SPEAK BEFORE SENTENCE

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Suggestions for improving the sentencing administration of magistrates' courts in Victoria.

This paper is concerned with the improvement in sentencing procedures in magistrates' courts in Victoria. Sentencing cannot be looked at in isolation, as it is an integral part of the hearing of a case, and it is contended that those suggestions that follow, which may not appear to be directly concerned with sentencing, will, if implemented, improve the quality of sentencing administration in this state.

The Bench does not reach its decision on sentence in isolation; it does not work in a juridical vacuum. Each of the parties contributes to the decision – the presecution, the defence and the magistrates. In fact the whole is made up of many elements. There is the Branch itself, the police (or whoever is prosecuting), the defendant, the witnesses, the Clerk of Courts, social workers and others and legal practitioners. Each and all may contribute to the final result; and the quality of their input determines the quality of the sentence that is handed down.

It is the contention of the writer that the quality of the contribution from each of the consituent parts can be improved, and that such improvement will be of benefit not only to the criminal justice system but also to the community as a whole.

The defendant is the one who is most vitally and personally involved in the outcome. He (and quite often it is she) is the one who will walk away with a conviction and a heavy fine, or may be taken to prison. Many people, on being charged with an offence, will retain a solicitor who may appear for them or may retain a barrister to do the actual court appearance. It is beyond the scope of this paper to discuss these arrangements or to suggest any improvements in them. What is under consideration is the defendant who cannot, or will not, have a legal practitioner appear for him. Some people just cannot afford legal help; others do not want it.

An extension of legal aid is often proposed as a panacea for all the problems in this area, but giving everyone appearing before magistrates' courts legal representation paid for by the community would appear to be costly, unnecessary, and indeed undesirable. There are many cases where legal representation is not required. Be that as it may this paper will give emphasis to the unrepresented defendant and what can be done to improve his position. For, like the poor, he will, if not always, be with us for some considerable time.

There is another step which would give the defendant without his own legal practitioner the assistance and guidance needed, and that is the duty solicitor. This is different from legal aid in that each defendant is not given the exclusive services of a private practitioner, but rather that a solicitor is on duty at the court on court (crime) days to provide legal advice and assistance, and appearance in court if required, to

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those seeking or needing help; a sort of amicus curiae – but more a friend of the defendant. Such a scheme would be far less costly than full legal aid as the services of only one solicitor would be needed for each court (unless a large court with a number of divisions). As far as cost is concerned there appears to be no reason why such a scheme could not be run on a voluntary basis by local (and even non-local) legal practitioners. When one considers that every week some hundreds of justices of the peace act as lay magistrates without payment or expenses (and these are not all wealthy men) it is surprising that those whose life is the law cannot give a little of their time to assist those in need.

Some courts have an informal duty solicitor scheme in that the Clerk of Courts gives advice and assistance to defendants, but this is not structured in any way, and because of the Clerk's role in the court it is not possible for him to appear on behalf of a defendant. Better use could be made of the Clerks in this supportive capacity as they have a wealth of practical and useful experience and many of them are qualified lawyers.

Assuming that there is to be no changes in the near future we must look at the problem of the unrepresented defendant. His main disadvantage is a lack of familiarity with legal and court procedures. He is often frightened, inarticulate and unsure of what is going on. A great number of magistrates both stipendiary and lay, take great pains to assist such people (some almost conducting the defence), but this cannot overcome the disabilities completely. However, sympathetic the Bench it is not realistic to expect them to advise and instruct when they are there to perform a different role.

Some defendants are articulate, educated and competent, and are able to conduct their own case with ease and ability. This may be that they studied aspects of court procedure at school or university (or have absorbed the court dramas on television), or they may have asked questions of knowledgeable people in the community or it may even be that they have had the foresight to attend court beforehand to observe procedure and watch similar cases being heard. These people often acquit themselves quite favourably and make up much of the disadvantage of not having legal representation. It should be remembered that most issues in magistrates courts concern questions of fact and the legal issues involved are not often of a complex nature.

If all defendants could be placed in this position much of the gap could be closed between the represented and the unrepresented defendants. Now it may not be possible to make everyone articulate and educated, but it is certainly possible to remove the fear and to inform of court procedures. It is suggested that this could be done in large measure by giving the defendant, before he appears in court, a pamphlet telling him what to expect and setting out how to conduct himself. At the end of this article are two drafts, prepared by the writer, containing the sort of information a defendant needs to know and advising him how to conduct his own defence. The first one, *Notes for Court,* contains basic information about the court and the hearing. The second, *Court Procedure,* sets out in simple form how to conduct a defence.

It is suggested that these two pamphlets, rather than just being available, should be given to every defendant at the time of being charged (with the bail papers) or attached to every summons, and that this be made a mandatory requirement – non-comliance being grounds for dismissal or adjournment at the discretion of the court. The court would ask the defendant in open court whether he had been given the pamphlets in question. Of course, some people will not read or follow what is contained therein (in the same way that some defendants will not bother to appear at court), but this simple and inexpensive move would be of inestimable value to most of those without representation. By enabling the defendant to contribute more to his defence the court can have more and better information on which to base a reasoned and just verdict and sentence.

As stated earlier the police are constituent part of the whole process. They have charged the defendant and had him brought to court; they produce witnesses against him and they conduct the prosecution. Yet they rarely give an opening address to the court, so that although the prosecutor knows where he is going, and the Bench picks this up by listening to the evidence, the unfortunate defendant may not be quite sure of the case against him until the prosecution has finished. It would be of help to all, and particularly to the defendant, if police prosecutors, in all cases, gave an opening address in which they summarised the case they were going to present. Then after the verdict had been determined, if the case has been proved, the police, apart from reciting prior convictions, take no part at all (apart from rare exceptions) in the sentencing process. The Bench may hear from the defendant, his counsel, employers, friends, social workers, priests, rabbis and others – but nothing from the police. For some time the police have considered that their job is finished when the verdict has been reached, and from the point of view of impartiality and detachment this is admirable. However, the police are often in possession of information (sometimes favourable to the defendant) which, if known to the court, would help the Bench in reaching its decision. It is not advocated that the police make the sentencing desicion; just that they supply some of the input on which the decision is based.

Now that we have spoken of the value of improved performance from the other elements in the magistrates' court setting we should consider the role of the Bench. The Bench has a difficult and demanding role; yet, notwithstanding this, it is a surprise to many defendants to find how helpful and human many Benches are. Some courts will bend over backwards to assist an unrepresented defendant, and it would be fair to say that all courts would prefer a more informed defendant before them. Apart from the requirement that the two pamphlets mentioned earlier be given to all defendants, there would be advantage in making certain basic steps a normal part of all courts' procedure.

With serious cases, both indictable and summary, the Magistrate or Chairman should ensure that the defendant is aware of the seriousness of the charges alleged against him, and should ask whether he wishes an adjournment so that he can obtain legal representation. The defendant should be asked if he wishes to make notes, and should be invited to be seated at the bar table. When it is time for cross-examination of prosecution witnesses, many defendants are unaware how to do this as they really cannot understand the difference between a statement and a question. The Magistrate or Clerk should translate any statements into question form in order to assist the defendant make a proper cross-examination.

At the end of the defendant's evidence he should be encouraged to make a closing address in which he comments on the evidence given by the prosecution. As regards the plea in mitigation the Chairman or Magistrate should ask specific questions rather than just rely on the defendant covering the essential points. He should be asked not only whether he wishes to give an explanation for the offence, but also whether there are any personal, financil or family circumstances which he considers should be taken into account. When the sentence has been announced the defendant should be told of his rights of appeal, and instructed to see the Clerk of Courts if he wishes to pursue this.

The quality of sentencing of the Bench can be further improved by improving the quality of the Bench. This is not to imply criticism of our magistrates, but rather to point out that performance in some areas could be enhanced comparitively easily and without cost. In this state we have a dual

system of stipendiary magistrates and justices of the peace. There seems an almost inevitable, though regrettable, trend towards a professional public service bench with a reduction in the powers of justices. If we are to retain the lay magistracy (and it would be a tragedy if we did not) it is essential that those appointed be chosen for character, capacity and ability – and be far better trained. It should also be a requirement that they should sit a minimum number of times each year.

Justices should have the services of the best Clerk available. Many clerks have years of experience, and some are qualified lawyers, yet in many courts the lay bench is given assistance of a junior who, nothwithstanding his dedication, just does not have the experience or qualifications to properly advise the Bench on questions of law and procedure. In some courts the justices sit on a regular basis with the stipendiary magistrate, and this allows for knowledge to flow from one to the other. Stipendiaries have a wealth of knowledge and experience, and this is invaluable in helping lay magistates become better at what they are doing. Regrettably, in some areas this practice is not followed, and in some courts stipendiaries have been known to refuse to allow justices into "their" court. Just how this is supposed to help the cause of justice is hard to comprehend.

There would be benefit if there was a form of continuing education, including sentencing theory and practice, for all magistrates, both stipendiary and lay. It would be preferable if such training was taken jointly rather than continue the present situation where each group goes its own way. Both have much to learn and each can learn from the other. Such joint training is undertaken in England, and its development here would work towards improving the judicial quality of our magistrates' court benches.

Now it may be thought that all the proposals contained in this paper sound find enough, but how are we to measure objectively their merits and benefits. This is difficult to answer because we are talking about human factors which are to a large extent subjective. Is the better court the one with the highest conviction rate, or the best acquittal rate, the heaviest sentences or the lightest, the happiest defendants or the most satisfied communities? Because courts must of necessity represent many interests it is not easy to point to a measure and its concomitant benefit. But that does not mean that it should not be done. Probably the only test we can apply is how would the introduction of these measures be regarded by a fair-minded right-thinking person? If the response is that they would be seen as fair and just and equitable, and they they would improve our criminal justice system, then we have our answer.

Perhaps it would be worthwhile introducing these measures as a pilot scheme at one or two courts in order to better judge their effectiveness, and to provide some method of comparison. One way of doing this would be to choose two courts on the same circuit (say, Brunswick and Collingwood) and provide duty solicitor at one, and at the other introduce the two pamphlets. The other measures could be introduced at both coursts. By selecting courts on the same circuit there is the benefit of having the same stipendiary sitting at both courts, which provides a form of constant supervision and evaluation. The lay benches would have a different composition at each court. It would be necessary to have the co-operation of the Law Department, the Victoria Police, the legal profession and court staff. This would not seem to be an insurmountable hurdle. The scheme could be in operation for one year, after which time its effectiveness could be examined. If the writer's hopes are then realised, the scheme (at least the introduction of the two pamphlets) could then be introduced throughout the state.

NOTES FOR THE COURT

These notes have been prepared to the guidance of unrepresented defendants (i.e. those who are not represented by a barrister or solicitor) appearing before magistrates' courts in criminal matters. They should be read in conjunction with the pamphlet entitled *Court Procedure.*

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Many people will approach a private solicitor on being charged with an offence, and have the solicitor or a barrister appear for them in court. Thos who cannot afford a sollicitor may be able to obtain legal aid. Many areas have legal aid offices, and it may be worthwhile approaching one of them or talking to the local Clerk of Courts. However, this pamphlet is written for the benefit of those who are unable, or choose not to, obtain the assistance of a legal practitioner.

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You have received a summons (by post or personal delivery) instructing you to appear at a certain magistrates' court on a certain day. Or you may have been arrested and released on bail, in which case the date of the court hearing will be shown on the bail papers.

It is important that you attend court on the day stated. It is difficult to avoid being convicted if you do not appear to tell your side of the story to the court. If you are on bail it is essential that you attend on the day stipulated. If you do not you commit a serious offence and a warrant may be issued for your immediate arrest.

The summons or bail papers will set out the details of the offence alleged against you. In addition you may have copies of statements made to the police or a copy of the record of interview prepared by the police.

You should ascertain the penalties for the offences alleged against you. It would be foolish not to attend court if the offence carries a prison sentence or large fine or involves the cancellation of your driving licence. The Clerk of Courts can assist you here.

Most charges heard in magistrates' courts are brought by the police, but charges can be brought by other persons, such as the Victorian Railways (for offences committed on railway property), a local council (for example, on health matters) or by private individuals (such as an assault on a neighbour where the police were not involved). The court procedure is the same irrespective of who brings the charge. In all cases the person alleging the offence against you must prove this to the court beyond a reasonable doubt. This means that if there is a reasonable doubt you get the benefit of it and the charge will be dismissed.

It is better to ignore the advice of any persons who suggests that it is better not to attend the court, and to have the case determined in your ansence (it is not). And ignore anyone who tells you to plead guilty because the court will be easier on you. You are entitled to plead not guilty and to defend yourself. This will not be held against you by the court even if they find the case proved against you. The court works on the assumption that you are innocent until proved guilty.

If you are genuinely, and for good substantial reason, unable to attend the court on the day stated you are entitled to ask for an adjournment to a later date. Approach the Clerk of Courts regarding this and advise the police that you are seeking an adjournment. In most cases they will raise no objection.

If you feel that you did commit an offence, but that you are not guilty of all the alleged offences (for example, you may admit to speeding but deny that your driving was careless; or you may admit that you resisted arrest but deny you assaulted the policeman involved; or you may admit to being drunk and disorderly but deny using abusive language) it may be worthwhile approaching the police to advise them that you intend to plead guilty to the lesser charge but will not accept the more serious. The police may be willing to withdraw the more serious charge if they know that you will plead guilty to the lesser charge. However, if the charges are such that it would be unjust to have them withdrawn this will not be done. The police may be approached by contacting the informant and the senior officer at the police station applicable or by speaking to the prosecutor on the day your case is being heard. If you are in any doubt speak to the Clerk of Courts about the procedure you should adopt. Under no circumstances though must you contact any magistrate or justice involved in the case.

You will probably be unfamiliar with court procedure and may feel uncomfortable in the court surroundings. It is recommended that, before the day on which your case will be heard, you attend the court in which you will be appearing so that

you can familiarize yourself with the procedure and see how cases are conducted. If you contact the Clerk of Courts he will be able to advise you on what days cases similar to your own will be determined. By sitting in beforehand you will find that any nervousness you have will be largely overcome.

You are expected to respect the dignity of the court by dressing appropriately. This does not necessarily mean that you must dress formally, but your appearance must be suitable. Sometimes you may have to come to court direct from work and it is in order to wear your ordinary work clothes. However, it would be improper to wear, for example, beach clothes, or to come in bare feet. If you teat the court with respect and appreciate the seriousness of the matters before it you will find that the court will respond in the same way towards you.

The Bench hearing your case may consist of a Stipendiary Magistrate (i.e. a professional fulltime magistrate) sitting alone, or two or more Justices of the Peace (i.e. lay magistrates). Sometimes the Bench will be made up of a Stipendiary Magistrate sitting with one or more Justices of the Peace. This dual system which operates in Victoria (and in many other states and countries) provides for professional ability with a balance of community interests. The other officer of the court is the Clerk of Courts (a professional fulltime court officer) whi will sit in front of the Bench and will handle procedural aspects of your case. Magistrates are addressed as "Your Worship" and the Clerk of Courts is addressed as "Sir".

If you have been charged with another person in relation to the same offence or offences the police may ask the court to have all the cases arising from the same events heard together. Your consent is required. If you feel that you will be prejudiced in any way by a joint hearing tell the Magistrate or Chairman as soon as this application is made by the police.

If you feel that there is a disadvantage to you in the prosecution witnesses being present in court when evidence is being given, you can ask the Bench to order witnesses out of court. In the same way the police can make the same request in respect of your witnesses. When this happens all witnesses, with the exception of you and the informant (i.e. the police officer bringing the charge), must leave the court. They will be called as required to give their evidence.

It will be easier for you if you take notes of what is said by the witnesses against you. You will be allowed to cross-examine these witnesses. You will find that the court will offer every assistance to you. You may ask the Bench if you may be seated at the bar table (this is where the barristers and solicitors sit).

You may elect to give sworn evidence on your own behalf. This will generally carry more weight with the court than making an unsworn statement. You do not have to say anything at all, but this is usually a disadvantage to you as all the court will have before it is the evidence given against you.

You may call any witnesses you wish, either to support your story (after verdict) to give evidence of your good character to the court. You may also address the Bench to summarise your case and to present the substance of your defence.

If the court decides against you, you are entitled to ask the reasons for this decision being reached. You are entitled to a certificate of your conviction (or of your dismissal if you are acquitted) if this is required. You may appeal against the decision of the court to the County Court. This is by way of a rehearing and the Clerk of Courts can assist you here.

You are entitled to address the Bench on the question of penalty. If you say nothing the Bench must make a decision on the facts before it. If there are any circumstances, either surrounding the offence or concerning your own background or family, which may help the Bench in reaching a fair and proper decision it is your responsibility to inform the Magistrate or Chairman. You can bring forward witnesses and produce references or other papers to support your submission. Sometimes the police, if they know of your circumstances, may speak on your behalf.

If a conviction will have a detrimental and permanent effect on your career, if the loss of your driving licence will mean the loss of your job, or if going to prison will cause great suffering to your family it is in your interests to advise the Bench. If the offence you have committed is such that you will be sent to prison, it is possible, in some circumstances, for the Bench to send you to an Attendance Centre instead. This would allow you to keep your job and remain with your family.

Remember that any information you give to the court must be accurate and truthful.

You should also appreciate that the Bench has a duty to the community in deciding penalties, and the requirements of the law and the safety and wellbeing of the community must be taken into account.

Read the pamphlet entitled *Court Procedure* carefully and take it to court with you.

COURT PROCEDURE

Prepared for the guidance of unrepresented defendants (i.e. those who are not represented by a barrister or solicitor) appearing before magistrates' courts in criminal matters.

1. **APPEARANCE**: When your name is called (either over the public address system or by the policeman at the door of the court) enter the court (if you are not already present) and stand before the Bench in the position indicated to you by the Clerk. This is usually (but not always) to the right of the Bench from where you stand, and on the side of the court opposite to the witness box. If you are in custody you will be brought into the court by the police.

In some courts there is a call-over whereby the Clerk can ascertain who is appearing that day. In these cricumstances, when your name is called, stand and identify yourself and advise the Clerk that you are not represented.

2. **INTERPRETER**: If you do not understand English well enough to be able to conduct your own case without assistance, you can bring an interpreter with you. At this stage the interpreter takes an oath to faithfully interpret all that is said during the case. Please note that the interpreter must only translate to the court what is said by you. He or she cannot conduct your case for you or take any other part in the proceedings.

3. **CHARGE**: The Clerk of Courts, who is seated in front of the Bench (consisting of one or more magistrates), will read out the offence with which you are charged. This should correspond with the charge or charges stated on the summons or bail papers you have. If you do not understand the charge advise the Clerk who will explain the substance of the alleged offence to you.

4. **PLEA**: After the charge has been read you will be asked how you plead. The response to this is either "Guilty" or "Not Guilty". If you are not sure whether you are guilty or not, it is best to plead "Not Guilty". You will not be prejudiced in any way by doing so. After the plea has been taken you will be asked to take a seat behind where you are standing.

5. **INDICTABLE OFFENCES**: If you have been charged with an indictable offence (a more serious offence, such as theft or burglary) you will be asked by the Magistrate or Chairman of the Bench whether you consent to the charge being heard by the court. This is done before you plead. If you do not consent your case will be heard before a judge and jury in the County Court at a later date. If the Bench is of the opinion, because of the seriousness of the offence, that you should not be tried in a magistrates' court you can be committed for trial before a higher court.

6. **NOTES**: If you wish to make notes of what is said or presented in court (and you will probably find this helpful) please bring a notebook or the like with you. If you would prefer to sit at the front of the court ask the Magistrate or Chairman if you may be seated at the bar table. This will make it easier for you if you have brought papers or books to the court to assist in your case. The Magistrate is addressed as "Your Worship" (if there is more than one magistrate sitting they are addressed collectively as "Your Worships").

7. **PROSECUTION CASE**: The prosecution must prove its case to the satisfaction of the court beyond reasonable doubt.

The prosecutor (who will usually be a police sergeant) will call the first witness (e.g. in assault cases, the alleged victim; in accident cases, the other driver; in traffic cases, the policeman who booked you; in theft cases, the person who detected the alleged theft or from whom the goods were stolen). This witness will give evidence as to what he or she knows about the matter. The prosecutor is not allowed to ask what are called leading questions. As you are not represented the Magistrate will take care to ensure that these are not asked.

The prosecutor calls his witnesses in turn, and in most cases you will find that the final witness will be the policeman who interviewed you regarding the offence.

8. CROSS-EXAMINATION: At the conclusion of the evidence of each witness you have the right to ask (or not ask) questions of the witness on the evidence he or she has given or to give the witness an opportunity to confirm or deny any matter which you intend to introduce in your own evidence later. Anything you ask must be put in the form of a question. At this stage do not put your side of the story (except so far as it relates to actual cross-examination) as you will have an opportunity to do this when you give your evidence later on.

9. CASE TO ANSWER: When the prosecutor has finished calling all his witnesses and has presented the prosecution's evidence, he will tell the Bench that that is the close of the prosecution case. If you think that there has not been sufficient evidence against you, you can put to the Bench a submission that there is "no case to answer". If the Bench agrees that there is no case against you the Magistrate or Chairman will announce that there is no case and the charge will be dismissed. If that happens that is the close of the proceedings and you are free to go. If the Bench feel that there is a case this will be announced and you will be asked whether you wish to give evidence.

If you have pleaded guilty the above will not apply and you should refer to paragraph 14 of this guide, ignoring paragraphs 10 to 13.

10. DEFENCE CASE: It is now your turn to give your side of the story. The Clerk will hand you a printed card which sets out the three alternatives available to you. These are: the right to say nothing at all; the right to make an unsworn statement from where you stand — in which case the prosecutor cannot ask you any questions; or the right to go into the witness box and give evidence on oath — in which case you can be cross-examined. The Bench is likely to place more weight on evidence which is given on oath.

11. WITNESS BOX: If you elect to give evidence on oath the Clerk will direct you to the witness box, ask you to take the Bible in your uplifted hand and to repeat the oath after him. After taking the oath replace the Bible, face the Bench, and state your name, address and occupation. Then explain to the court, in your own words, your side of the story. You can tell the court your view of the events and you can submit diagrams or other papers to support you. As stated above you can be cross-examined by the prosecutor, and you may be asked questions by the Bench. Answer all questions simply and directly.

12. WITNESSES: You have the right to call any witnesses to give evidence on your behalf. These should be people who can give actual evidence about the events in question. Any witnesses you call can be cross-examined on the evidence they have give.

13. CONCLUSION: The court will allow you to give a closing address if you wish. This enables you to summarize your case and to draw the attention of the Bench to any defects in the prosecution evidence and to the strengths of your own. The prosecution must have proved its case beyond a reasonable doubt. The prosecutor may make a closing address also.

14. JUDGMENT: After your case has been concluded the Bench will announce its decision (in some cases, if the evidence has been lengthy and complicated, the Bench may withdraw to consider its decition). This will be either that the charge has been proved or that the charge has not been proved (in which case the charge is dismissed, and you are free to go).

15. PRIOR CONVICTIONS: On finding the case against you proved the Magistrate or Chairman will ask you to stand. The prosecutor will then put to you any prior convictions that you have. If these are not correct say so immediately. The Bench must be satisfied before prior convictions can be taken into account. Neither the prosecutor nor any other person is allowed to inform the Bench of your prior convictions before this stage of the proceedings.

16. ADDRESS ON PENALTY: Before the Bench announces the penalty you have the right to address the Bench on the question of penalty. It is important that you do this. If you do not the Bench can act only on the information before it and may impose a penalty which, although according to law and quite fair on the facts, may cause you great hardship and be such that, if the Bench had been aware of the full facts, may not have been given.

You can make a submission on the circumstances of the offence (such as that, although you were speeding, you were in a hurry to get home to your child who was seriously ill), your own character (such as that you have never committed any previous offences, that you have a responsible position in your employment and in the community, that you have been driving for so many years without a blemish), and the effects on family, employment and the community (such as if you go to gaol your family will suffer unduly, that if you are convicted you will lose your job, that if you lose your licence you will be unable to obtain work).

You can call any witnesses who know you and can give evidence about your character, and you can produce letters and references from people such as your employer, your doctor or a social worker.

Give the court as much information as you feel they need to know, but remember this must be accurate and truthful.

17. OPTIONS ON PENALTY: The court generally has a wide range of options available to it as regards penalty and these are set out below. In some cases the legislature has laid down certain minimum penalties (such as the cancellation of driving licences), and in these cases the discretion of the court is limited. Remember also that the Bench has a duty and a responsibility to the law and to the community to impose a just and appropriate penalty, especially where another person's or the community's safety and wellbeing is at risk.

The options available to the court include:

- imprisonment (at Pentridge or Fairlea);
- detention in a Youth Training Centre (for those aged 17 to 21 years);
- imprisonment to be served by attending an attendance centre (at evenings and weekends);
- fine (in default of payment, imprisonment);
- probation;
- cancellation or suspension of driving licences;
- payment of compensation;
- payment of costs (to witnesses);
- good behaviour bond (which may include conditions, but you have the opportunity to avoid a conviction);
- adjournment;
- dismissal without conviction (for very trifling offences).

If fined, and you are unable to pay the fine immediately, you can ask the court for time to pay.

If your driving licence is cancelled you are not to drive — even to bring your car home from the court. If the cancellation is coupled with a disqualification period you can be sent to prison for driving.

18. RIGHT OF APPEAL: If you feel aggrieved in any way by the decision of the court, or if you feel that you have been unfairly treated, you may appeal to the County Court. This is by way of a complete rehearing of the case.

If you wish to appeal you can either advise the Bench whilst you are in court, or you can advise the Clerk of Courts

afterwards. If you announce your intention of appealing whilst in court this will allow the recognizance to be set, and you will be free to go. You have to complete certain papers and the Clerk can advise you here.

You should appeal only where there is substance in your case. Frivolous appeals, or appeals merely to delay sentence, are frowned upon, and the penalties available in the County Court are greater than those applicable in the Magistrates' Court. If you have any doubts here consult the Clerk of Courts or a solicitor.

19. CLERK OF COURTS: The Clerk of Courts is available to advise or assist on any question or matter as to the above court procedure or in relation to any matters which affect your case.

You must not, under any circumstances, approach any magistrate or justice who may be hearing your case. This is highly improper and may constitute a serious criminal offence. It is permissable to discuss your case with the police along the lines as set out in the document *Notes for Court..*

20. BRING THIS PAMPHLET TO COURT WITH YOU and refer to it as required. Spare copies can be obtained from the Clerk of Courts at any court, or from any police station.

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Much of the content of the foregoing came not so much from either primary or secondary sources, but from the writer's own experience of sitting on the bench, of his many discussions with fellow magistrates, legal practitioners, court staff and police officers, the reading of innumerable books and journals, and his attendance at, and participation in, criminology lectures and seminars.

However, the following were particularly helpful:—

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