# REVIEW OF LEGISLATION, 1951

## I. Western Australia

*Introductory.*

The second session of the Twentieth Parliament began on 2nd August 1951 and would normally have continued until shortly before Christmas. But differences arose between the two Houses which, for technical reasons of procedure, made it necessary for a third session to be held; Parliament was accordingly prorogued on 15th October and summoned to meet in a new session on the next day. The immediate cause was the loss of a Bill to continue for one more year (as from 1st January 1952) the Increase of Rent (War Restrictions) Act 1939.[1]

The Government's Bill was introduced in the Legislative Assembly on 30th August and had passed all stages by 13th September; apart from providing for the continuance of the principal Act for one more year it made few changes in the existing law, although Opposition members made strenuous but mainly unsuccessful efforts to persuade the Government to accept a number of amendments. The Bill reached the Legislative Council on 18th September, when Standing Orders were suspended to enable the first and second readings to be taken on that day. The Minister spoke briefly and then moved "That the Bill be now read a second time." Debate was adjourned; on its resumption two days later the call went to an Opposition member who supported the principle of the Bill but in so doing was frequently interrupted by members of the same political faith as the Government. One of these "friendly critics", who had previously shown himself antipathetic to legislation of this kind, secured the adjournment of the debate. When the Bill came before the Council again on 25th September the member's opening words were ominous for the Government; "I can find nothing in the Bill", he said, "to commend it to the House." He then read the draft of a Bill which in his opinion should be substituted for the existing law, and moved an amendment to the Minister's motion that "The word 'now' be struck out and the words 'this day six months' be added."[2] The House was equally divided when it voted; the fate of the amend-

1 See *Review of Legislation 1950*, 117, 128-130, *supra*.

2 The effect of the amendment, if carried, would be to reject the Bill altogether: Standing Order 183 of the Legislative Council.

ment now depended upon the casting vote of the President of the Council (as provided by sec. 19 of the Constitution Acts Amendment Act 1899). There were few precedents to guide the President; but it has long been accepted that the President (and the Speaker of the Assembly) should so exercise his casting vote as to preserve the *status quo* or to afford an opportunity for a measure to be considered on its merits. The President, however, said at once, "The voting being equal, I give my casting vote with the ayes", without giving any reasons for an action which could only embarrass the Government; the Bill was rejected. Was there any significance in the fact that immediately after this momentous decision the Council was plunged into gloom by the failure of the lighting system and had to adjourn?

A fortnight later the Minister in charge of the Bill moved to rescind the motion which had killed the Bill. The mover of the original "death-dealing" amendment then submitted, supporting his argument with a wealth of quotations from *May,* that the motion to rescind was out of order. The President upheld him, whereupon another member moved to disagree with the President's ruling; after *May* had again been quoted and re-quoted, the motion to dissent was carried by 15 to 12 and debate continued on the Minister's motion. This was discussed for nearly an hour and was finally passed by 13 to 12; but as Standing Orders require an absolute majority (i.e., 16) in favour of a motion to rescind, the controversial Bill remained dead.

The Government, faced with the prospect of the expiration of the principal Act on 31st December 1951 with nothing to take its place, recommended prorogation and the immediate summons of Parliament in order that a new session might begin and another measure be introduced. A new session involves the formalities of a Governor's speech and of an Address-in-reply, the latter being traditionally an opportunity for members to congratulate the Government on its achievements—unless they sit with the Opposition, in which case they vent their grievances and concentrate on the Government's failures. On this occasion, however, the Opposition was just as anxious as the Government to clear the way for the introduction of a new Bill to deal with the politically vexatious landlord-tenant relationship; hence the debate on the Address-in-Reply, which usually continues for some weeks, came to an abrupt end on the first day of the new session, the only speakers being six Opposition members.[3]

[3] All criticised the recent action of the Legislative Council; their attitude can be summed up in the comments of one of them:— "We were in-

Despite the compliance of the Opposition it was another month before the Government was ready to introduce its substitute measure which had a stormy passage through the Legislative Council and was only passed after the Government had been forced to accept a number of amendments.

The Houses adjourned on 15th December; normally prorogation follows, and the next session begins in the following July or August. But the third session of the Twentieth Parliament was resumed on 26th February 1952 and continued until 14th March to enable the Government to pilot two very important measures through Parliament.[4] On the resumption in February both Houses were officially informed of the death of King George VI and of the accession of Queen Elizabeth II; all members thereupon took the oath of allegiance to the new monarch. After the adoption by both Houses of loyal addresses, and of obituary motions referring to the recent deaths of the Minister of Agriculture and of a former Speaker of the Assembly, a joint session was held to fill a vacancy in the State's representation in the federal Senate, one of its members having died and a casual vacancy being thereby created. Under sec. 15 of the Commonwealth Constitution such a vacancy must be filled by the State legislature in joint session; the person so chosen becomes a Senator until the expiration of his predecessor's term of office (normally six years) or until the next Senate election, whichever first happens. The deceased Senator having been a member of the Labour Party, the Premier nominated another member of that Party as his successor although the Liberal-Country Party coalition had sufficient voting strength to have ensured the election of one of its supporters had it wished to do so. There being no other nominations, the Premier's nominee was declared elected; this may be taken to create a precedent, at least for Western Australia, that since the adoption

terested in the extremely short address made by the Administrator this afternoon, and I was somewhat amused by the last two lines. Sir John Dwyer said—'I now declare this session of Parliament open and trust that Providence may bless your labour in the interests of the State.' I think some mistake was made. It should have read—'I now declare this session of Parliament open and trust that the Legislative Council may bless your labour in the interests of the State' '': (1951) 128 Western Australia Parliamentary Debates, 1-21. (NOTE: There being a vacancy in the office of Governor, the Chief Justice of the Supreme Court, the Honourable Sir John Dwyer, had been appointed Administrator of the Government).

4 One of which was the Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act, to which reference is made later in this *Review of Legislation.*

of proportional representation for elections to the federal Senate,[5] a casual vacancy should be filled by the election of a member of the same political party as his predecessor.

In all, during the two sessions of 1951-1952 72 public and 2 private Acts were passed; in the former session 38 Bills had passed various stages when the prorogation caused them to lapse, but of these 29 were afterwards revived and found their way into the statute book. In the third session 18 more Bills were introduced; a few were defeated, but most were discharged.

The holding of two sessions in 1951 had one curious result. Acts are officially designated in two ways, by regnal year with Roman numerals, and by Arabic numerals with reference to the calendar year; hence the Acts which had passed all stages and received assent before the prorogation are 15 Geo. VI, Nos. I to VII, or Nos. 1 to 7 of 1951. But the first Act passed after the prorogation does not become 15 Geo. VI, No. VIII, or No. 8 of 1951; it is 15 Geo. VI, No. I, or *No. 1 of 1951. The same practice is adopted for the remainder of the first seven Acts passed in the third session, so that unnecessary duplication and confusion are caused; the insertion of an asterisk before the numbers of these Acts (but not before their regnal year identification) is only likely to make confusion worse confounded.

The annual volume of the Statutes (described as 15 Geo. VI and 1 Elizabeth II, 1951-52) has an annoying defect in the Table of Short Titles of Acts, which are there set out in alphabetical order. Opposite each Act is a column containing its number in Arabic figures; but the column provided for the page number is for some reason left completely blank. Hence, instead of being able to look on a particular page for the beginning of an Act, the inquirer must thumb his way through the book until he finds the Act in its proper numerical sequence.

## I. CONSTITUTIONAL

*Consolidated Revenue Fund receipts.*

In 1937, when loans were not easily raised, the government of the day decided[6] to finance the construction of new public offices in a novel way. The Treasurer was authorised to borrow up to

[5] See *Review of Legislation*, (1948-50) 1 University of Western Australia Annual Law Review, 323-326.

[6] By the Public Buildings Act, No. 52.

£300,000 from the *State Insurance Reserve Fund* and to lease certain government lands; he was required to pay all rentals into a Government Building Sites Trust Fund Account out of which interest on the loan would be paid (Consolidated Revenue Fund being charged with the balance if the special fund was insufficient to meet the full amount). Certain lands were let on lease, but the outbreak of war in 1939 put an end to any thoughts of building; no money was in fact borrowed from the *State Insurance Reserve Fund,* and the rentals were not paid into the Trust Fund Account but into consolidated revenue. By 1951 the State Insurance Office had no money to lend, having invested its reserves in Commonwealth bonds; it was then realised that the rentals of the leased lands had been paid into the wrong fund. By the Public Buildings (Validation of Payments) Act (No. 2 of 1951) all such payments were retrospectively validated, and future rentals directed to be paid into consolidated revenue. As the proposed source of the loan had dried up, the Public Buildings Act was itself repealed by No. 3 of 1951.

*Former members' pensions.*

The conditions under which a pension is payable to a former member of either House[7] are made slightly more liberal by the Parliamentary Superannuation Act Amendment Act (No. 43 of 1951). A member who in the aggregate has served for not less than twenty years becomes automatically and unconditionally entitled to a pension on retirement. By the same Act members' contributions to the Parliamentary Superannuation Fund are raised from £48 to £52 per annum; the section which makes this change also requires £4160 to be paid annually from consolidated revenue into the Fund. As there are eighty members of the two Houses, this means that members' contributions to the Fund will in future be subsidised pound for pound out of consolidated revenue.

*The site of Parliament House.*

The site allotted to Parliament House in Western Australia consists of an irregular triangle of land in the City of Perth; Parliament House itself (which is still far from complete) is built on the centre of the base of the triangle, the apex of which lies much lower than the base and is occupied by the Public Works Department in a building which is much older than Parliament House itself. For some

[7] See *Review of Legislation 1950,* 118 *supra.*

years past successive Ministers of Works have authorised the construction of more buildings (mainly of a temporary nature) on that part of the site immediately behind the Public Works Department. Approval was given in 1950 for the erection, at a cost of approximately £62,000, of yet another temporary building; construction was well advanced when indignant members complained of further unlawful encroachments on the site. The Minister tactfully ordered a temporary cessation of building and then introduced the Parliament House Site Permanent Reserve Bill[8] which sought to authorise the completion of the building and its retention *in situ* for twenty-one years. The Assembly, with some misgivings, passed the Bill; the Council amended it in committee to reduce the term to ten years. In the lower House a further amendment, moved from the Opposition benches, to shorten the period to five years was carried by a small majority although the Minister had declared that he "was not prepared to accept (it) because (he felt) no good purpose will be served." After a slightly acrimonious debate the Council agreed to five years, however unlikely it seems that the offending building will then be removed.

## II. ADMINISTRATION OF JUSTICE

*The common employment rule.*

At long last the much criticised rule in *Priestley v. Fowler*[9] has been expunged from the law of this State, at least in regard to causes of action accruing after the date (19th December 1951) of the Law Reform (Common Employment) Act (No. 29 of 1951); the abrogation of the rule also involves the repeal of the Employers' Liability Act 1894, which reproduced with a number of additions the United Kingdom Act of 1880 (43 & 44 Vict. c. 42). The new Act takes away the defence of common employment not merely from private employers but from the Crown and its instrumentalities.

## III. STATUS.

There was no legislation in this category in 1951.

## IV. PUBLIC HEALTH.

*Hospital benefits.*

In 1945 the Commonwealth offered, to such States as might be prepared to enter into agreements for this purpose, subsidies to-

8 Now *No. 6 of 1951; not to be confused with No. 6 of 1951.
9 (1837) 3 M. & W. 1.

wards the increased cost of hospital treatment. In practice, where such an agreement had been made, the Commonwealth paid six shillings *per diem* (increased in 1948 to a maximum of eight shillings) for every patient in a public or private hospital. Western Australia entered into such an agreement by the Hospital Benefits Agreement Act 1945-48, but was informed in 1951 by the Commonwealth that it proposed to terminate all agreements made under the 1945 Act and to introduce a new scheme, existing agreements to lapse in July or August 1952. Since the State legislature may not be in session when the existing agreement ends, the Hospital Benefits Agreement Act (No. 53 of 1951) authorises the State Premier to enter into a new agreement with the Commonwealth when the latter's terms become known.[10]

*Medical and dental services.*

The tropical north of Western Australia is both sparsely populated and inadequately supplied with medical and dental services. In the adjacent Northern Territory, which is under federal control, the Commonwealth maintains a medical and dental service whose officers, in an emergency, are allowed to attend persons living in Western Australia's northern area. Since the registration of doctors and dentists is a State matter, and none of the Commonwealth officers are registered by the State Boards, they commit a technical offence every time they play the part of the good Samaritan and give their professional services to persons in this State. The Co-opted Medical and Dental Services for the Northern Portion of the State Act (No. 45 of 1951) corrects this anomaly by authorising an agreement between State and Commonwealth for the latter's medical and dental officers to be co-opted for practice in the north and to exempt all such officers from the requirement of registration.

## V. CONTROL OF PRICES AND COMMODITIES

*Price control.*

In the Legislative Assembly a short Bill to continue price control for one more year passed through all stages without amendment,

10 Under regulations made in pursuance of its Hospital Benefits Act 1951 the Commonwealth offers to continue the subsidy per patient at the existing rate of eight shillings daily. It also offers to pay an additional daily subsidy of four shillings *but only in respect of patients who are members of a friendly society or are insured with a recognised hospital benefits fund or society.* The maximum sum payable in respect of or recoverable by such a patient is about twenty-one shillings a day; but the daily charge for hospital treatment may be as much as four times that amount.

the Opposition supporting the principle but criticising some of its recent applications and alleging laxity in enforcement. This Bill was one of those which lapsed when Parliament was prorogued; early in the new session the Assembly requested the Council to restore to the notice-paper a long list of Bills, including the Bill to continue price control. When the Minister moved in the Council to restore all these Bills, an amendment was at once moved—That the words "Prices Control Act Amendment (Continuance) Bill—second reading. Adjourned debate" be struck out.[11] After some discussion the amendment was defeated, the Council then agreeing to restore the complete list of Bills to the notice-paper. The attack upon this particular measure was not renewed when the second reading and committee stage were taken later in the same day; the Bill was quickly passed without amendment, and the third reading on the next day aroused no comments. Hence price control continues until 31st December 1952.[12]

*Building control.*

In its Bill to continue building control for one more year the Government included an important amendment to increase substantially the penalties for unauthorised building. During the debates members on both sides of the House referred to a number of cases in which nominal penalties had been imposed for substantial and flagrant breaches of the Act and the regulations; there was general agreement that other and heavier penalties should be prescribed, but not as to what they should be. After a protracted committee stage the Assembly adopted without division the Government's proposal that the penalty for contravention of the Act should be (a) a maximum fine of £500 and/or a maximum of two years' imprisonment, and (b) a further fine equal to the cost of the unauthorised building or the price of the materials improperly obtained. The Bill caused prolonged discussion in the Legislative Council, where the second reading debate—to which nearly every member contributed—lasted several days. In committee the Council, while approving the monetary penalties, objected to the provision for imprisonment and struck it out; the Assembly wanted to retain it, but the Council was adamant. The Minister for Housing, from his place in the Assembly, warned the House that "apparently those in another place desire to get us into the tactical position of sitting in conference and thus having

11 See (1951) 129 Western Australia Parliamentary Debates, 111-118.
12 See No. 8 of 1951.

an opportunity of throwing the whole Bill out;"[13] he therefore moved that the Assembly should accept the Council's amendment. Though some Opposition members thought that the time had come for a fight with the other House, the motion was carried without division and the Bill, as amended, was passed.[14]

*Rent control.*

The Government's new measure, the Rents and Tenancies Emergency Provisions Bill, began its second reading in the Assembly on 20th November 1951 and was in committee on 22nd, 27th, and 28th of that month; 16 amendments were accepted by the Government and 15 rejected. The Council made 36 amendments, of which the Assembly accepted 28 as they stood; 2 were further amended; on the remaining 6 the Assembly stood fast, only to be told that the Council insisted upon them. The Assembly refused to give way and asked for a conference; this was held and resulted in all of the Council's amendments, with some slight changes, being accepted. With this substantial victory for the Council the amended Bill passed both Houses;[15] it came into operation on 20th December 1951, which is the "specified day" for the purposes of Part II, which deals with the determination of rents and increases thereof.

The new Act does not make any very substantial changes in the existing law.[16] Rents of premises let on the specified day (or let before that day but not actually in the occupation of a tenant on that day) may, *by agreement between lessor and lessee,* be increased by not more than ten per cent. of the rent then lawfully chargeable and by the amount of "increased outgoings", if any. Applications for determination of the proper rent may be made by lessor or lessee to a rent inspector in a limited number of cases, or normally to a Local Court; if a determination has been made by the latter, either on an original application or on appeal from a rent inspector, and the capital value of the premises exceeds £3000, an appeal lies to a judge of the Supreme Court whose decision is final. Where rent has been determined in accordance with the Act, neither party may apply for a new determination within six months unless one or more of several conditions are satisfied; but the conditions are expressed so widely as, it would seem, to make most applications proper.

13 (1951) 130 Western Australia Parliamentary Debates, 1276.
14 Building Operations and Building Materials Control Act Amendment and Continuance Act, No. 35 of 1951.
15 As No. 47 of 1951.
16 See *Review of Legislation 1950,* 128-130 *supra.*

Part IV deals with the recovery of premises, and has a different "specified day", namely, 31st December 1950. Its provisions "do not affect the rights at law" of (a) the parties to a lease entered into after the specified day or (b) the lessor of premises leased at or after the specified day where the lessee has, after the specified day but without the consent of his lessor, assigned the lease or sublet the whole or part of the premises. The ejectment provisions fall roughly into two categories. In the first, the period of notice to quit is the period to which the lessee is entitled or six months, whichever is the longer; it is required in the following cases:— (1) where the lessor, being a body corporate or an unincorporated group or association, has been the owner for at least six months and requires the premises for itself, its agents or servants, or for a majority of its shareholders "for the conduct of their respective businesses", or for another body which is the lessor's partner; (2) where the lessor is an individual who has owned the premises for at least six months and has lived in the Commonwealth for at least two years, and requires[17] the premises for himself, for one or both of his parents, or for a married or widowed child (to all of whom the residential qualification applies), or for any body of which he is a substantial shareholder, director, manager, or secretary; (3) where the lessor is a trustee and requires the premises for the purpose of winding up the trust. The lessor must serve on the lessee both a notice to quit and a statutory declaration as to the matters on which he relies in support of his claim to possession. If the notice to quit is ignored, the lessor may apply to the Court at any time after its expiration, and if the requirements of the section have been observed the Court must grant an order for possession in which it must specify the name of the person or body entitled to obtain possession. If such an order is granted, the lessor must not within twelve months lease or part with possession of the premises (i.e., to a person other than the person named in the order) except by leave of the Court after good cause shown: it would appear that the lessor is not so restrained where his lessee gave up possession after notice and without an order of the Court being necessary.

The second group of ejectment provisions only requires such notice to quit as is required by law or twenty-eight days, whichever

[17] The word "require" was used in the repealed Act and had been judicially interpreted to mean what it says; that is, the lessor is not to be called upon to give reasons satisfactory to the Court as to why he "requires" the premises, and the Court cannot inquire as to whether he really "needs" them for the authorised purposes.

is the longer. It authorises the lessor to serve such a notice on his lessee or on the assignee or sublessee of his lessee where the lessor has in writing agreed to assignment or sublease, or on a person who is using the premises with the permission of the lessee. If the person on whom the notice to quit is served holds over after its expiration, the lessor may apply to the Court. The Court is to consider each application on its merits and to make such order as it thinks just; but, except for good cause shown, the Court *must*[18] make the order if the occupant (i) is 28 days in arrears in payment or rent; or (ii) has failed to perform some other terms or conditions of the lease (without waiver by the lessor); or (iii) has failed to take reasonable care of the premises or has committed waste; or (iv) has been guilty of conduct causing nuisance or annoyance to his neighbours; or (v) has used the premises for unlawful purposes; or (vi) is in possession by virtue of an assignment or other transfer of which the lessor has not approved. Nevertheless, even if the Court grants an order and authorises the issue of a warrant of execution, it may suspend the warrant because of the illness of the lessee or person in occupation or because of other reasons. All the provisions in this Part of the Act continue in operation until 31st October 1952 and no longer.

Part V deals with protected persons, who are defined in the same way as in the lapsed Act.[19] Proceedings for the eviction of a protected person are permitted; but the Court is not to make an order until the State Housing Commission has provided a house for the protected person, unless (i) the lessor himself is a protected person, or (ii) the refusal to make an order would impose substantially greater hardship on the lessor than on his tenant, or (iii) the acts or omissions of the protected person are such as to make him undeserving of relief. If an order is made, the State Housing Commission is required to make a house available within six months, or within three months where the lessor is also a protected person.

## VI. GENERAL.

*Coal Mining Industry.*

The Coal Mine Workers (Pensions) Act Amendment Act (No. 33 of 1951) again broadens the definition of "mine worker"[20] to include a contractor in the industry who uses one vehicle only at

18 Italics added.
19 See *Review of Legislation 1950*, 130 *supra*.
20 See *Review of Legislation 1950*, 131 *supra*.

any given time and who does not employ other persons to help him to perform his contract. He pays proper contributions to the fund as a mine worker, the employers' share being paid by the owner of the mine on whose behalf the contractual duties are performed. The same Act substantially increases the Treasury contribution to the Fund. Under the principal Act (No. 27 of 1943) that contribution was limited to £2,000 in the first year and then rose to a maximum of £4,500 in the sixth and all succeeding years; in 1948 the maximum was raised to £16,000. Under the 1951 Amendment the Consolidated Revenue Fund is permanently charged with a Treasury Contribution of £24,000 per annum to the Fund, which will also receive such additional amounts as Parliament may from time to time grant it.

The Coal Mining Industry Long Service Leave Act Amendment Act (No. 31 of 1951) was passed at the request of the Commonwealth, which refunds to the State all expenditure incurred in the granting of paid long-service leave to coal miners. The principal Act (No. 34 of 1950)[21] incorporated a specific award of 14th October 1949 as the basis for the grant of such leave; the amending Act widens "the scope of the word 'award' so that it will include all awards, interpretations, and definitions made before the 18th April, 1951. Awards made subsequent to that date will, after approval by the Commonwealth Government, be brought within the interpretation by Proclamation."[22]

The legislation as to the working of coal mines in the State is the Coal Mines Regulation Act 1946 (No. 63), which is amended in a number of important matters by the Coal Mines Regulation Act Amendment Act (No. 26 of 1951). Provision is made for the appointment of a State Coal Mining Engineer, who will have under his control all inspectors of mines and will have such duties as are prescribed by the Act and the regulations. Under the Principal Act, "workmen's inspectors" were given wide powers, including the right to inspect the condition of any mine and the provisions for the safety of all persons and animals employed therein; their views as to the conditions of health and safety were to be written in a book which the manager was in duty bound to provide. Now a new book is to be provided, in which the workmen's inspector is himself to write (in triplicate) his report on the condition of the mine. The original of the report is to remain in the book at the mine office; the manager

21 See *Review of Legislation 1950*, 131-132 *supra*.

22 The Minister for Housing, moving the second reading of the Bill: (1951) 129 Western Australia Parliamentary Debates, 732.

must post one copy conspicuously at the entrance to the mine workings and send the other to the senior inspector of mines.

Every mine must be under the daily personal supervision of a qualified manager or under-manager nominated by the mine owner or his agent; such persons must hold a certificate of competency from the Statutory Board of examiners. Under the new Act certificates are to be issued only to persons (a) who have had at least five years' practical experience in a mine or (b) who have had at least three years' practical experience *and* have a degree in engineering or a diploma from the Technical College, School of Mines, or other approved institution. Safety in mines is also promoted by new provisions, (i) that no person unable readily and intelligibly to speak English is to be employed underground (subject to the powers of a departmental inspector to grant exemptions in cases of hardship), and (ii) that no boy (defined in the principal Act as a male person under nineteen) is to be employed in or about a mine between 10 p.m. and 8 a.m.

*Companies.*

The Companies Act Amendment Act (No. 21 of 1951) brings the local legislation into line with that of other States by allowing a proprietary company to have a maximum of 50 members (exclusive of employee-members) instead of the maximum of 21 permitted by the Principal Act (No. 36 of 1943).

*Industrial development.*

The ill winds that have blown on the oil industry in Persia have done good to Western Australia. After long negotiations the Government was able to persuade the Anglo-Iranian Oil Company Limited, which had decided, after the expropriation of its Persian interests, to build a new refinery in Australia, that the best site for the undertaking could be found in this State. The Oil Refinery Industry (Anglo-Iranian Oil Company Limited) Act (No. 1 of 1952) gives parliamentary approval to an agreement of 3rd March 1952 between the Government and the Company. The Company undertakes to build a refinery with a minimum annual capacity of three million tons of crude oil, to construct all necessary wharves and berths, and to put up a temporary construction camp on land to be leased to it by the State government. The actual site of the proposed refinery is on the coast a few miles south of the port of Fremantle, and consists of 949 acres at present owned by the Commonwealth

(which has undertaken to sell it to the State); the price to be paid by the Company is the price paid by the State to the Commonwealth or £80 per acre, whichever is the less. The State is also to sell to the Company for £750 another area of 75 acres, a few hundred yards away from the southern boundary of the refinery site, which the Company undertakes to use solely as "a residential area, social centre and recreation ground."

The State's principal obligation is to provide safe access between the Company's wharves and the open sea, which involves the dredging of a channel through the Parmelia and Success Banks in Cockburn Sound. Within three years (contemporaneously, that is, with the performance by the Company of its obligations under the Agreement) a channel is to be dredged with a depth of 36 feet and a bottom width of 300 feet; dredging is then to continue for three more years until the channel is cleared to a depth of 38 feet with a bottom width of 450 feet. The cost of dredging is to be met by the State; but the Company, as soon as it is in full production, will pay to the State six per cent. annually on half of that cost, or £120,000, whichever is the smaller sum. If the Company exercises its option to ask for the bottom width of the 38 foot channel to be increased from 450 to 500 feet, it will be required to pay a maximum sum of £150,000 per annum.

The State government also undertakes (a) to provide electricity, at standard rates, up to a maximum of 12,000 kilowatts; (b) to construct and maintain all necessary roads and footpaths within the area of the construction camp; and (c) to instal water and sanitary services, a minimum daily supply of 200,000 gallons of potable water to be provided within two months of the commencing date of the Agreement. The State Housing Commission is to build, on locations within two and one half miles of the refinery site, not less than 333 houses during each of the first three years; 100 at least are to be built of brick, and of these 50 are to be completed within two years. All will be let to the Company for five years from the date of the completion of each house, the Company having an option to renew each lease for three more years and undertaking to let the houses only to persons engaged in the constructional work. At the end of each lease the Company is to put the house "in proper order and condition", and may then nominate one of its employees to "acquire" the house from the State Housing Commission; i.e., the latter must allow the nominated employee to become its tenant or to buy the house.

The Agreement is to expire on 1st January 2000 unless the Company, before 1st January 1996, exercises its option to ask for an extension of not more than twenty years. The State guarantees not to acquire the refinery compulsorily during the term of the Agreement; if it wishes to do so after the expiration of the Agreement it will pay just and reasonable compensation. The successful negotiations with Anglo-Iranian have encouraged the Government to hope that other industrial organisations will seek to establish themselves in the State. For this reason the Industrial Development (Kwinana[23] Area) Act (No. 20 of 1952) was passed to authorise the resumption, for industrial purposes, of a very large area north and west of the refinery site. Parts of this area are already in private hands, but some of it is unoccupied and therefore still belongs to the Crown. Devlopment plans require ministerial approval; but that approval is not to be given unless recommended by an Advisory Committee consisting of the Surveyor-General and the Director of Industrial Development (both of whom are State officials), a member of the Town Planning Board to be nominated by the Minister, and a representative of the Chamber of Manufacturers.

*Library Service.*

Western Australia has lagged behind most of the other States in the provision of free libraries; a belated attempt to catch up is made by the Library Board of Western Australia Act (No. 42 of 1951). The Board is to consist of the Director of Education (a State official), the Director of Adult Education (which is an extramural activity of the University), the Chairman of Trustees of the Public Library, Museum and Art Gallery, eight representatives of local government authorities and of the Library Association of Western Australia, and two ministerial nominees. Members hold office for three years (being eligible for re-appointment) and choose their own chairman and vice-chairman, who hold their offices for twelve months but may again be chosen. "Participating bodies" include any local authority and any other organisation (not created for private profit) approved by the Governor. The Board *must* assist the participating bodies and be prepared to advise them, keep a register of approved free libraries and inspect any of them which receive parliamentary grants in aid; it *may* itself provide libraries, and train persons as lib-

23 So called because a ship of this name was wrecked many years ago on the shores of Cockburn Sound; portions of the hulk still lie on the sand near high water mark.

rarians. Local authorities are authorised to levy a special library rate; the Board may subsidise the funds of registered free libraries pound for pound and may recommend to the Minister that additional grants be made to all or any of these libraries. For the expenses of its first year of existence a grant of £5,000 is made to the Board from Consolidated Revenue Fund; it is certain that before long the grant in aid will have to be substantially increased.

*Licensing—intoxicating liquor.*

Two amendments of the licensing law were passed, one of which calls for no comment. The other—the Licensing Act Amendment Act (No. 2)[24]—makes a number of significant changes.

For many years every Sunday, Christmas Day, Good Friday, and Anzac Day (25th April) have been virtually *dies nefasti* in regard to the consumption of alcoholic liquor in licensed premises. The premises had to be kept almost hermetically sealed. Guests or bona fide travellers might be served, but not in a bar; the licensee, his family, and resident members of his staff might have a drink. Despite loudly expressed fears of the advent of the so-called continental Sunday the legislature was persuaded to authorise a number of innovations which in a community such as this can only be described as "daring" or "advanced." No longer need the non-resident guest put up with a "dry" meal in licensed premises on Sundays, etc.; if he takes his meal between one and two p.m. or 6 p.m. and 7.30 p.m. he may have a drink (or more), provided that he has both meal and drink in a proper dining room; but he (or she) must eat if he (or she) wishes to drink. On Sunday (but not on Christmas Day or Anzac Day), licensed premises more than 20 miles from the Perth Town Hall can openly and lawfully sell liquor, for consumption on the premises, between 12 noon and 1 p.m. and 5 p.m. and 6 p.m.; but the liquor must not be sold "by the bottle or in a bottle"—an unjust discrimination against the connoisseur who prefers wine for himself and his friends. To even things up a little, the penalty for contravention of the new provisions is raised from £2 to £20.

The same Act seeks to discourage the growing nuisance of drinking in public places. It prohibits persons (even in the comparative seclusion of a motor vehicle) from drinking (a) on a road within any townsite, (b) outside a school or a town hall or an agricultural hall, or within 20 chains of any such building while a dance or

[24] No. 49 of 1951.

other entertainment is being held there, and (c) in any park or reserve except by consent of the person in charge. It is also an offence to drink on *any premises*[25] within 20 chains of any hall while a dance or other entertainment is being held, except by consent of the owner or occupant of the hall. A third offence is to drink liquor (or merely to have it in your possession) on any sports ground (if a fee is charged for admission) during the game, and during the hour which precedes and the half-hour which follows the game; the object here is to discourage the playful habit of throwing bottles at the players or at other members of the audience who, in the thrower's opinion, are "barracking" for the wrong side. Those who wish to indulge in this practice must in future limit themselves to bottled soft drinks.

The prohibition against sale or supply to minors is now extended to the owners or occupiers of vineyards and orchards, who had previously been allowed (if the vineyard or orchard was of not less than five acres) to sell, without licence, not less than one quart of their own wine or of their own cider or perry. They can still sell or supply to adults, but not to minors.

The normal hours for the sale of liquor on licensed premises are 9 a.m. to 9 p.m.; but registered clubs could keep their bars open until 11 p.m., though they must not now open before 10 a.m. (except for the benefit of their bona fide residents). Difficulties frequently arose with regard to members' guests, who could be lawfully admitted to "visitors' rooms" between 9 a.m. and 9 p.m.; this was followed by a very complicated provision which enabled a member of a residential club, on giving notice to the secretary, to invite a guest to an evening meal on any day except Sunday, the guest being then allowed to remain in the club until midnight. Two concessions have been made: (1) members of non-residential clubs may invite guests; (2) guests may be invited to any meal on any day.

Club members have always been allowed to buy liquor in the club and to take it away for consumption elsewhere; but it was strictly "for their own consumption." Hence the club member who, after the morning 18 holes, bought a bottle of beer in the club bar and shared it with his wife at the midday meal in the marital home committed a technical offence. Under the new amendment such liquor may be bought on the club premises for consumption elsewhere by the member "or by his guests"; the sharing of a bottle

25 Italics added. Technically an offence is committed by a person who has a quiet drink in his own home if it is within 20 chains of the dance hall.

between husband and wife would still seem to be a technical offence unless the one spouse can be described as the "guest" of the other—or unless the old common law identity of husband and wife makes the sharing a consumption by the club member.

Club members, unlike the ordinary public, need not go dry on Sundays; they can drink with their meals between 1.30 and 2.30 p.m. and 6.30 and 7.30 p.m.; they may drink without eating between 11.30 a.m. and 1.30 p.m. and 4.30 p.m. and 6.30 p.m. or during such other equivalent periods as the Licensing Court permits. But not even club members can desecrate Good Friday or Anzac Day by drinking without dining.

*Road traffic control.*

Visitors from other parts of the Commonwealth do not now require a Western Australian licence for their vehicles. A vehicle licence issued elsewhere is, during its currency, equivalent to a licence issued under the Traffic Act 1919-1950. Likewise a driver's licence issued in another State or Territory is, during its currency, sufficient authority for the holder to drive a vehicle in this State; but the authority may be withdrawn on the same grounds as would justify the suspension or withdrawal of a driving licence issued in the State. The Traffic Act Amendment Act (No. 57 of 1951), in making these changes, recognises the increasing volume of interstate traffic on the Eyre Highway across the Nullarbor Plain, the only road link between Western Australia and the adjoining State of South Australia. The same Act provides a much heavier penalty, in certain circumstances, on conviction for driving without a licence. Any person who (i) has applied for and has been refused a licence (*sc.*, on any of the grounds set out in the Act), or (ii) has had his licence suspended or cancelled, or (iii) has been disqualified from obtaining a licence, shall on conviction of the offence of driving without a licence be liable to a fine not exceeding £100 or to imprisonment for not more than one year, and must be further disqualified from holding a licence for not less than six months nor more than two years from the date of the offence.

*Ownership of land by foreign governments.*

Nearly all alienated land in Western Australia is subject to the Torrens system of registered title; but the Transfer of Land Act 1893-1950[26] contemplates applications for registration only by per-

[26] Consolidated in (1952) 5 Reprinted Acts of the Parliament of Western Australia.

sons or corporations. Hence, when the United States consul in Perth purchased land (and the buildings thereon) for official purposes it was found that the Act made no provision for the registration of a foreign government or its representative.[27] The Real Property (Foreign Governments) Act[28] sanctions the registration of a foreign government (or a minister or "member" thereof) provided that the instrument of transfer has indorsed thereon the consent of a Minister of the Crown on behalf of the State, and that the area of all land acquired by the foreign government does not exceed five acres; the approval of Parliament is acquired for a larger aggregate holding. On registration the foreign government has, in relation to the land, the same rights and powers as any other registered holder.

## VII. MISCELLANEOUS

Other measures were passed in 1951—

(1) to vary the composition of the Agriculture Protection Board set up in 1950;[29]

(2) to amend a number of the machinery provisions of the Electoral Act 1907-49, particularly in regard to postal vote and absent vote ballot papers;[30]

(3) to continue the operation of the Farmers' Debts Adjustment Act 1930-47 for five more years;[31]

(4) to specify the order of priority in the allocation of shares in a "gas undertaking", four classes of applicants being defined;[32]

(5) to vary the remuneration payable to members of the Lotteries Commission and to absolve the Commission from the necessity of making inquiries as to the identity, lawful title, or capacity of the holder of a prize-winning ticket;[33]

(6) to take away from magistrates the sole power of granting a certificate of citizenship to an aborigine, and to vest the power in a number of Boards, each to consist of a magistrate and a ministerial nominee as a represntative of the district in which

27 See the explanation by the Attorney-General in (1951) 129 Western Australia Parliamentary Debates, 769.

28 *No. 3 of 1951; not to be confused with No. 3 of 1951.

29 Agriculture Protection Board Act Amendment Act, No. 19 of 1951; see also *Review of Legislation 1950*, 138 *supra*.

30 Electoral Act Amendment Act, No. 58 of 1951.

31 Farmers' Debts Adjustment Act Amendment (Continuance) Act, No. 14 of 1951.

32 Gas Undertaking Act Amendment Act, No. 16 of 1951.

33 Lotteries (Control) Act Amendment Act, No. 24 of 1951.

the applicant aborigine normally resides. There is no appeal from any Board; both members must agree to the granting of a certificate;[34]

(7) to increase the rate of pension payable to government employees in respect of each unit of contribution to the Superannuation Fund, the increase ranging from twenty per cent. on the smallest pensions to eight per cent. on the largest;[35]

(8) to amend the Vermin Act 1918-50;[36]

(9) To increase the compensation payable for death of or injury to persons to whom the Workers' Compensation Act 1912-51 applies.[37]

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[34] Natives (Citizenship Rights) Act Amendment Act, No. 27 of 1951; see also *Review of Legislation 1950*, 136-137 *supra*.

[35] Acts Amendment (Superannuation and Pensions) Act, No. 25 of 1951; the most important of the Acts affected is The Superannuation and Family Benefits Act 1938-50, which has been consolidated to the end of 1947 and is published in (1952) 5 Reprinted Acts of the Parliament of Western Australia.

[36] Vermin Act Amendment Act, No. 44 of 1951; the principal Act, as amended to 1943, is published in (1943) 2 Reprinted Acts of the Parliament of Western Australia.

[37] Workers' Compensation Act Amendment Act. No. 48 of 1951.