the Board and for the administrative offices. Divisions of the Board travel on circuit throughout the year to all provincial centres in Victoria, thus simplifying the disposal of claims for people throughout the State.

The Board's administrative staff, headed by a Registrar, is responsible for the co-ordination of the formal sittings, including the processing of applications, filing procedures, and checking and issuing awards. The Registrar is also responsible for the taxation (assessment) of costs in contested cases.

The Registrar's staff handles the requests made by beneficiaries of the funds held in the Board's custody, and in this connection sends out nearly 50,000 cheques each year. Although members of the staff may not give legal advice they can help the public on procedural matters concerning compensation claims. The staff also interviews beneficiaries in connection with requests for payments from invested funds. These funds are held in a common fund, and invested in securities which are basically semi-governmental or in the form of mortgages. The Board allocates to each beneficiary a proportion of the resultant interest.

The complete cost of maintaining the Board including all salaries and expenses (as well as the Fund payment of claims against uninsured employers) is paid from the proceeds of a levy imposed on all approved insurers. The levy is pro-rata to each insurer's premium income for the previous year. It represents less than 1 per cent of the aggregate Victorian premium income. No part of the cost of running the Board falls on the Victorian Treasury.

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