REVIEW OF LEGISLATION, 1953.

I. Western Australia.

Introductory.

The triennial election of the Legislative Assembly early in 1953 showed a swing towards Labour sufficient to unseat the Liberal-Country Party coalition government after six years of office. The margin between the two major political groups is very small; but the new government's majority is more solid because Labour has regained a seat which for many years had been held by an independent member who normally supported the coalition but who did not stand for re-election.[1]

The first session of the Twenty-first Parliament opened on 6th August and closed on 22nd December 1953; in this period 89 public and 2 private Acts found their way into the statute book. There were as usual a number of casualties. Eleven Bills were rejected outright by the Legislative Council, and 2 others were dropped because of continued disagreement between the two Houses; 2 Bills were abandoned in the Assembly itself, which also rejected a private member's Bill to amend the State Transport Co-ordination Act. Three Bills, including one sponsored by a private member, lapsed on prorogation of the Assembly; a lone Bill (to amend the Electoral Act) was first introduced in and passed by the Council only to receive short shrift at the hands of the Assembly. One of the defeated governmental Bills was of stock pattern, a Bill to widen the franchise of Council electors; it is rapidly becoming a convention of our constitution that such a Bill should be passed by the Assembly in every session (whatever the political complexion of the government) and be sent to the Council—and it is a much more firmly established convention that the Council

[1] More surprising still was Labour's success, some twelve months later, at the biennial elections to one-third of the seats in the Legislative Council, since that party won every seat which it contested; among those defeated were the President of the Council and others whose seats, because of the restricted franchise, had been regarded as unchallengeable. It is thought that this unpredicted swing—which still leaves Labour in the minority in the Legislative Council—may have been due to the attitude of that House to the controversial subject of rent control. According to the Commonwealth Statistician, the cost of living in all States except Western Australia remained fairly stable during the first half of 1954; but in Western Australia the cost-of-living index showed a rise of 14s. 0d. per week in the second quarter—an increase partly attributable to the higher cost of meat but mainly to the higher rents which had become inevitable given the refusal of the Legislative Council to agree to the indefinite continuance of control of the post-war pattern: see 2 U. WESTERN AUST. ANN. L. REV. 128, 413, 641.

will always reject it without taking any trouble to invent new reasons for doing so!

I. CONSTITUTIONAL.

Royal title—and visit.

The Royal Style and Titles Act (No. 11 of 1953) amends an earlier Act of the same name[2] by adopting for Western Australian purposes the new style agreed upon by the conference of Commonwealth Prime Ministers in December 1952 and given effect in the federal sphere in May 1953. The new formula is—"Elizabeth the Second, by the Grace of God of the United Kingdom, Australia and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith." It is pleasing to be able to add that although this State has a substantial number of citizens of Scots descent, the resentment expressed by Scottish Nationalists against the inclusion of the words "the Second" found no support here!

In anticipation of the first visit ever to be made to Australia by the reigning monarch, the Royal Powers Act (No. 43 of 1953) provided that without in any way derogating from the Governor's powers under the constitution, those powers may be exercised by the Queen herself when present in the State. Another by-product of the royal visit (in some ways much more significant) was the permission given to local government authorities, by the Local Authorities—Royal Visit Expenditure Authorisation Act (No. 25 of 1953) to exceed, if they thought fit when planning for the royal visit, the statutory limits on their expenditure on entertainment, etc.

Parliamentary allowances and pensions.

An expense allowance, ranging from £200 per annum for metropolitan members to £400 for those representing distant and scattered electorates, is granted to all members of both Houses other than ministers by the Members of Parliament Reimbursement of Expenses Act (No. 47 of 1953). Although sec. 2 refers to the "reimbursement of expenses incurred in discharging Parliamentary duties" it does not seem to require any evidence to be tendered that such expenses have in fact been incurred. Sec. 3 merely provides that on application by a member for reimbursement at the maximum rate (or less) the Treasurer shall reimburse him as and when he decides to do so; if no claim is made before 31st December in any year the member is deemed to have renounced his right to reimbursement for that year.[3]

[2] See 1 U. WESTERN AUST. ANN. L. REV. 130.

[3] As to recent increases in members' *salaries* see 1 U. WESTERN AUST. ANN. L. REV. 129, and 2 U. WESTERN AUST. ANN. L. REV. 118.

The Parliamentary Superannuation Act Amendment Act (No. 52 of 1953) increased by small amounts the pensions payable to retired or defeated members who have served in either House for minimum periods. This does not represent a raid on public moneys. The Superannuation Fund does, it is true, receive a small grant-in-aid from the Treasury; but every member of both Houses contributes to it at the rate of £52 per annum. According to the Premier,[4] from the inception of the scheme in 1948 to 1st July 1953 members had contributed £23,956; during the same period £11,756 had been paid out of the fund. He also stated that because of the healthy condition of the fund it was likely that a much more comprehensive amending Bill would be introduced in the 1954 session.

Reprinting of Acts of Parliament.

The consolidation and reprinting of the whole of the statute law of the State is long overdue; Western Australia has the unenviable distinction of being the only State in Australia to ignore the pressing need for consolidation,[5] but it seems impossible to inspire any government with interest in, much less with enthusiasm for, this work. Some of the more important Acts have been intermittently republished, with their amendments, in a series known as *The Reprinted Acts of the Parliament of Western Australia,* the first volume of which appeared in 1939 and the latest (the sixth) in 1954. But the selection of Acts for reprinting follows no logical plan, and the slowness of publication means that some Acts have been amended so much since reprinting that they ought to be reprinted again; although it is hoped during the next few years to accelerate reprinting, the result will still be a haphazard collection in which the inquirer may easily lose his way. A very minor improvement in the existing state of affairs may develop from the Reprinting of Acts Authorisation Act (No. 40 of 1953), which allows

[4] See (1953) 136 PARLIAMENTARY DEBATES (Western Australia) 2501-2502 and, as to the establishment and operation of the fund, 1 U. WESTERN AUST. ANN. L. REV. 304 and 2 U. WESTERN AUST. ANN. L. REV. 118, 409.

[5] The current position as to consolidation is as follows:—
Commonwealth: 1901-1950, 5 vols. (index volume not yet published).
New South Wales: 1824-1937, 13 vols. with cumulative annual supplement.
Victoria: 1929 consolidation in 5 vols.
Queensland: 1828-1936, 12 vols.
South Australia: 1837-1936, 9 vols.
Tasmania: 1826-1936, 7 vols.
Western Australia: 1832-1895, 3 vols.

the Attorney-General or Minister for Justice to direct the Government Printer to republish an Act which in his (the Minister's) opinion it is "necessary or desirable to reprint." It does not follow that any such Act will quickly make its appearance in the series of *Reprinted Acts;* it may only become available separately for those whose professional interests make an up-to-date copy essential.

Electoral machinery.

Minor administrative changes are made by the Electoral Act Amendment Act No. 2 (No. 34 of 1953). Investigators will look in vain for Amendment Act No. 1. What happened suggests the need for some revision of Parliamentary Standing Orders. A measure with the title Electoral Act Amendment Bill was introduced in the Council; a little later another Bill to amend the same Act was sponsored in the Assembly, and of course had to be described as No. 2. But No. 2 passed all stages in both Houses nearly three weeks before the earlier Bill was considered only to be rejected by the Assembly. As the later Bill had been described as No. 2 when before both Houses, No. 2 it must be when printed in the annual volume of statutes.

II. ADMINISTRATION OF JUSTICE.

Salaries of Judges and Magistrates.

The last increase in the salaries of the judges of the Supreme Court took effect on 1st September 1950, i.e., before the marked rise in living costs which still prevails. A belated measure of justice has now been done by the Judges' Salaries and Pensions Act Amendment Act (No. 70 of 1953) which grants to all judges, as from 1st January 1954, an increase of £300 per annum; from that date judicial salaries will go up or down (but not below the statutory minimum) in accordance with fluctuations in the cost of living.[6] Until this Act was passed the judges (and magistrates) were virtually the only persons paid out of public funds whose salaries were

[6] More accurately, in accordance with variations in the State basic wage as from time to time declared by the Arbitration Court. Since the new scale of judicial salaries came into effect there has been no variation in the basic wage; not because the cost of living has not risen, but because the Arbitration Court, whose president is also a Supreme Court Judge, (a) decided to follow the example set late in 1953 by the (Commonwealth) Court of Conciliation and Arbitration and refused to make quarterly adjustments of the basic wage as has been the practice for some years, and (b) refused to grant any increase when making the annual determination of the basic wage in 1954 although the evidence established an increase in living costs of approximately £1 per week since the 1953 determination.

not automatically raised to correspond with increased costs of living; ironically enough, as soon as they were—in this regard—put on equality with all other public officials (and members of Parliament), it was largely through the action of one of their own number, in his capacity of President of the Arbitration Court, that they have gained no benefit from it.[7]

Stipendiary magistrates are, by the Acts Amendment (Allowances and Salaries Adjustment) Act (No. 71 of 1953) given the same nominal right as the judges to have their salaries adjusted to cost of living figures. Under an Act of 1950[8] a new salary range of £1250-£1550 was authorised for magistrates; under the new Act the minimum is £1550 and the maximum such amount as the Governor determines. Under both Acts salary does not include "special remuneration for extraneous services and any allowances."

Local Court jurisdiction.

Under the Local Courts Act 1904-1938 each Local Court, normally presided over by a magistrate though in some cases by not less than two justices of the peace, had jurisdiction in actions for recovery of land from a tenant who held over after the expiry of his term or who was in arrears with his rent, provided that the rent did not exceed £100 per annum; arrears of rent up to that amount could also be recovered in a Local Court. Under the Increase of Rent (War Time Restrictions) Act 1939 and its continuing Acts, virtually every tenant was protected from eviction except on specified grounds, and claims for recovery of possession had to be brought in a Local Court whatever the rent. But the protective provisions of this Act had ceased to apply to tenancies created since 1st January 1951; hence in regard to these tenancies the older limits on the Court's jurisdiction applied. The Local Courts Act Amendment Act (No. 10 of 1953) restores jurisdiction in regard to such tenancies where the annual rent does not exceed £500 or where not more than £250 is claimed for arrears. In the Assembly an opposition member thought the jurisdictional amount too high and unsuccessfully sought to have it altered to rents not exceeding £250 per annum; in the Council another opposition member thought the amount too low and sought—with equal lack of success—to have it raised to rents not exceeding £1000 per annum.[9]

[7] See note 6, *supra*.

[8] See 2 U. WESTERN AUST. ANN. L. REV. 119.

[9] (1953) 134 PARLIAMENTARY DEBATES 586, and (1953) 135 PARLIAMENTARY DEBATES 1171-1172.

Criminal law.

The introduction of a Bill to amend the Criminal Code of 1913 brought incidentally the welcome news that the Code is at long last to be reprinted. The changes, none of them of far-reaching importance, were suggested by the Chief Justice and the Crown Prosecutor and with one exception became law as the Criminal Code Amendment Act (No. 55 of 1953). The exception was a clause which proposed to repeal sec. 25 of the Jury Act 1898-1937 because of its inconsistency with sec. 639 of the Code. Sec. 25 of the Jury Act, passed in 1898 and never subsequently amended, allowed jurymen during the trial of any indictable offence not punishable by death to separate unless otherwise ordered by the judge, whereas sec. 639 of the Code prohibited such jurors from separating except by his permission. Sec. 639 of the Code, being later in time than sec. 25 of the Jury Act, impliedly repealed the latter; but it was sought expressly to repeal sec. 25 for the sake of clarity and tidiness. The repealing clause passed the Assembly without comment; but the purists (both laymen) in the Council having objected successfully to the Jury Act being amended by a Criminal Code Amendment Bill, the clause was dropped in Committee. Propriety was satisfied by the introduction and passing of the Jury Act Amendment Act No. 2 (No. 38 of 1953) which in its one short operative section repeals sec. 25 of the 1898 Act.

One amendment to the Code gives statutory approval to judicial practice. Sec. 206 had provided that on conviction of certain sex offences the offender *shall* be sentenced to be whipped in addition to any other punishment imposed; in fact the judges have long ignored the mandatory terms of the section and have exercised a discretion to the advantage of the accused. The Amending Act substitutes "may" for "shall" in sec. 206; not one member of either House had the courage to declare that the time had come to prohibit altogether the savage and barbarous punishment of whipping.

III. STATUS.

Re-marriage of divorced persons.

A short Act (No. 24 of 1953) to amend the Matrimonial Causes and Personal Status Code 1948[10] caused a marked division of opinion in both Houses although it was ultimately passed by substantial majorities.[11] Divorce *a vinculo matrimonii* was first made

[10] See 1 U. WESTERN AUST. ANN. L. REV. 223-254.

[11] (1953) 134 PARLIAMENTARY DEBATES 512-514, 734-738 and (1953) 135 PARLIAMENTARY DEBATES 1641-1644, 1702-1705, 1810, 1891-1896.

possible in Western Australia in 1863 by an Act which provided that on decree absolute the parties might re-marry *as if the prior marriage had been dissolved by death.* In 1878 marriage between a man and his deceased wife's sister was legalised, and in 1915 the marriage of a woman to her deceased husband's brother was sanctioned. The statutory effect of a decree of dissolution under the 1863 Act was thus, after 1878, to allow a man to marry his *divorced* wife's sister, and after 1915 to permit a marriage between a woman and her *divorced* husband's brother, the earlier marriages in both cases being necessarily treated as if they had been dissolved by death. The Matrimonial Causes and Personal Status Code 1948 purported, according to the Minister who introduced it, to be no more than a consolidation of the existing law; but for some reason, now attributed to inadvertence on the part of the draftsman, the words *as if the first marriage had been dissolved by death* were omitted from sec. 58 of the Code which permits re-marriage after a final order of dissolution or nullity. Hence marriage, after divorce, to sister or brother of the former spouse became illegal during the lifetime of that spouse; the purpose of the new Act is to restore the omitted words and hence to validate such marriages. In the Assembly, the main opposition came from a woman member who contended that the omission of the disputed words from the 1948 Code was deliberate, not inadvertent; in the Council, from members who thought that in these days of the shortage—and sharing—of houses, impropriety between a man and his wife's sister (or between a woman and her husband's brother) would be discouraged if they realised that their misconduct might lead to divorce, but not to marriage between them so long as the divorced (or divorcing) wife were still alive. The cynic might have retorted that such impropriety might on the contrary be encouraged if the erring husband knew that whatever happened to his existing marriage he could not marry his paramour so long as her sister was alive!

Adoption of children.

In an unreported case the Supreme Court has declared that the powers conferred by the Adoption of Children Act 1896-1949 can only be exercised in respect of a child domiciled in the State even if all the other conditions of the Act are satisfied. Although the Minister stated, when speaking to the second reading of a Bill to meet this situation, that it was proposed to give "an express authority . . . to grant an order notwithstanding that either the applicant or the child is not domiciled in the State,"[12] the Adoption

[12] (1953) 134 PARLIAMENTARY DEBATES 425.

Papuan desiccated coconut there would be a manifest temptation to importers in other States to send any suspect consignment to Western Australia. As the Commonwealth, which controls the Territory of Papua, has undertaken to adopt measures to ensure all necessary improvements in the hygienic manufacture of desiccated coconut in that Territory, the new Act will lapse at the end of December 1954.

Hospitals and nursing.

The board of management of any public hospital to which the Hospitals Act 1927-1948 applies can borrow money for the purposes of the hospital; but because of the high costs of hospital construction and maintenance, and the limited income available, a board's actual capacity to borrow money may be limited by the dubious prospects of its being able to repay. The Hospitals Act Amendment Act (No. 16 of 1953) improves the position by authorising the State Treasurer to guarantee any loan raised by a hospital board and by charging on Consolidated Revenue any payments made in pursuance of such a guarantee.

The same Act provides that when any member of the crew of a ship is admitted to a public hospital to be treated for an injury received or an illness contracted on board, the shipowner and his agent are jointly and severally liable for the hospital charges.

The Nurses Registration Act 1921-1952 set up a register of trained nurses (in several categories) and of nursing aides and thereby conferred a higher status on all those persons who, having satisfied the statutory requirements as to training, etc., became entitled to have their names entered on the register. The Act, however, ignored the existence of a class known as dental nurses, i.e., assistants (other than mechanics) in a dentist's surgery. The Nurses Registration Act Amendment Act (No. 61 of 1953) remedies this by creating a new sub-division of the register, on which are to be entered the names of persons who are able now or in the future to satisfy the conditions of the Act as to training and experience—they will then be entitled to prefix the term "registered" to the description of their occupation.

V. CONTROL OF PRICES AND COMMODITIES.

Rents and tenancies.

The usual conflict between the two Houses occurred over a Bill to continue and amend the Rents and Tenancies Emergency Provisions Act 1951-52.[15] The contest, in essence, was a competition in

[15] See 2 U. WESTERN AUST. ANN. L. REV. 128, 413, 630-631.

political and economic prediction; supporters of the measure averring that the housing shortage is still acute enough to make it certain that tenants, in fear of eviction, will pay any rent which the landlord demands, its opponents asserting with equal confidence that the great increase in the number of available rental homes will help to stabilise rents in accordance with the law of supply and demand, which will do more than any legislative provision to protect the tenant against the rapacious landlord. Since the government took the first view and had the numbers—in the Assembly—to back it up, the measure passed that House; but its passage through the Council was punctuated by the adoption of amendments which made it almost unrecognisable.

The Assembly disagreed with all the amendments made by the Council; the latter in its turn insisted upon them. The Assembly had no option but to ask for a conference of "managers" of both Houses; in the privacy of the conference room a little more conciliation must have been shown on both sides, because a compromise was worked out which both Houses accepted in the last week of the session. The gist of the Rents and Tenancies Emergency Provisions Act Amendment Act (No. 45 of 1953) is that the existing law as to control of rents and recovery of premises continues until 30th April 1954; after that date little is left of rent control, since the rent of given premises is to depend upon agreement between lessor and lessee; but whether they agree or not either party can go to a rent inspector or a court and ask for the rent to be determined. Inspector or court may take into consideration any matters thought to be relevant, but must fix such a rent as will give the lessor a net return of not less than two per cent. or more than eight per cent. on the capital value of the premises at the time of the application. A few small concessions are made for the benefit of tenants:—

(1) 28 days notice to quit, or such longer period as is required by the tenancy agreement, must be given before a lessor can take action to recover possession;[16]

(2) rent inspectors—at least until 31st December 1954—are empowered to enter rental premises and ask for information about the rent being paid and other relevant matters;

(3) it is made an offence for anyone to accept or pay "key money" for vacant possession or to make or receive payment for information about particular premises being or becoming available for letting.

16 Since a landlord can take proceedings to evict a tenant who fails to agree to pay the rent proposed by the landlord, the mere threat of eviction is likely to be a strong inducement to agreement — on the landlord's terms.

Wheat marketing.

It is right and proper to allow the law of supply and demand—*pace* the Liberal-Country Party members in the two Houses—to govern rents, but not—*pace* the same members—to apply to the price of wheat. Here, for some years, stabilisation and orderly marketing have been the keywords; the sellers of wheat must not compete with each other but must present a united front to the buyer. Hence the need for such an institution as the Australian Wheat Board and collecting agencies in each State,[17] which have operated since 1948; early in 1953 the Agricultural Council (consisting of all State Ministers of Agriculture) met to decide upon future policy. Agreement was soon reached on the principle of continuing organised selling through the Australian Wheat Board; but a deadlock occurred on the question of the price to be charged for wheat for home consumption, four States wanting 15s. od. per bushel, two (Victoria and Queensland) holding out for 14s. od. Ultimately the majority had to give way to the minority.

The Wheat Marketing Act (No. 2 of 1953) gives its statutory blessing to the new scheme, contingently upon Commonwealth co-operation as set out in a federal Act of the same year and title; orderly marketing through Australian Wheat Board and local agencies is to continue, but the new scheme is stripped of the "stabilisation provisions" of its predecessor under which the wheatgrowers themselves, when the price was high, contributed to a fund which would be drawn upon only when the price fell. In future the grower must provide his own reserves (if the tax commissioner allows him to keep them) against the rapidly approaching contingency of a buyer's market. Whether collective selling is to continue, or a return made to the open market, will be decided by the growers themselves by a postal ballot to be held not later than 30th June 1956 under the control of the Chief Electoral Officer for each State.

All wheat in the State (other than wheat which the grower retains for seeding purposes, etc.) passes through Co-operative Bulk Handling Ltd., a farmers' organisation, which has built and uses installations at railway sidings and at ports for receiving and exporting wheat in bulk. Each farmer pays a small toll or levy per bushel towards the cost of establishing and maintaining the necessary facilities; these tolls are a loan to the company, ultimately to be repaid out of later levies. For some years past the Company, though not legally obliged to do so, has handled barley and oats in bulk without any right to charge for this service; the Bulk Handling Act Amendment

[17] See 1 U. WESTERN AUST. ANN. L. REV. 141, 315, 528.

Act (No. 51 of 1953), which was introduced at the request of the growers of oats and barley, enables them to *require* the Company to handle bulk deliveries of their crops on condition of their paying the same tolls, on the same terms as to repayment, as the wheatfarmers.

The honey industry.

A little known but long established industry—the commercial production of honey—is now credited with producing nearly four million lbs. of honey each year. As early as 1899, when annual production was very much smaller, it was found necessary to introduce legislation to deal with sporadic outbreaks of diseases that affect bees. The 1899 Act was replaced in 1930 by a more up-to-date measure, by means of which the control of disease was made more effective; for example, in 1938-1939 408 hives—and the bees—were condemned and destroyed. Now the beekeepers themselves have asked for the introduction of a new scheme, which they will finance, for the payment of compensation to the luckless apiarist whose bees contract disease and have to be destroyed. The Bee Industry Compensation Act (No. 54 of 1953) sets up a Compensation Fund Committee to consist of an officer of the State Department of Agriculture as chairman and two representative beekeepers, all being nominated by the Minister. It is not the responsibility of this Committee to decide whether hives and bees are to be destroyed; that is done by departmental officers, on the authority of the Bees Act 1930-1950. The Committee is solely concerned with awarding compensation for the destruction of disease-infected property; it gets its funds from an annual licence fee payable by all beekeepers at such rate as the Committee fixes but in no case to exceed sixpence per hive. If at any time it has not enough money to meet all claims for compensation it can borrow from the State Treasury.

Misuse of the word "wool."

For many years the Australian Wool Board and farmers' organisations have asked for legislation to prevent unscrupulous traders from describing as "pure wool" or "all wool" or merely as "wool" clothing and other products in which there may be very little wool indeed. The difficulty has always been that the textile trade is shared by local manufacturers and by importers; until the Commonwealth was prepared to alter its import regulations so as to require "truth in advertising" (and in branding) as to the imported article there was little that the States could do effectively. At long last the federal Department of Commerce gazetted new Import Regulations; a conference of State ministers held in July 1953 decided upon uniformity of legislation in harmony with

the new Import Regulations, the law officers of New South Wales and Victoria being asked to collaborate in drafting the necessary Bill. The Trade Descriptions and False Advertisements Act Amendment Act (No. 60 of 1953) is Western Australia's contribution to the common scheme, and will come into operation on a date to be proclaimed (i.e., when the government is satisfied that the other States have passed similar Acts). The major provisions include a requirement that all textile goods (as defined in the Act) must be branded or labelled in the English language with a description of their textile content. "Pure wool" is reserved for, and must be shown on, all textile products containing 95% or more in weight of wool; no other textiles are to carry such a description, but must show the percentage of wool and of other fibres. If a textile contains less than 5% of wool, that fact must be stated in the brand or label; if its contains no wool whatever, the nature of the fibre or fibres used must be clearly stated. Substantial fines may be imposed for any breach of the Act or the regulations.

Another Act of the same title (No. 56 of 1953) closes a loophole in the laudable practices of the furniture trade. The re-appearance, shortly after the war, of badly made and shoddy furniture inspired the Furniture Trade Convention of Australia (on which manufacturers, retailers, and trade unions are represented) to adopt certain standards of manufacture. There is no compulsion to observe these standards; but once a furniture maker has satisfied a State committee that he does in fact comply with them he is entitled to put a distinguishing stamp on all his products. One local manufacturer, having gained the right to use the "Australian Standards label", then lapsed into sub-standard conditions of manufacture but continued to use the label. A prosecution was launched but failed on technical grounds. The new Act (first introduced in the Legislative Council by a member who is himself a reputable manufacturer of standard furniture) clearly makes it an offence to use the Australian Standards label or stamp on sub-standard furniture.

VI. GENERAL.

Administration on intestacy.

The statutory claim of widow or widower to a share of the estate of an intestate spouse is enlarged by the Administration Act Amendment Act (No. 62 of 1953). Under the Principal Act of 1903-1950 (as amended in 1949), the husband or wife of the intestate took the whole of the estate if its value did not exceed £1000; if it exceeded that sum, the surviving spouse was entitled to £1000 and to one-half of the

residue if there were no surviving issue or to one-third if there were. The claim of the next of kin to the remaining one-half (where there were no surviving issue) was left untouched. The new Act improves the position of the surviving spouse by giving him or her £2500 instead of £1000 on the same conditions as before; but it also takes away the rights of more remote relatives. If the intestate dies leaving husband or wife but no issue, parent, brother, sister, or issue of brothers or sisters, the surviving spouse takes the whole of the intestate's property; if there is no issue of the deceased but one or more relatives within the limited degrees just stated, the surviving spouse takes everything if the estate does not exceed £5000 in value, or £5000 and one-half of the residue if it exceeds that amount.

Another concession is made to the surviving spouse by the Administration Act Amendment Act No. 2 (No. 81 of 1953). Where the whole or part of the estate of the deceased consisted of the family home, occupied by deceased and spouse, and the total value of the estate does not exceed £5000, the Treasurer may in his discretion (on application made by or on behalf of the surviving spouse) defer payment of the whole or part of the duty to which the estate is liable until the death of the surviving spouse.

Company law.

The purpose of the Companies Act Amendment Act (No. 17 of 1953) is to relieve co-operative companies from some of the requirements of the Principal Act.[18] Co-operative companies vary in size, though many of them are very small and limit their activities to a particular district; all of them are subject to statutory limitations on the amount of their dividends and on the transfer of their shares. Under the Principal Act all registered companies are required to lodge with the Registrar a return showing the names, addresses, etc., of their directors and to notify him without delay of any alteration in the directorate, any change of address, etc. As the Bill left the Legislative Assembly it merely authorised *co-operative* companies to send in an annual return of directors; it was amended in the Legislative Council (the amendment being later accepted by the Assembly) to require *all* companies, if their first directors are not named in the articles, to notify the Registrar within 28 days of the first appointment of directors; thereafter an annual return is all that is required.

The other important change is to allow co-operative companies, after they have been in existence for two years, to purchase and re-

18 (1953) 134 PARLIAMENTARY DEBATES 514-515, 738-748; and (1953) 135 PARLIAMENTARY DEBATES 1349-1350, 1440-1441, 1659.

issue their shares. Such shares (because of the dividend limitation and for other reasons) do not attract the ordinary investor; they are mainly held in a restricted locality by persons with a direct interest in the activities of the company. If a shareholder leaves the district he ceases very often to have any real interest in the company, but he may find his shares unsaleable for quite a long time—hence the company is to be allowed to buy the shares, which it will normally sell to new arrivals in the district of its operations.

Amendments of a more general nature were made by the Companies Act Amendment Act No. 2 (No. 73 of 1953). Associations and clubs which are not intended to be profit-making organisations can nevertheless register as companies under the Act; by so doing, however, they become subject to the same requirements as to the periodical lodging of various returns as profit-making companies. Under the Amending Act these incorporated associations and clubs may be exempted by the Attorney-General from compliance with such provisions of the Act as he thinks fit. Other amendments (1) require a prospectus to be printed in a legible type; (2) give the auditors of a company the right to receive notices of general meetings of the company and to be present and to speak at such meetings; (3) debar past directors, officers or other employees of a company from being appointed as its liquidator unless they have relinquished their appointment, office or employment more than two years before the liquidation; (4) postpone the claims of any company (whether incorporated in the State or elsewhere) which holds more than three-quarters of the issued capital of an insolvent company to those of other creditors; (5) extend, at the discretion of the Registrar, the time (normally six months) within which a liquidator must pay into court any sums held by him on account of the liquidated company; and (6) prohibit investment companies from purchasing or holding the shares or debentures of any proprietary company.

Control of firearms.

A good deal of excitement was caused in both Houses by the government's Bill to amend the Firearms and Guns Act 1931-1939. By some curious alchemy the Bill caused a number of explosions in the opposition ranks, with members on each side sniping at the other, fortunately with no more dangerous weapons than verbal missiles. Out of all this commotion there emerged the Firearms and Guns Act Amendment Act (No. 85 of 1953), which does little more than tighten up a few loose joints in the existing legislation. Police headquarters has, it seems, become an armoury of confiscated weapons; some have no known owners, others are unfit for use, and a third class consists

of weapons whose owners are debarred by the Act from obtaining a licence to keep them. In the past the Commissioner of Police had to keep this miscellaneous collection; now he can sell or destroy the first two classes. As to the third, he has the same powers unless the owner is prepared to pay an annual fee for the dubious benefit of having his weapon kept at police headquarters. If the owner is stubborn and refuses permission to sell, he will go on paying an annual custody fee until he either obtains a licence (which is unlikely) or until he dies (which is certain to happen). Much heavier penalties, both by way of fine and imprisonment, are imposed on the unlawful possession of firearms; on prosecution for such an offence, the averment in the complaint that the person charged did not have the proper licence is to be treated as *prima facie* evidence thereof. This provision evoked unavailing protests from the opposition, which appears to think that one of the fundamental liberties (which one was never disclosed) of the citizen is being put in grave danger if he is required to prove that he has a licence for a firearm which the law says must be licensed. Government members retorted that a citizen found driving a motor vehicle when he has left his licence at home or has mislaid it is given three days in which to produce it or accept the consequences—a fine; but the opposition could see no similarity between the two cases, drawing fine distinctions not likely to be immediately perceptible to the law-abiding citizen who is unlucky enough to find himself at the business end of a lethal weapon.

No licence is required under the Principal Act by members of the armed forces, the police force, or rifle clubs—so long as they do not carry weapons when off duty or not at practice. Nor is it required of patrons of a licensed shooting gallery, or of persons whose business it is to sell firearms or to move them from one place to another as common carriers. To the exempted classes are now added (1) the State Governor and (2) diplomatic and consular representatives of other countries who are temporarily resident here. But the local resident who accepts appointment as consul of a foreign country must still obtain a licence if he wants a firearm to protect the consular archives or petty cash.

Industrial development at Kwinana.

The construction of the Anglo-Iranian[19] refinery at Kwinana, rapid though it has been, is not likely to be completed before the end of 1954.[20] This has provided a breathing space during which the

19 Now known as APRL (Australasian Petroleum Refinery Limited).
20 The first tankers are expected to discharge their cargoes of crude oil in January 1955.

government has been able to review the legislation[21] which was deemed necessary at the time when the original agreement was made with Anglo-Iranian Ltd. The Industrial Development (Kwinana Area) Act Amendment Act (No. 3 of 1953) provides for dual control of the resumed areas. Localities reserved for industry will remain under the jurisdiction of the Minister for Industrial Development; areas earmarked for planned towns will come under the authority of the Minister for Lands, who is now empowered to recommend to the Governor that particular areas be sold on specified conditions (induding restrictive covenants as to user, etc.) and that other areas be given away (e.g., for community purposes such as parks, playing fields, etc.).

A substantial part of the new area was, until the passing of the Kwinana Road District Act (No. 26 of 1953), part and parcel of the Rockingham Road District;[22] it is now severed therefrom and constituted a separate Road District. It is not, however for the time being to have a Board elected by the ratepayers, but a Commissioner appointed by the Governor who will have all the powers of a Road District Board and of its Chairman. This is only a temporary expedient, to continue for five years and thereafter until the Governor considers that the time is ripe for the establishment of an elected local government authority. Local government by a Commissioner is without precedent in this State; but the Minister in his second reading speech explained that the rapid development now taking place means that practically every day decisions of importance have to be made on such matters as town-planning, building permits, road construction, etc. He felt—and the House agreed with him—that an elected Board of members serving in an honorary capacity could not be expected to sit in almost continuous session. The opposition expressed two reservations only; the first that the minimum period of five years for Commissioner control was too long, and the second that provision ought to have been made for the Commissioner to consult with a small advisory committee of ratepayers. However, it did not feel strongly enough about either matter to move any substantive amendments to the Bill.

Land agents.

Since 1922 all persons engaged in the business of buying and selling land on commission have been required to take out an annual licence and to provide a fidelity bond or other approved surety. The

21 See 2 U. WESTERN AUST. ANN. L. REV. 417-419, 632.

22 A Road District is a local government unit (urban or country); its Board has much wider powers and greater responsibilities than the name might suggest.

amount of the fidelity bond, originally set at £200, was raised to £500 in 1931; theLand Agents Act Amendment Act (No. 46 of 1953) puts it up to £2000. The reduced purchasing power of the pound was one of the reasons for the increase; but there are others. The rapid increase of the population, coupled with the virtual cessation of house-building during the war years, has caused a housing shortage, still not completely overcome, and a substantial increase in prices; it has also attracted into the business of land agent a number of persons some of whom are not over scrupulous in their methods. The amendment of the Act did not stop at raising the amount of the fidelity bond; it also deals with other practices that have become notorious, and sets up what might be called a "vigilance committee" to police the Act. It is made an offence to charge "key money" on a sale or on the commencement of a tenancy or to make any charge for giving information about available premises.[23] A statutory committee is to be set up, known as the Land Agents Supervisory Committee of Western Australia, and consisting of a Chairman nominated by the Governor, a practising member of the Institute of Chartered Accountants in Australia or of the Australian Society of Accountants, and a licensed land agent nominated by the Real Estate Institute of Western Australia. The principal task of the Committee is to investigate (either on its own motion or on complaint made to it) applications for the grant or renewal of licences and any grounds for recommending the cancellation of an existing licence; for these purposes it is vested with quasi-judicial powers of summoning witnesses and of requiring them to testify on oath or affirmation, of calling for the production of documents, of requiring members of the police force to make inquiries in its behalf, etc. All courts are required to take judicial notice of the proceedings of the Committee, which is authorised to apply for the cancellation of an existing licence or to appear in opposition to the grant or renewal of a licence.

Strict accounting methods and audit practices are required of all licensed land agents by sec. 14G; no person can be appointed auditor of a land agent's books unless he is a member of a recognised society, is of good character, and is approved by the Minister. Each auditor can require the land agent's banker to produce all accounts and other documents which are relevant to the audit, and must report to the

[23] It had become the practice of some land agents to charge prospective tenants an initial fee in consideration of which the agent would undertake to inform the client when suitable premises might or would become available; there is good reason to believe that the higher the initial fee, the better the prospect of getting a rented home.

Minister if he is of opinion that the land agent has in any way failed to comply with the Act. These provisions should go a long way towards suppressing abuses which have become notorious and which all the reputable agents are just as anxious as the government to stop.

City of Perth Town Hall.

The passing of the Perth Town Hall Agreement Act (No. 58 of 1953) does not bring appreciably nearer the day when Perth will have a modern town hall and municipal offices. The existing town hall, completed in 1870 and partly built by convict labour at the end of the transportation period, has long been woefully inadequate for municipal purposes; the major administrative offices of the city corporation are nearly two blocks away. The need for a new municipal centre has been appreciated for some years; but, as not infrequently happens, the city fathers could not agree upon a new site. In 1950, by the Perth Town Hall Act, there was an exchange of land between government and city council; the former wanted some council land for extensions to the Royal Perth Hospital, and in exchange ceded to the city a site between Supreme Court and Government House. But that site is at present occupied by the Australian Broadcasting Commission and the State Department of Agriculture; the former will soon be moving to new premises, but nothing is known as to the date when another home will be found for the latter. In the meantime, i.e., since 1950, it has been discovered that the agreement of that year did not fully represent the intentions of the parties; the new Act gives formal approval to a rectification of the 1950 agreement which will enable the City Council to proceed with its plans for the widening of the street on which the Royal Perth Hospital abuts.

Returned servicemen's badges.

A private member, himself an ex-serviceman, successfully sponsored the Returned Servicemen's Badges Act (No. 21 of 1953) which makes it a punishable offence for a person who is not a financial member of the Returned Sailors', Soldiers' and Airmen's Imperial League of Australia (Western Australian Branch) to wear a badge indicating membership of that League. The wearing of such a badge by an unfinancial member would perhaps be a venial offence but for the fact that in 1938 the League had built in the centre of the city of Perth a large clubhouse for its members, known as Anzac House, and by an Act passed in that year it was provided that all financial members of the League should be entitled to use Anzac House without payment of any additional subscription. The League does not in fact exclude

any person wearing its badge, which is taken as evidence of good financial standing; what the new Act will do is to make it a little more risky for a non-member or a person whose subscription is in arrear to make use of the facilities of Anzac House.

Traffic control.

The Traffic Act Amendment Act (No. 74 of 1953) contains a number of new provisions mainly relating to the issue and renewal of vehicle and driving licences. At the very end of the Act is a small and discreet amendment which permits the erection of traffic lights! It is a regrettable fact that Perth has long been the only major city in Australia without any traffic lights, the authorities apparently being of the opinion that control by a traffic officer is more efficient than these newfangled mechanically operated lighting systems. However, a start was made with the installation of lights at a dangerous intersection near the Metropolitan Markets; its obvious success has led to parliamentary sanction for further installations.[24]

Veterinary medicines.

Veterinary surgeons have been subject to supervision since 1911 when they were first required to register before practising their profession; but there was no control over veterinary preparations until the passing of the Veterinary Medicines Act (No. 29 of 1953). As is usual with legislation of this type, a statutory committee is created, to be known as the Veterinary Medicines Advisory Committee and to consist of the Chief Veterinary Surgeon of the Department of Agriculture as Chairman, the deputy Analyst of the Government Chemical Laboratories, the principal of the Animal Health and Nutrition Laboratories, and a veterinary surgeon nominated by the Western Australian Division of the Australian Veterinary Association. All "primary dealers" (defined to include manufacturers, importers and distributors of veterinary medicines) must apply to the Committee for registration and must at the same time give full particulars of all the veterinary medicines which they handle; all such medicines, if and when approved by the Committee, must thereafter be labelled "registered under the Veterinary Medicines Act 1953." The Committee can refuse to register a veterinary medicine; if it does refuse, the aggrieved dealer

[24] During 1954 traffic lights were installed at four intersections of William-street in the city area and came into operation just before Christmas. The general consensus of opinion (which includes even the diehards in the Traffic Branch) is that both vehicular and pedestrian traffic now moves with less congestion and much less risk. The Traffic Branch now announces that more lights are to be installed, but regards it as no part of its duty to the public to say when or where.

can appeal to the Minister, whose decision is final. The Act is not to come into operation until proclaimed; six months after the date of proclamation it will become an offence for a primary dealer (1) to sell an unregistered veterinary medicine, (2) to sell under the name of a registered veterinary medicine any medicine which does not conform with the registered prescription, and (3) to assert in respect of any registered veterinary medicine which he sells that it will be efficacious for purposes other than for which it has been registered. Other vendors are not liable to a penalty under the second head unless they actually knew that the medicines did not conform with its registered prescription. Inspectors may be appointed, with power to enter any premises used or reasonably believed to be used for the making, etc., of veterinary medicines and to take samples for analysis without payment.

VII. MISCELLANEOUS.

Other measures passed in 1953 included the following Acts—

(1) to alter the composition of the Agriculture Protection Board;[25]

(2) to amend the law as to cremation;[26]

(3) to enable statutory declarations and other instruments to be made before a member of either House of the State or federal Parliaments or before a federal commissioner for declarations;[27]

(4) to amend the law as to the registration of incorporated associations;[28]

(5) to enlarge the powers of the Transport Board;[29]

(6) to amend the Vermin Act 1918-1951;[30]

(7) to increase the compensation payable in respect of certain categories of industrial injuries and diseases.[31]

F. R. BEASLEY.

25 Agriculture Protection Board Act Amendment Act, No. 84 of 1953; see also 2 U. WESTERN AUST. ANN. L. REV. 138, 423.

26 Cremation Act Amendment Act, No. 80 of 1953.

27 Declarations and Attestations Act Amendment Act, No. 22 of 1953.

28 Associations Incorporation Act Amendment Act, No. 8 of 1953; see also 1 U. WESTERN AUST. ANN. L. REV. 138.

29 State Transport Co-ordination Act Amendment Act (No. 2), No. 83 of 1953.

30 Vermin Act Amendment Act, No. 5 of 1953; see also 2 U. WESTERN AUST. ANN. L. REV. 138, 424.

31 Workers' Compensation Act Amendment Act, No. 88 of 1953; see also 1 U. WESTERN AUST. ANN. L. REV. 308, 524, and 2 U. WESTERN AUST. ANN. L. REV. 424.