

II. Western Australia, 1964.

Introduction.

The twenty-fourth Parliament of Western Australia passed 109 statutes during its third session, which lasted from 30th July to 27th November 1964.

I. CONSTITUTIONAL.

Electoral.

The Electoral Act Amendment Act 1964¹ introduced adult franchise, compulsory registration and compulsory voting into elections for the Legislative Council. The Electoral Act Amendment Act (No. 3) 1964² removed the disqualifications from voting from persons wholly dependant on relief from the State or a State subsidised charitable institution and from aboriginal natives of Asia, Africa and the Pacific Islands, and made several amendments intended for the better operation and administration of the Electoral Act; one of these allows a candidate to hold his committee meetings in a hotel room apart from the section where liquor is normally sold.

II. ADMINISTRATION OF JUSTICE.

Evidence.

The Evidence Act Amendment Act 1964³ provided that a photograph of a document in the custody of the Library Board of Western Australia, certified by an officer of that Board, shall be admissible in evidence to the same extent as the document itself.

Enforcement by fieri facias.

The Supreme Court Act Amendment Act 1964⁴ amended section 118 of the principal Act so as to protect wearing apparel of the defendant and his wife to the value of fifty pounds and of his family to the value of twenty-five pounds for each member dependant on him, furniture to the value of two hundred and fifty pounds, implements of trade to the value of fifty pounds, and family photographs and portraits from seizure by the sheriff under a writ of *fieri facias*.

¹ No. 33 of 1964.

² No. 68 of 1964.

³ No. 11 of 1964.

⁴ No. 39 of 1964.

Judges' Salaries.

The Judges' Salaries and Pensions Act Amendment Act 1964⁵ increased the salary of the Chief Justice to £7,000 per annum, that of the Senior Puisne Judge to £6,350, and those of the other judges to £6,200. The Act also removed judges' salaries from the category of salaries adjustable in accordance with the basic wage variations.

Local Courts.

The Local Courts Act Amendment Act 1964⁶ increased the jurisdiction of the local courts in actions for recovery of possession of land. Previously the jurisdiction of the local courts in this respect was limited to land of an annual rental not exceeding £500; the limit has now been raised to £800.

Justices.

The Justices Act Amendment Act 1964⁷ altered the law so as to allow an accused person who has pleaded guilty to appeal against his conviction; previously an accused who had pleaded guilty could not appeal against his conviction.

Criminal Law.

The Criminal Code Amendment Act 1964⁸ empowers the captain of an aircraft on a flight to use reasonable force to maintain order and discipline on board the aircraft, and created several new offences in relation to aircraft: carrying dangerous goods on an aircraft—penalty, seven years imprisonment; intentionally endangering the safety of persons travelling in an aircraft—penalty, life imprisonment; assaulting members of the crew—penalty, fourteen years imprisonment; stealing an aircraft—penalty, ten years imprisonment; making unauthorised use of an aircraft—penalty, seven years imprisonment, or fourteen years if another person, apart from an accomplice, is on board at the time, or life imprisonment if the offence is committed in company, with violence, or while being armed; endangering the safe use of an aircraft—penalty, life imprisonment; making threats to or false statements about the safety of an aircraft—penalty, two years imprisonment. The Act also empowers the captain of an aircraft to arrest anyone committing or suspected of committing a crime on board an aircraft, to search any passenger or luggage on board an aircraft, and to seize anything likely to be of use as evidence.

⁵ No. 47 of 1964.

⁶ No. 9 of 1964.

⁷ No. 10 of 1964.

⁸ No. 53 of 1964.

The Police Act Amendment Act 1964⁹ altered the penalties for several offences under the Police Act.

Police Assistance Compensation.

The Police Assistance Compensation Act 1964¹⁰ provides for the payment of compensation to civilians injured while assisting the police in the performance of their duties, and to the dependants of civilians killed while assisting the police in the performance of their duties. Compensation will be paid in accordance with the provisions of the Workers' Compensation Act, as if the person injured was a worker employed by the Crown and his average weekly earnings were not less than the basic wage and he suffered the injury by an accident arising out of the course of his employment by the Crown. The Act also gives the Minister for Police the discretionary power to pay compensation to a person whose property was damaged because he gave assistance to the police in the performance of their duties. However, the person whose property was damaged cannot obtain compensation under the Act *and* recover damages from the person who damaged his property, and if he does so the compensation is recoverable as a debt due to the Crown. When compensation has been paid under the Act, the Minister for Police may take action to recover the amount of the compensation from the wrongdoer.

Prisons.

The Prisons Act Amendment Act 1964¹¹ increased the penalties for aggravated offences by prisoners to an extra six months imprisonment and forfeiture of up to one year's remissions of sentence.

Suitors' Fund.

The Suitors' Fund Act 1964¹² created a suitors' fund out of which the respondents in successful appeals to the Supreme Court, the High Court of Australia or the Privy Council may be indemnified.

Legal Practitioners.

The Legal Practitioners Act Amendment Act 1964¹³ made two alterations to the law relating to the admission of graduates to the legal profession. Previously, a graduate who had served his articles with the Crown Solicitor could not practice on his own behalf until

⁹ No. 28 of 1964.

¹⁰ No. 59 of 1964.

¹¹ No. 22 of 1964.

¹² No. 43 of 1964.

¹³ No. 74 of 1964.

he had had twelve months experience in the office of a practitioner in private practice: this restriction now only applies when the graduate has been admitted for less than five years. The Act also gave the Barristers' Board power to waive the requirement that a person who enters into articles before he obtains his degree and does not obtain his degree within six months of entering into articles must serve articles for two years following the taking of his degree.

Parole.

The Offenders Probation and Parole Act Amendment Act 1964¹⁴ amended the principal Act so as to render prisoners who were under eighteen when sentenced eligible for parole.

Maintenance of Children.

The Married Persons (Summary Relief) Act Amendment Act 1964¹⁵ provided that orders for the maintenance of dependant children shall be effective only until the child reaches the age of sixteen years: after that age the order may be extended or renewed for any further period of dependancy. The Act also made several procedural amendments to the principal Act: consequential amendments were made to the Interstate Maintenance Recovery Act 1959-1962 by the Interstate Maintenance Recovery Act Amendment Act 1964.¹⁶

III. STATUS.

Natives.

The Natives (Citizenship Rights) Act Amendment Act (No. 2) 1964¹⁷ provided that the child of a native who has been granted a certificate of citizenship, and whose name appears on his parent's certificate of citizenship, may, on attaining the age of twenty-one, apply to the Superintendent in the district in which he normally lives for a certificate of citizenship, and that once the Superintendent is satisfied of the identity of the applicant with the child whose name appears on his parent's certificate of citizenship, he must issue a certificate of citizenship without further enquiry.

Occupational Licensing.

The Chiropractors Act 1964,¹⁸ the Used Car Dealers Act 1964,¹⁹

¹⁴ No. 34 of 1964.

¹⁵ No. 87 of 1964.

¹⁶ No. 76 of 1964.

¹⁷ No. 82 of 1964.

¹⁸ No. 25 of 1964.

¹⁹ No. 51 of 1964.

the Pharmacy Act 1964,²⁰ and the Debt Collectors Licensing Act 1964²¹ provided for the registration and licensing of chiropractors, used car dealers, pharmaceutical chemists and debt collectors. The Inquiry Agents Licensing Act Amendment Act 1964²² amended the principal Act so as to bring all private inquiry agents within the scope of the Act. The amendment was necessitated by the passing of the Commonwealth Matrimonial Causes Act 1959, which superseded the State Matrimonial Causes and Personal Status Code, and the repeal of the Married Women's Protection Act.²³ The Land Agents Act Amendment Act 1964²⁴ altered the law relating to the registration of land agents in two respects. The Act lays down conditions which must be satisfied before a license may be granted, and also provides for the registration of land salesmen.

IV. PUBLIC HEALTH.

Vermin.

The Vermin Act Amendment Act 1964²⁵ provides that where any animal, bird or insect is declared to be vermin by reason of its being at large in any part of the State, it will continue to be vermin as long as the declaration remains in force, even if it is domesticated or removed to another part of the State. The Act also increased the maximum permissible rate on the unimproved capital value of land in pastoral areas from 3d. to 6d. in the pound.

Milk.

The Milk Act Amendment Act 1964²⁶ empowers the Milk Board to require that all milk sold for human consumption shall be pasteurised. Previously the Board was only empowered to require the pasteurisation of milk from other than tuberculin-tested dairy herds.

Health.

The Health Act Amendment Act 1964²⁷ made several amendments to the principal Act. The provision which enables a local authority to allow a house-owner to connect his home to the sewerage

²⁰ No. 72 of 1964.

²¹ No. 108 of 1964.

²² No. 16 of 1964.

²³ (1964) 167 WESTERN AUSTRALIAN PARL. DEB. 650.

²⁴ No. 94 of 1964.

²⁵ No. 2 of 1964.

²⁶ No. 15 of 1964.

²⁷ No. 18 of 1964.

scheme on a deferred payment basis has been extended to the supply of baths, basins, sinks and troughs. Section 101 of the Act, which lays down that sufficient lavatories must be provided at all places of employment, had been interpreted as meaning that separate lavatories must be provided for males and females in all cases where both male and female staff were employed;²⁸ the section has been amended so as to make it clear that local authorities have a discretion in this matter. The parts of the Act dealing with boarding-houses and lodging-houses has been amended so as to abolish the distinction between lodging-houses and boarding-houses. A lodging-house is now defined as a building in which more than four people, exclusive of the keeper and his family, are lodged or boarded for hire, but does not include premises licensed under a publican's general license, a limited hotel license or a wayside-house license, premises used as a boarding-school, or buildings comprising residential flats. The keeper of a lodging-house must keep a register of lodgers, which must be open to inspection by the police. Section 151, which provided that the keeper of a lodging-house must limewash or otherwise clean the walls and ceilings of his lodging-house when required to do so by the local authority has been amended so as to delete the reference to limewashing. Under the old Act the hospital treatment of infectious diseases was financed in a different way from other hospital cases; two-thirds of the cost being borne by the Government and one-third by the local authority: this special method of financing the hospital treatment of infectious diseases has now been abolished. The Act also abolished the maximum licensing fee of 10/- per annum for private hospitals and substituted a sliding scale, depending on the size of the hospital, and empowers the Commissioner of Public Health to prohibit the sale or advertising of unsafe apparatus used for the protection of health.

Cancer.

The Cancer Council of Western Australia Act Amendment Act 1964²⁹ increased the lay membership of the council from two to four, and authorised the council to spend money on public education as well as on the education of the medical profession. The Act also made several small tidying amendments designed to clarify the powers of the council.

Cemeteries.

The Cemeteries Act Amendment Act 1964³⁰ provides that where a

²⁸ (1964) 167 WESTERN AUSTRALIAN PARL. DEB. 734.

²⁹ No. 20 of 1964.

³⁰ No. 50 of 1964.

dead body has not been buried within a reasonable time, the council of the municipal district may pay for the burial and recover those expenses from the person responsible for the burial.

Country Sewerage.

Section 4 of the Country Towns Sewerage Act 1948-1954 provided for the constitution of sewerage districts within a sewerage area. The Country Towns Sewerage Act Amendment Act 1964³¹ has repealed section 4 and replaced it with a new section 4 governing the constitution of sewerage areas without any reference to sewerage districts. The Act also altered the provisions of the principal Act relating to valuation for rating purposes. Under the old Act the annual value could be assessed on the yearly rental, less rates, taxes and maintenance, or an amount not exceeding £6. 10. 0 per centum of the capital value of the land: this has now been changed to the yearly rental less £40 per centum for all outgoings, or an amount not exceeding £6 per centum of the capital value of the land. Section 61 of the principal Act prohibited appeals against a valuation when the valuation did not exceed the current valuation of the land by the local authority or the Commissioner of Taxation: this prohibition has now been repealed. In addition to several minor amendments of a tidying nature the Act also confers power upon the Governor to declare land in a sewerage area exempt from rates and land that is exempt to be rateable.

Clean Air.

The Clean Air Act 1964³² was aimed at the control of air pollution.³³ Under the Act several types of premises, such as coal or oil gas works, which are likely to cause pollution of the atmosphere, are declared to be scheduled premises; scheduled premises may not be operated without a license issued by the Air Pollution Control Council: the license may be issued on such conditions as the Council thinks fit. The Act prohibits the emission of dark smoke from chimneys and the excess of prescribed standards of air impurities; these prohibitions apply whether the premises are scheduled or not. When the Council is of the opinion that the occupier of non-scheduled premises from which air impurities are being or are likely to be emitted has not taken all practicable measures to prevent or minimise such emission, it may require him to install and operate control equipment or repair

³¹ No. 52 of 1964.

³² No. 56 of 1964.

³³ (1964) 167 WESTERN AUSTRALIAN PARL. DEB. 726.

or alter his plant or premises. The Act also empowers the Governor to prohibit the use of combustible materials, fuel burning equipment or industrial plant in any specified area, and gives the Council's inspectors authority to enter premises to examine fuel burning equipment, control equipment and industrial plant. There is a right of appeal from the Council to the Local Court. When information which has been furnished or obtained under the Act contains trade secrets, such trade secrets may not be disclosed unless the disclosure is made in connexion with the execution of the Act or for the purpose of any legal proceedings arising out of the Act, with the consent of the operator of the plant or with the prior permission of the Minister.

Abattoirs.

The Abattoirs Act Amendment Act 1964³⁴ amended the principal Act so as to give the Midland Junction Abattoir Board more comprehensive powers of borrowing money, and authorises the Treasurer to guarantee the repayment of money borrowed by the Board.

Mental Health.

The Mental Health Act Amendment Act 1964³⁵ made several amendments to the Mental Health Act 1962. The old definition of "mental disorder" has been deleted and a new one substituted: "mental disorder" now means any defect or illness that substantially impairs mental health. The effect of the new definition is to remove the mentally defective from the sphere of the mentally ill. Sections 19 and 20 of the old Act, which dealt with the services and hospitals which may be provided, have been repealed and re-enacted so as to increase the number and types of services which may be provided. One result of this increase is the provision of institutional care for drug addicts and inebriates. Section 50 of the old Act provided that nothing in the Act affected the operation of section 54 of the Prisons Act 1903. Notwithstanding this section, however, it was thought that it might still be possible to make an application under section 29 of the Mental Health Act for the conveyance of a prisoner under conviction or sentence to a hospital:³⁶ section 50 has therefore been amended to make it clear that prisoners under conviction or sentence must receive treatment in accordance with section 54 of the Prisons Act. The Act also made several amendments to the sections dealing with the handling of the estates of incapable persons.

³⁴ No. 64 of 1964.

³⁵ No. 92 of 1964.

³⁶ (1964) 169 WESTERN AUSTRALIAN PARL. DEB. 2915.

V. CONTROL OF PRICES AND COMMODITIES.

Wheat.

The Wheat Marketing Act (Revival and Continuance) Act 1964³⁷ revived the Wheat Marketing Act 1947-1956, which expired on 31st October 1961, retrospectively from 31st October 1961 and continued it until 31st October 1969. All acts purported to have been done under the Act between the expiry of the old Act and the passing of the new are validated, but no one may be prosecuted for an offence under the Act committed between the expiry of the old Act and the passing of the new.

Section 6 of the Wheat Products (Prices Fixation) Act 1938 provided that there should be a committee known as the Wheat Products Prices Committee. The Wheat Products (Prices Fixation) Act Amendment Act 1964³⁸ has amended this section so as to make the appointment of a committee permissive and not mandatory.

Fruit.

The Agricultural Products Act Amendment Act 1964³⁹ empowers an inspector to order the destruction of grapes and citrus fruit of a standard below the minimum considered fit to be offered for sale.

The Agricultural Products Act Amendment Act (No. 2) 1964⁴⁰ amended the principal Act so as to allow the Apple Sales Advisory Committee to control the size, as well as the grade, of apples.

VI. FISCAL.

The only Acts passed under this heading in 1964 were the Supply Acts,⁴¹ the Appropriation Act⁴² and the Loan Act.⁴³ In the opinion of the reviewer these acts are not worth reviewing in a University Law Review.

VII. BUILDING, HOUSING AND DEVELOPMENT.

Housing.

The State Housing Act Amendment Act 1964⁴⁴ lifted the statu-

³⁷ No. 38 of 1964.

³⁸ No. 84 of 1964.

³⁹ No. 12 of 1964.

⁴⁰ No. 62 of 1964.

⁴¹ Nos. 1 and 42 of 1964.

⁴² No. 109 of 1964.

⁴³ No. 106 of 1964.

⁴⁴ No. 41 of 1964.

tory limit of advance or building cost to £3,000; the Act also amended section 60 A of the principal Act, which provided a scheme whereby second mortgage assistance could be extended to workers wishing to build or buy a new home, by increasing the limit of cost or value of the home to £3,500.

The Government Employees' Housing Act 1964⁴⁵ established a Government Employees' Housing Authority charged with the function of providing adequate housing for Government employees: the Authority has power to borrow money upon the guarantee of the State Treasurer.

Iron Ore.

The Iron Ore (Mount Newman) Agreement Act 1964,⁴⁶ the Iron Ore (Cleveland-Cliffs) Agreement Act 1964,⁴⁷ the Iron Ore (Mount Goldsworthy) Agreement Act 1964,⁴⁸ the Iron Ore (Hammersley Range) Agreement Act Amendment Act 1964,⁴⁹ the Iron Ore (The Broken Hill Proprietary Company Limited) Agreement Act 1964,⁵⁰ and the Iron Ore (Tallering Peak) Agreement Act 1964⁵¹ gave Parliamentary approval to several iron ore agreements.

Industrial Lands.

The Industrial Lands (Maddington) Agreement Act 1964⁵² gave Parliamentary approval to an agreement for the sale by the Government to Davison Estates Pty. Ltd. of 200 acres of land at Maddington for the purpose of subdivision and establishing industries on the subdivided land.

The Industrial Lands (Kwinana) Agreement Act 1964⁵³ gave Parliamentary approval to an agreement between the Government, B.P. Refinery (Kwinana) Pty. Ltd. and C.S.B.P. and Farmers Ltd. for the construction of a nitrogenous fertilisers plant at Kwinana and a wharf at Cockburn Sound.

Railways.

The Bellevue-Mount Helena Railway Discontinuance and Land Revestment Act 1964⁵⁴ and the Bibra Lake-Armadale Railway Dis-

⁴⁵ No. 95 of 1964.

⁴⁶ No. 75 of 1964.

⁴⁷ No. 91 of 1964.

⁴⁸ No. 97 of 1964.

⁴⁹ No. 98 of 1964.

⁵⁰ No. 103 of 1964.

⁵¹ No. 104 of 1964.

⁵² No. 89 of 1964.

⁵³ No. 93 of 1964.

continuance and Land Revestment Act 1964⁵⁵ provided for the closure of the Bellevue-Mount Helena and Bibra Lake-Armadale railways.

In accordance with the Iron Ore (Tallering Peak) Agreement of 1961,⁵⁶ the Morawa-Koolanooka Hills Railway Act 1964⁵⁷ authorised the Western Mining Corporation Ltd. to construct a railway from Morawa to Koolanooka Hills.

VIII. GENERAL.

Radioactive Substances.

The Radioactive Substances Act Amendment Act 1964⁵⁸ makes it an offence for a medical practitioner or dentist to use unregistered radiological apparatus and provides that registration may be granted subject to such conditions as the Minister may impose, and that the Minister may cancel registration of the apparatus if the Radiological Advisory Council is of the opinion that the use of the apparatus may imperil the health of any person. The Act also amended the principal Act so as to allow a medical practitioner who is employed in the Department of Public Health to be chairman of the Radiological Advisory Council; previously only the Commissioner of Public Health or the Deputy Commissioner could hold that office.

Sale of Liquor.

The Sale of Liquor and Tobacco Act Amendment Act 1954⁵⁹ repealed all the sections of the Sale of Liquor and Tobacco Act 1916 which relate to the sale of liquor. The Act is now known as the Sale of Tobacco Act.

Presbyterian Church.

The Presbyterian Church Acts Amendment Act 1964⁶⁰ gives to the general assembly of the Presbyterian church power to authorize the separate incorporation of missions and institutions of the church; upon their incorporation the property exclusively used in the work and activities of such missions and institutions, which was previously held on trust by the church commissioners, will vest in the newly incorporated bodies.

⁵⁴ No. 27 of 1964.

⁵⁵ No. 30 of 1964.

⁵⁶ (1964) 168 WESTERN AUSTRALIAN PARL. DEB. 1619.

⁵⁷ No. 44 of 1964.

⁵⁸ No. 5 of 1964.

⁵⁹ No. 8 of 1964.

⁶⁰ No. 19 of 1964.

Superannuation and Family Benefits.

The Superannuation and Family Benefits Act Amendment Act 1964⁶¹ authorized the Superannuation Board to invest its funds in land and buildings to provide office accommodation for the Board and such tenants as may from time to time be approved.

The Superannuation and Family Benefits Act Amendment Act (No. 2) 1964⁶² increased the maximum number of units which a contributor may take out from 42 to 50, and increased the additional payment to the widow of a deceased contributor for each child under 16 from £1 to 30/- a week, and increased the payment in respect of an orphan under 16 years from £1 a week to £2 a week; in both the latter two cases the payment will continue until 21 years in the case of a student child. The Act also made several other alternations to the scheme. During the World War the State paid to the fund the superannuation contributions due on account of any contributor who served in the armed forces, and if such a person resigned from government service the payment made by the State on his behalf was deducted from his refund of contributions:⁶³ this provision has now been deleted. Previously, when contributors died without dependants, a refund was made to their estates at surrender value: the refund will now comprise the whole of their contributions plus interest. Widows of contributors who die before they reach retiring age, who were previously entitled to pensions in accordance with the number of units for which their husbands had contributed, may now opt for a lump sum representing the amount of the contributions paid by their husbands plus interest instead of a pension. Under the old Act, when a widow remarried her pension ceased; the new Act provides that if she is again widowed her pension will revive.

Wills.

The Wills (Formal Validity) Act 1964⁶⁴ provides that a will shall be treated as properly executed if its execution conforms to the internal law in force in the place where it was executed or the law of the testator's domicile, residence or nationality at the time either of its execution or the testator's death. In addition wills executed on board a vessel or aircraft are deemed to be properly executed if they conform to the internal law of the place with which the vessel or aircraft is most closely connected, wills which dispose of immovable property

⁶¹ No. 21 of 1964.

⁶² No. 101 of 1964.

⁶³ (1964) 169 WESTERN AUSTRALIAN PARL. DEB. 2903.

⁶⁴ No. 24 of 1964.

are deemed to be properly executed if they conform to the internal law of the place where the property is situated, wills which revoke wills which would be treated as properly executed under the Act are deemed to be properly executed if they conform to any law by reference to which the revoked will would be treated as properly executed, and wills which exercise a power of appointment are deemed to be properly executed in so far as they exercise a power of appointment if they conform to the law governing the essential validity of the power of appointment; a will which exercises a power of appointment is not to be treated as improperly executed in so far as it exercises a power of appointment merely because its execution was not in accordance with any formal requirements contained in the instrument creating the power. Where the Act provides that the internal law of any particular country shall be applied in the case of a will, and there are two or more systems of internal law relating to the formal validity of wills in that country, the system to be applied shall be ascertained as follows: (1) if there is a rule in the country concerned indicating the system to be applied, that rule shall be followed; (2) if there is no such rule, the system with which the testator was most closely connected at the time of his death, where the matter is to be determined by reference to circumstances prevailing at his death, and in other cases the system with which the testator was most closely connected at the time of execution of the will. Any requirements whereby special formalities are to be observed by testators answering a particular description, or witnesses to the execution of a will are to possess certain qualifications, are to be treated as formal requirements only, notwithstanding any rule of the law of the country concerned to the contrary. The Act also provides that the construction of a will shall not be altered by reason of any change in the testator's domicile after the execution of the will.

Education.

The Education Act Amendment Act 1964⁶⁵ raised the school-leaving age to the end of the year in which a child turns 15. The Minister may exempt a child from compulsory attendance at school after his 15th birthday if satisfied that suitable employment is available and it is in the best interests of the child to accept it. The principal Act is amended so that Government subsidies for the purchase of classroom equipment will be paid to independent schools on the same basis as to government schools. The Act allows parents and citizens' associations to use their funds to benefit children attending any govern-

⁶⁵ No. 26 of 1964.

ment school, and not only the school or group of schools in relation to which the association was formed. The Act provides that in assessing seniority for purposes of promotion, full-time temporary service shall be counted as permanent service where it immediately precedes and is continuous with permanent service. The Act also provides that service under the Director of Technical Education in his special capacity as Regional Director of Industrial Training shall count towards seniority.

Fremantle Harbour.

The Fremantle Harbour Trust Act Amendment Act 1964⁶⁶ changed the name of the Fremantle Harbour Trust to the Fremantle Port Authority. Previously the commissioners of the Fremantle Harbour Trust could only undertake harbour extensions to the extent of £2,000 on any one project: this limit has now been removed, although the approval of the Minister is necessary for all such works. The Act also removes the requirement of ministerial sanction for the provision by the commissioners of navigational aids within the area of their control. The borrowing powers of the commissioners, previously limited to the issue of debentures and inscribed stock and loans from the Treasurer, have been extended to allow them to borrow on overdraft from any bank carrying on business within Western Australia which is approved by the Treasurer. The Act also increased the penalty for the evasion of port dues from £10 to £100. It had originally been considered that the Fremantle Harbour Trust had the immunity of the Crown.⁶⁷ However, in *Eastern Asia Navigation Co. Ltd. v. Fremantle Harbour Trust Commissioners and the Commonwealth of Australia*,⁶⁸ Latham C.J. held to the contrary. The Act has amended the principal Act to make it clear that the Fremantle Port Authority does not enjoy the immunity of the Crown.

Youth Service.

A Youth Council was created by the Youth Service Act 1964.⁶⁹ The functions of the council are to formulate a comprehensive plan for youth service, and generally to promote assist and co-ordinate all activities relating to youth service.

Long Service Leave.

The Long Service Leave Act Amendment Act (No. 2) 1964⁷⁰

⁶⁶ No. 35 of 1964.

⁶⁷ (1964) 168 WESTERN AUSTRALIAN PARL. DEB. 1174.

⁶⁸ (1950-51) 83 C.L.R. 353, at 370.

⁶⁹ No. 36 of 1964.

⁷⁰ No. 37 of 1964.

reduced the qualifying period for long service leave from twenty years to fifteen years. The Act also increased the amount of leave for every ten years continuous service after the qualifying period from $6\frac{1}{2}$ weeks to $8\frac{2}{3}$ weeks.

Damage by Aircraft.

The Damage by Aircraft Act 1964⁷¹ provides that when damage or loss has been caused by an aircraft or person in an aircraft, or person or thing falling from an aircraft, the owner of the aircraft is liable without proof of negligence or intent, provided that there has been no contributory negligence on the part of the person injured. Where damages are recoverable from the owner of the aircraft only by virtue of the Act, and some other person is liable for the damage caused, the owner of the aircraft is entitled to be indemnified by that person. Where the aircraft has been chartered for a period exceeding fourteen days and no member of the crew is in the employment of the owner, the charterer and not the owner is liable under the Act. The Act also provides that no action will lie in trespass or nuisance by reason only of the flight of an aircraft over any property at a height that is reasonable in the circumstances, provided that the Air Navigation Regulations are complied with.

Administration.

The Administration Act Amendment Act 1964⁷² made several amendments to the Administration Act 1903-1963. Previously sureties to administration bonds could be dispensed with in the case of a person who died leaving property not exceeding £1,000 in value with administration being granted to the husband or widow of the deceased. The amount has now been raised to £2,500. The section of the principal Act requiring persons to lodge a statement of assets and liabilities in the office of the Commissioner of Stamps has been amended to require filing in the probate office of the Supreme Court. The Act also empowers the Governor to appoint a person as the deputy of the commissioner when the commissioner is absent or incapacitated. The rate of interest on unpaid duty has been increased from four per cent. to such rate, not exceeding eight per cent., as the Treasurer may from time to time declare, the duty free value of shares, debentures, etc. in the name of a deceased person has been raised from £200 to £1,000 and the amount of deposits in a bank which may be paid to the next of kin of the deceased without probate or administration has been

⁷¹ No. 49 of 1964.

⁷² No. 57 of 1964.

increased from £50 to £200. The Act also made several tidying and procedural amendments to the principal Act.

Historic Wrecks.

The Museum Act Amendment Act 1964⁷³ makes it an offence to remove damage or destroy an historic wreck or any part of it, and provides that any person finding such a wreck must report the matter to the Western Australian Museum Board. The Board is empowered to take possession of the wreck and pay the person finding it a reward not exceeding £1,000.

Licensing.

The Licensing Act Amendment Act 1964⁷⁴ allows licensing fees to be paid in four instalments instead of two, imposes a penalty of ten per cent. of the amount payable in the event of the late payment of fees, and provides for the cancellation of a license in the event of non-payment.

Statute Law Revision.

The Statute Law Revision Act 1964⁷⁵ declared 384 obsolete acts to be repealed. The Act provides that a railway made under the authority of any repealed act continues to be a railway authorized by a special act, and any limits of deviation authorized by the repealed act continue to be the authorized limits of deviation of that railway.

Fisheries.

The Fisheries Act Amendment Act 1964⁷⁶ empowers the Governor to declare any area south of the thirty-second parallel between high water mark and the limit of Western Australian territorial waters a proclaimed fishing zone. When an area has been declared a proclaimed fishing zone, the Chief Inspector of Fisheries may make regulations as to who may enter that zone, and under what conditions. The avowed object of this widely cast legislation is the protection of the salmon fishing industry near Albany against speed boat owners and others who frighten away the salmon during the fishing season.⁷⁷

Country Water Supplies.

In addition to making several machinery amendments to the principal Act the Country Areas Water Supply Act Amendment Act

⁷³ No. 58 of 1964.

⁷⁴ No. 60 of 1964.

⁷⁵ No. 61 of 1964.

⁷⁶ No. 63 of 1964.

⁷⁷ (1964) 169 WESTERN AUSTRALIAN PARL. DEB. 2481.

1964⁷⁸ altered the conditions under which the Department of Water Supply, Sewerage and Drainage levies rates in country areas. Under the new scheme farmlands will be rated on an area basis, and other lands on an annual value basis. Rates will now be levied on a pay-as-you-use system and will be on a sliding scale, more being charged for heavier consumption.

Traffic.

The Traffic Act Amendment Act 1964⁷⁹ provides that the driver of a vehicle who does not produce his driver's license on demand to a policeman or traffic inspector commits an offence, unless he subsequently produces his license at a police station within a reasonable time. Previously the Act had required that the license had to be produced within three days at the police station nearest to the place where the driver ordinarily resided; but in 1963 the requirement was deleted from the Act. The Government had wished to reduce the period within which the license had to be produced from three days to two, but in the upshot the entire subsection requiring a driver to produce his license on demand was repealed.⁸⁰ The requirement has now been restored to the Act with two alterations: in place of a set time limit the driver must produce his license within a "reasonable" time, whatever that may mean, and it is now sufficient if the driver produces his license at *any* police station, not necessarily the one nearest his ordinary place of abode. The Act also provides that the Governor may make regulations prescribing classes of vehicle licenses.

The Traffic Act Amendment Act (No. 2) 1964⁸¹ provides that fees collected by a local authority outside the metropolitan area in excess of its base year sum must be paid into the Central Road Trust Fund. The Act also provides for the application of the Central Road Trust Fund and the Metropolitan Trust Account.

Poisons.

The Poisons Act 1964⁸² provides for the licensing of persons to sell or manufacture poisons, and prescribes conditions for retail and wholesale dealing in poisons: the Act forbids the sale of any new drug until it has been classified by the Commissioner of Public Health, and empowers the Governor to prohibit the sale of a new drug to the

⁷⁸ No. 66 of 1964.

⁷⁹ No. 80 of 1964.

⁸⁰ (1964) 169 WESTERN AUSTRALIAN PARL. DEB. 2482.

⁸¹ No. 67 of 1964.

⁸² No. 70 of 1964.

public or to lay down conditions for its sale. In his second reading speech the Minister for Health, Mr. Ross Hutchinson, stated that the purpose of the provisions relating to new drugs was the avoidance of tragedies like the thalidomide babies.⁸³ It is an offence under the Act to forge a prescription for a drug of addiction or to obtain such a drug by false pretences: the Act provides, however, that it is not an offence to manufacture or prepare heroin for educational, experimental or research purposes in any university, college, school or institution approved by the Governor by Order in Council, notwithstanding any provision of the Police Act. The Act also specifies a number of precautions, such as the labelling of containers, aimed at the prevention of accidental poisoning, and authorizes health inspectors to enter premises, make searches and seize poisons. The Act creates a Poisons Advisory Committee charged with the function of advising the Minister and the Commissioner of Public Health on matters relating to the Act. On the advice of this committee the Governor may prohibit the sale of any poison, either absolutely or except upon conditions.

Friendly Societies.

The Friendly Societies Act Amendment Act 1964⁸⁴ made several amendments to the principal Act. The Act authorizes friendly societies to establish hospitals, and has increased the total sum for which a member may be covered for benefits from £500 to £3,000. The principal Act has been amended so as to validate the opening of dispensaries opened by friendly societies since 1956, and to remove doubts as to the legality of the existing registration of all dispensaries registered under the Act. The Act also allows these dispensaries open trading rights: however, the Pharmacy Act 1964 limits friendly societies to operating the pharmacies they now own. The Act also provides that the Minister's approval shall be obtained before the rules of a friendly society are registered. Finally, the Act repealed the Friendly Societies Act Amendment Act 1930, which was passed to allow societies to waive fees of distressed members during the depression years.⁸⁵

Weights and Measures.

The Weights and Measures Act Amendment Act 1964⁸⁶ amended the principal Act so as to allow the use of the metric system in relation to the sale of drugs and other pharmaceutical preparations.

⁸³ (1964) 168 WESTERN AUSTRALIAN PARL. DEB. 1823.

⁸⁴ No. 73 of 1964.

⁸⁵ (1964) 168 WESTERN AUSTRALIAN PARL. DEB. 1826.

⁸⁶ No. 78 of 1964.

Road Closure.

The Road Closure Act 1964⁸⁷ provided for the closure of roads, streets and rights of way in Augusta, Bassendean, Bayswater, Bunbury, Busselton, Esperance, Geraldton, Kojonup, Kwinana, Melville, Peppermint Grove, Mount Yokine, and the Shire of Perth.

National Trust.

The National Trust of Australia (W.A.) Act 1964⁸⁸ established the National Trust of Australia (W.A.). The objects of the National Trust are to restore and preserve historic buildings and those of outstanding architectural merit, to safeguard the beauty of the countryside, and to stimulate and encourage public interest in places and things of educational, historic and artistic importance.

Government Employees.

The Government Employees (Promotions Appeal Board) Act Amendment Act 1964⁸⁹ made several amendments to the principal Act. The Act provides for the appointment of an assistant chairman of the Promotions Appeal Board and a deputy to the employer's representative on that board. Previously the board could recommend the payment of an appellant's reasonable expenses, but the recommendations had to be approved by the Governor; the board can now approve the payment of such expenses itself: the board may also approve the payment of the expenses of an appellant's subpoenaed witnesses. The definition of "seniority" has been altered so that seniority for employees under the provisions of the Public Service Act is the same as it is under the Public Service Act Regulations. Employees of the Education Department who are covered by the Government School Teachers' Tribunal are excluded from the Act, and public servants in the Education Department and employees of the Metropolitan Water Supply Sewerage and Drainage Board are included.

Workers' Compensation.

The Workers' Compensation Act Amendment Act 1964⁹⁰ increased some forms of compensation payment. The new payments are: for total permanent incapacity—£3,500, for death with dependants—£3,500, plus £100 per dependant child, medical expenses—£250, hospital expenses—£450. The scope of the Workers' Compensation Act has been widened to include injuries incurred during

⁸⁷ No. 79 of 1964.

⁸⁸ No. 85 of 1964.

⁸⁹ No. 86 of 1964.

⁹⁰ No. 88 of 1964.

journeys to and from work. The Act also altered the provisions of the principal Act relating to pneumoconiosis. A wider meaning has been given to the term "pneumoconiosis", and a worker wishing to claim compensation for pneumoconiosis need no longer prove that the disease was caused by the occupation in which he was engaged during the previous three years. Complimentary amendments have been made to the Mine Workers' Relief Act by the Mine Workers' Relief Act Amendment Act 1964.⁹¹

Local Government.

The Local Government Act Amendment Act (No. 2) 1964⁹² made several amendments to the principal Act, chiefly of a tidying or clarifying nature.

Coal Miners' Pensions.

The Coal Mine Workers (Pensions) Act Amendment Act 1964⁹³ made two alterations to the law relating to coal miners' pensions. Previously, when a miner became totally incapacitated because of an injury received at work, the lump sum payment for workers' compensation delayed the payment of pensions benefits until a period ascertained by dividing the workers' compensation payment by the maximum weekly compensation payable under the Workers' Compensation Act had expired. The Act provides that, in calculating the delay in payment of pensions, such portions of the lump sum as is spent by the miner in buying a home, redeeming mortgage on his home, or payment of medical expenses incurred as a result of the incapacitating injury shall be ignored. Following the retrenchments in the coal-mining industry in 1960 many miners left the industry and were paid a refund of their contributions under the pensions scheme. Some of these men have since been re-employed in the industry, but if they were over thirty-five when they were re-employed they could not, under the existing law, qualify for a pension at the age of sixty.⁹⁴ The Act provides that a re-employed miner who has repaid his refunded contribution will become eligible for a pension on reaching sixty.

Adoption of Children.

The Adoption of Children Act Amendment Act 1964⁹⁵ provided for the recognition of adoptions orders made in foreign countries and

⁹¹ No. 96 of 1964.

⁹² No. 90 of 1964.

⁹³ No. 99 of 1964.

⁹⁴ (1964) 168 WESTERN AUSTRALIAN PARL. DEB. 2194.

⁹⁵ No. 100 of 1964.

other Australian States, and laid down the conditions under which consent to an adoption shall be given and the circumstances in which consent may be dispensed with. The Act makes it an offence to pay money, other than for legal expenses and reasonable medical expenses, in order to secure an adoption, to advertise without the approval of the Director of Child Welfare either that a child has been adopted or in order to promote an adoption, or to use undue influence on the mother of a child in order to induce her to offer or refrain from offering her child for adoption. The Act also provides that the Supreme Court of Western Australia shall have jurisdiction in adoption matters if the applicant or applicants are resident or domiciled in Western Australia and the child is present in Western Australia. This is the sole basis of jurisdiction and may not be widened or restricted, the rules of Private International Law notwithstanding.

Reserves.

The Reserves Act 1964⁹⁶ provided for the adjustment of Class A reserves in Bayswater, Bridgetown, Bunbury, Dinninup, Geraldton, Harvey, Katanning, Lake King, Margaret River, Melville, Merredin, Mount Yokine, Narrogin, Nedlands, Northam and Popanyinning, and the reclassification of a Class A reserve in Mandurah as a Class C reserve.

Door to Door Sales.

The Door to Door (Sales) Act 1964⁹⁷ seeks to curb the activities of high pressure book salesmen.⁹⁸ The Act provides that when a credit purchase agreement is made at the purchaser's home or place of employment, or at a technical school, the purchaser may terminate the agreement within seven days: if the purchaser does so terminate the agreement, the vendor must refund any money paid under the agreement. The agreement must be in writing and the vendor must give the purchaser a written statement of his right to terminate. The Act does not apply to agreements made as a result of unsolicited requests by the purchaser, nor to agreements where the purchaser is a body corporate or a person engaged in the business of buying and selling goods of the type to which the agreement relates. Any attempt to exclude the provisions of the Act is of no effect, and renders the vendor liable to a fine of two hundred pounds. The Act refers to credit purchase agreements relating to "goods", and "goods" are

⁹⁶ No. 102 of 1964.

⁹⁷ No. 107 of 1964.

⁹⁸ (1964) 167 WESTERN AUSTRALIAN PARL. DEB. 855.

defined as books: however, the Governor may by regulation prescribe any articles to be "goods" for the purposes of the Act, and exempt any goods from the provisions of the Act.

Companies.

Following the failure of several large companies in Australia,⁹⁹ the Companies Act Amendment Act 1964¹ made several amendments to the principal Act. In particular the provisions relating to trustees for debenture holders were tightened up.

IX. MISCELLANEOUS.

Amongst other pieces of legislation passed during the session the following may be of interest:—

(1) The University of Western Australia Act Amendment Act 1964² allowed the University to accept gifts intended to benefit men only or women only.

(2) The Anzac Day Act Amendment Act 1964³ made several amendments to the principal Act. The definition of "sports" has been extended to include meetings at which there is no entrance charge, but donations are taken during or after the event, and the organisers of country race meetings need now only give 60% of their takings from Anzac Day meetings to the Anzac Day Trust Fund, instead of 100%. The Trust is empowered to receive gifts and sue sporting bodies for the proceeds of Anzac Day meetings, and may now spend money on the preservation, alteration and improvement, as well as on the erection, of homes for aged ex-servicemen.

(3) The Real Property (Foreign Governments) Act 1964⁴ amended the principal Act so as to allow the government of the United States of America to lease one hundred acres of land in the townsite of Exmouth.

(4) The Factories and Shops Act Amendment Act 1964⁵ amended the principal Act so as to allow spare-parts dealers who hold a written permit from the Minister to sell spare parts after normal trading hours in cases of emergency.

W.E.D.D.

⁹⁹ (1964) 168 WESTERN AUSTRALIAN PARL. DEB. 1893.

¹ No. 69 of 1964.

² No. 4 of 1964.

³ No. 14 of 1964.

⁴ No. 55 of 1964.

⁵ No. 83 of 1964.