III. Commonwealth 1964.

Introduction.

The twenty-fifth Commonwealth Parliament passed 130 statutes during the first and second periods of its first session, the two sessions lasting from 25th February 1964 to 20th May 1964 and 11th August 1964 to 17th November 1964.

I. CONSTITUTIONAL.

Ministers of State.

The Ministers of State Act[1] amends the principal Act to permit the appointment of three additional Ministers and to proportionately increase the sum provided for Ministers' salaries. This measure was considered a necessity by both the Government and the Opposition in view of the increasing complexity of government, and to avoid double portfolios.[2] The Act has increased the number of Ministers to twenty-five and the total allowance for Ministers' salaries to £73,350.

Parliamentary Allowances.

The Ministers of State Act (No. 2)[3] was discussed in conjunction with the Parliamentary Allowances Act[4] and Parliamentary Retiring Allowances Act.[5] It was passed with the agreement of the Opposition, and raised the total allowances for Ministers' salaries as set out in section 4 of the Ministers of State Act (No. 1), from £73,350 to £95,650. More specific changes made by the Bill are summarised in the Table below.

The Parliamentary Allowances Act increases the salaries and electorate allowances of ordinary Members, and the salaries and special allowances of Office Bearers other than Ministers. This Bill received the approval of the Opposition which agreed with the Government that, in view of basic wage increases, the proposed increase in salaries for public servants, rising salaries etc., in State Parliaments, increased electoral costs and the necessity to maintain the dignity and standard of the Federal Legislature, a rise in emoluments to Members of Parliament was long overdue.[6]

The Parliamentary Retiring Allowances Act adjusts retirement benefits to be in line with the increased Parliamentary salaries. Mem-

1 No. 1 of 1964.
2 See (1964) 41 COMMONWEALTH PARL. DEB. (H. of R.) 45.
3 No. 71 of 1964.
4 No. 70 of 1964.
5 No. 72 of 1964.
6 See (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2394.

bers now contribute 11½% of their salary to the Parliamentary Retiring Allowances Fund which meets 30% of the cost of members' pensions. The Act gives those ex-members who are receiving pensions at a pre-1959 rate, an increase, so as to raise their pensions to the rates adopted in 1959. Also a contributory scheme for Ministers (including the Leader of the Opposition) is introduced, providing for a basic contribution rate of £4. 5. 0 per week and pensions varying with service from a minimum of eight years to a maximum of fourteen years. Again 30% of the pensions are met from the Fund. A summary of the changes made by these three Acts is given in the table below.[7]

	Present per annum	Proposed per annum
	£	£
1. Members—		
(a) Salary	2,750	3,500
(b) Electorate Allowance		
Senator	800	1,050
City Electorate	850	1,100
Country Electorate	1,050	1,300
(c) Travelling Allowance (per day)	4	6
2. Ministers—		
(a) Salary (additional to 1 (a) above)—		
Prime Minister	7,250	8,500
Deputy Prime Minister (not being Treasurer)	3,850	5,000
Treasurer	3,750	4,900
Other Senior Ministers	3,250	4,250
Junior Ministers	2,250	3,000
(b) Special Allowance (additional to 1 (b) above)—		
Prime Minister	3,500	4,000
Senior Ministers	1,500	1,800
Junior Ministers	1,250	1,500
(c) Travelling Allowance (per day)—		
Prime Minister	15	18
Senior Ministers	12	15
Junior Ministers	10	12
3. Other Office Bearers—		
(a) Salary (additional to 1 (a) above)—		
President and Speaker	2,250	3,000
Chairman of Committees	1,000	1,250
Leader of Opposition (Representatives)	3,250	4,250
Leader of Opposition (Senate)	1,500	2,000
Deputy Leader of Opposition (Representatives)	1,500	2,000
Deputy Leader of Opposition (Senate)	500	650
Leader of Third Party (subject to existing conditions)	750	1,000

[7] See (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2396.

(b) Special Allowance (additional to 1 (b) above) —		
President and Speaker	500	600
Leader of Opposition (Representatives) .	1,500	1,800
Leader of Opposition (Senate)	500	600
Deputy Leader of Opposition (Representatives)	500	600
Deputy Leader of Opposition (Senate) ..	250	300
Leader of Third Party (subject to existing conditions)	250	300
Government Whip (Representatives) ...	500	600
Other Whips	400	500
(c) Travelling Allowance (per day) —		
President and Speaker	10	12
Leader of Opposition (Representatives) .	12	15
Deputy Leader of Opposition (Representatives)	10	12

Representation.

The main purpose of the Representation Act[8] is to give a State an additional member for any fraction of the quota, in lieu of a member for a remainder greater than half the quota. Following the 1961 census the determination of numbers of representatives from each state resulted in New South Wales, Queensland, and Western Australia all losing one member each, with Victoria gaining one and South Australia and Tasmania remaining the same. This decreased the overall membership of the House by two. The suggestion that an additional member be given where any fraction of the quota exists was therefore implemented in this Act. The 1961 determination is rendered ineffective by the Act and a new determination will be made on the basis of the Act.

II. JUDICIAL AND ADMINISTRATIVE.

Public Service and Statutory Offices.

Action having been taken in accordance with section 64 of the Constitution to formally establish the new Department of Housing and to introduce the new title of Department of Trade and Industry, the Public Service Act[9] makes the necessary amendments to the principal Act. The Act accordingly amends the Second Schedule to the principal Act by inserting the words "The Department of Trade and Industry" for the "Department of Trade" and by adding to the end of the Second Schedule the words "Department of Housing." The Third Schedule is likewise amended to establish a "Secretary to the Department of Trade and Industry" and a "Secretary to the Department of Housing."

8 No. 97 of 1964.
9 No. 2 of 1964.

The Salaries (Statutory Offices) Adjustment Act[10] increases the salaries of Permanent Heads and of the holders of certain statutory offices now on the salary levels of £5,900 and £6,900. The new salaries are £7,500 and £8,750 respectively. In his second reading speech the Prime Minister, Sir Robert Menzies said: "The Government has decided that, in the light of the time which has elapsed since their salaries were last reviewed and of various developments in the Commonwealth Service and elsewhere, a further review for the Permanent Heads and the statutory offices listed in the Second Schedule to this Bill is now required. In determining the new salary levels to be applied, the Government took account of the high level of responsibility and the complex duties devolving upon the statutory office holders and Permanent Heads."[11] The offices affected by this Act are those of Auditor-General for the Commonwealth, Commonwealth Railways Commissioner, Chairman of Public Service Board, Member of the Public Service Board, Commissioner of Taxation, and the Second Commissioner of Taxation.

In the second reading speech on this Act the Prime Minister said: "The salaries for the remainder of the offices not within jurisdiction of the Public Service Board will be individually reviewed by the Government and the appropriate increases applied, as from 1st November 1964. Because the salaries are provided from special appropriations, legislation covering the offices of the Public Service Arbitrator, the Senior Commissioner, Commissioners and Conciliators of the Commonwealth Conciliation and Arbitration Commission and the Chairman and Members of the Taxation Boards of Review, and proposing effect from 1st November in each instance will be introduced before the end of the present session of Parliament."[12]

The Salaries (Statutory Offices) Adjustment Act (No. 2),[13] makes these increases in salary forshadowed in the speech referred to above. The Act amends the Conciliation and Arbitration Act 1904-1964 so as to give increased salaries to the Senior Commissioner, Commissioner and Conciliator, and the Public Service Arbitration Act 1920-1960 thus affecting the Public Service Arbitrator. As to the Chairmen and Members of the Taxation Boards of Review, the effect of the amendment is to provide a salary of £6,250 for each of the three chairmen and £5,400 for each of the six members.

10 No. 75 of 1964.
11 See (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2403.
12 See (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2792.
13 No. 115 of 1964.

Acts Interpretation.

The Acts Interpretation Act[14] makes three amendments to the principal Act, one of which necessitates the amendment of three other Acts. The Acts effecting this, namely the Evidence Act,[15] State and Territorial Laws and Records Recognition Act,[16] and the Rules Publication Act,[17] were therefore discussed in conjunction with the Acts Interpretation Bill. The purpose of the amendment is to provide that judicial notice be taken of regulations under Commonwealth Acts and Territory Ordinances: Mr. Snedden, the Attorney-General, in his second reading speech said: "It is anomolous that, at present, judicial notice is taken of Territory ordinances and of proclamations and orders under Commonwealth acts but not of regulations under Commonwealth acts. In consequence, regulations have to be produced and proved, and the need for this has been criticised in the courts and judicial suggestion made that the legislature should review the matter."[18]

The amendment has been effected by taking out of the Acts Interpretation Act, the Rules Publication Act and the Territorial Laws and Records Recognition Act provisions dealing with proof and judicial notice of subordinate Commonwealth legislation, and replacing them with a new comprehensive provision in the Evidence Act. This new provision provides for judicial notice of regulations under Commonwealth Acts and Territory Ordinances.

Following the revision of Standing Order 319 which permitted papers to be delivered to the Clerk of the House instead of being presented to the House, section 34B was inserted in the Acts Interpretation Act[19] so as to remove difficulty from the way of implementation of revised Standing Order No. 319. The section provided that compliance with the standing order is compliance with any statutory

14 No. 52 of 1964.
15 No. 53 of 1964.
16 No. 54 of 1964.
17 No. 55 of 1964.
18 (1964) 42 COMMONWEALTH PARL. DEB. (H. of R.) 1857. For an example of such judicial criticism see Ex parte Marsden. Re Howes and Another [1960] S.R. (N.S.W.) 550, at 557, where Clancy J. discussing the situation in N.S.W., which in this respect is the same as the position of Commonwealth legislation said: ". . . it seems to me to be desirable that the legislature should consider whether it would not be desirable to put statutory regulations on the same footing as Proclamations and Orders either by amending section 34 of the Interpretations Act 1897 (N.S.W.) so as to make them judicially noticed . . . there seems to be little or no logic in the situation as it stands at present."
19 No. 52 of 1964.

provision, that requires or permits the presentation of papers to the House. The Government, however, was of the opinion that the section should go farther than this and expressly remove any doubt that the procedure under the Standing Order is quite effective for the purpose of any other statutory provision, such as provisions which neither require nor permit presentation, but simply mention it. For example, section 7 of the Evidence Act makes papers presented to the House admissable as evidence in all courts without formal proof. The Amendment in the 1964 Act puts beyond doubt the fact that this rule applies to all papers presented in accordance with the Standing Order.

The third amendment is to clarify the circumstances in which regulations may prescribe matters by reference to other instruments. Thus section 5 of the Acts Interpretation Act[20] states that, where an act authorises or requires provisions to be made for or in relation to any matter by regulation then, unless a contrary intention appears in that act, the regulations may adopt the provisions of any other act or regulation as is in force at that particular time or any other time or from time to time also the provisions of any other instrument in writing as in force at that particular time may be so adopted, but, unless there be a contrary intention, this is not extended to the provisions of such written instrument as they vary from time to time. Thus where prescription is to be reference to any instrument (in the broad sense) as in force at any other time or from time to time, the instruments so referred can only be Commonwealth Acts, rules or regulations. This section is inserted as section 49A of the principal Act.

Broadcasting and Television.

Two major changes in the administration of broadcasting and television licenses are effected by the Broadcasting and Television Act.[21] These are (i) the introduction of combined licenses for television sets and wirelesses and (ii) an increase in license fees. The combined license will be compulsory where broadcast and television sets are in the possession of a family and are ordinarily kept at the same address. Separate licenses are retained where persons possess only one type of receiver but under section 5 of the Act, a person applying for a television license may be required to sign a statement to the effect that, to the best of his knowledge, neither he nor anyone in the family have broadcast receivers, or, if so, that it is licensed. The increase in television license fees, from £5 to £6, results from a decision by the Government to forgo £6 excise duty on television picture tubes.

20 No. 52 of 1964.
21 No. 67 of 1964.

This decision was made because of serious difficulties in the collection of these excise duties. The one pound increase in television fees compensates the revenue thus lost. The Postmaster General, Mr. Hulme, in his second reading speech to this Act, said that this change will result in "sufficient revenue being derived from those people who have television receivers to meet the cost of the national television service, rather than have it financed by the community generally."[22]

Despite the great increase in the earnings of both television and broadcasting stations, the rates of license fees have remained unchanged since 1956. Existing scales having thus become unrealistic, the purpose of the Television Stations License Fees Act[23] and the Broadcasting Stations License Fees Act[24] is to amend fees in respect of licenses for commercial television and broadcasting stations. The Act accordingly aims at defining a basis of assessment of license fees, that is capable of ready determination and setting a new scale of rates to be imposed.

The new Act bases assessment of fees on advertising receipts. Reflected in the definition of "gross earnings" in section 4 of the Act, all "spot" advertising revenue is subject to license fee, and likewise all revenue received from sponsored advertising is assessable earnings though the production of filmed advertisements are excluded. Section 6 of both Acts sets the scale of rates. For television stations a fee of £100 is payable on the grant of a license and on each renewal of the license and on each anniversary of the date of commencement of the license a fee of £100 plus

(a) 1% of the gross earnings of the station where they do not exceed £500,000

(b) 2% of such part of the gross earnings that exceeds £500,000 but is less than £1,000,000

(c) 3% of such part of the gross earnings that exceeds £1,000,000 but is less than £2,000,000 and

(d) 4% of such part of the gross earnings that exceeds £2,000,000.

This scale (a-b) is the same for broadcasting stations but the initial annual and renewal fee is £25. 0. 0.

Section 7 of both Acts gives the Minister a discretionary power in certain circumstances to treat as gross earnings of a licensee, advertising receipts collected by related organisations.

22 See (1964) 43 COMMONWEALTH PARL. DEB. (H. of R.) 1143.
23 No. 118 of 1964.
24 No. 119 of 1964.

These two Acts have replaced the Broadcasting and Television Stations License Fees Act 1956 which was accordingly repealed by the Broadcasting and Television Stations License Fees Repeal Act.[25]

The Broadcasting and Television Act (No. 2)[26] amends the Broadcasting and Television Act 1942-63 as amended by the Broadcasting and Television Act 1964. It makes amendments made necessary by the Television Stations License Fees Act and the Broadcasting Stations License Fees Act, and amendments to the Licensing Conditions for broadcast and television receivers. The former amendments are of a machinery nature arising from the changes in the license fees for commercial broadcasting and television stations and the new definition of "gross earnings", which definition is given the same meaning in the principal Act as it has in the License Fees Acts. Amendments to licensing conditions for receivers of both types transfer the responsibility for licenses for receivers provided as part of the furnishings of rented furnished premises, from the tenant to the lessor; this prevents successive tenants during a period of 12 months all having to license a receiver, so that a number of licenses would be required in respect of the one receiver. Doubts having been raised as to whether an ante-dated license is acceptable as an answer to a charge in respect of an unlicensed receiver, this Act specifies that an ante-dated license shall not be deemed to have been current prior to the date on which it was issued. Finally, section 5 of this Act introduces appropriate provision to enable a refund of fees where there is a moral or implied legal obligation to do so—for example where a pensioner or person eligible for a reduced rate license pays the full fee.

Judicial.

In his second reading speech to the Law Officers Act[27] the Attorney-General, Mr. Snedden, said: "The permanent head's [of the Attorney-General's Department] proper function does not include court advocacy, his function being to administer his department and to advise the Attorney-General in regard to legislation, legal policy, law reform and the general conduct of the Commonwealth's legal business. The conclusion must be that the office of Solicitor-General should become a separate office."[28] Earlier in the same speech he said: "The Solicitor-General will hold a non-political office and . . . will be kept free from departmental responsibility and administration,

25 No. 120 of 1964.

26 No. 121 of 1964.

27 No. 91 of 1964.

28 See (1964) 41 COMMONWEALTH PARL. DEB. (H. of R.) 220.

so that he can concentrate on his function as permanent council for the Crown."[29] These passages indicate the main purposes of this Act, that is, to separate the judicial and administrative functions of the Solicitor-General vesting the former in a newly constituted office of Solicitor-General and the latter in the Secretary of the Attorney-General's Department. The Solicitor-General will be appointed from among counsel practising at the bar. His term will be seven years, after which he may be reappointed and during which he is eligible for appointment to the Bench. His salary will be that of the first line of Permanent Heads of departments. Of various other provisions dealing with pensions and other remunerations, references in other Commonwealth Acts to the Solicitor-General etc., brief mention only is made of section 17, which allows the Attorney-General to delegate powers to either the Solicitor-General or the Secretary though no delegation is permitted under the Telephone Communications (Interception) Act 1960.

The most important provisions of the Australian Capital Territory Supreme Court Act[30] are those dealing with rights of appeal to the High Court. In April 1964 the High Court held that a person sentenced by the Supreme Court of the Australian Capital Territory after a plea of guilty for an indictable offence and committal for sentence was not "a person conviced on indictment" and that therefore the High Court had no jurisdiction to entertain the appeal. This Act preserves an accused's appeal prospects in such a case by providing for appeal to the High Court where a simple committal for sentence procedure is followed and there is no indictment. Thus section 8 of the new Act repeals section 52 of the principal Act and substitutes a new section 52 which provides for appeals by a "person convicted on indictment before the Supreme Court," and, in subsection (2) applies these rights of appeal to a person who "although not convicted on indictment before the Supreme Court, has been sentenced or otherwise dealt with by the Supreme Court in respect of an indictable offence."

The Crimes (Overseas) Act[31] gives effect to international arrangements covering the exercise of jurisdiction over civilians, who may be serving at any time and in any capacity in connection with United Nations peace-keeping operations members of defence forces are ex-; pressly excluded. The immediate occasion for the Act was the agreement between the United Nations and Cyprus, that Cyprian courts should not have jurisdiction over members of United Nations police

29 *Ibid.*
30 No. 109 of 1964.
31 No. 116 of 1964.

forces currently in Cyprus, and that all countries contributing personnel have an obligation, pursuant to the status of forces agreement, to see that their own laws apply and that their own courts have jurisdiction in relation to offences committed by their personnel. The Act, however, is framed in general terms to cover future situations of like nature as well as the present one in Cyprus.

The Act makes it an offence for a person to whom it applies[32] to do anything in the place where he is serving which would be an offence if it were done in the Australian Capital Territory. Such offender shall be returned to Australia and there charged with the offence. Jurisdiction to deal with offences is conferred in courts of the States and Territories, and the law of the State or Territory where the person is charged shall apply *re* matters of bail and in respect of proceedings brought against that person. Thus a single law is applied but the offender is, as far as practicable, dealt with in his own State or Territory.

III. FISCAL.*

Bounties.

In 1962 the sum of £350,000 was made available by the Processed Milk Products Bounty Act to provide an export bounty on processed milk products. However, due to an unexpected increase in exports this sum became insufficient to pay the producers a bounty at an equivalent rate per pound as that which was paid to butter producers. Accordingly, in 1963 the amount was increased to £500,000.[33] It now appeared to the Government that due to a higher anticipated export level not being achieved the whole of this amount would not be required so by the Processed Milk Bounty Act,[34] which extended the bounty assistance for a further twelve months, the amount provided for the bounty for the year 1964-1965 was reduced to £400,000.

While awaiting reports from the Tariff Board on the cellulose acetate flake industry and the copper and brass sheet, strip, and foil industry, the Government extended the operation of the existing acts

32 3. ". . . Australian citizen or British subject ordinarily resident in Australia serving in a country outside Australia under arrangements made between the Commonwealth and the United Nations, but does not include a member of the defence forces."

* The reviewer is indebted to Mr. I. W. P. McCall for this section of the review.

33 See (1964) 4 U. WEST. AUST. L. REV. 529.

34 No. 39 of 1964.

providing bounties in these industries. In the case of the former by the Cellulose Acetate Flake Bounty Act[35] for periods of firstly, six months from 30th June 1964, and then a further three months, and in the case of the latter by the Copper and Brass Strip Bounty Act.[36]

By the Sulphate of Ammonia Bounty Act[37] the Government put into effect the Tariff Board's recommendation that the bounty on sulphate of ammonia should be increased from £2 to £4 per ton. But instead of providing for the increased bounty to be paid for a period of three years, as recommended, the Act terminates the payment of the bounty on 31st March 1966 or provides for its termination at an earlier date by proclamation, but not prior to 1st April 1965. Provision was made for the reduction of the bounty payable if the net profit of the producer exceeds 10% on the capital used by him in the production and sale of sulphate of ammonia.[38]

Loans.

During 1964 two Acts were passed authorizing the Commonwealth to borrow money in the United States to be used by two of Australia's airlines in purchasing further aircraft from an American manufacturer. The first of these Acts, the Loan (Qantas Empire Airways Limited) Act[39] provided for the borrowing of U.S. $25,000,000 (£11,200,000) from four United States banks at an average interest rate of just under 5%, to enable Qantas Empire Airways to buy three more Boeing 707 jet aircraft to cope with the expected increase in air traffic. The second Act, Loan (Airlines Equipment) Act,[40] introduced only eight months later, provided for the borrowing of a further possible U.S. $30,000,000 (£13,400,000) from the same banks at an average interest rate of approximately 5%, to enable Trans Australia Airlines to acquire one more Boeing 727 jet aircraft, and Qantas to acquire either two or three further Boeing 707 jet aircraft, together with related equipment.

On both occasions there was opposition to the measures. The burden of the opposition was simply that the Government could have paid cash for the aircraft (and in due course be reimbursed by the airlines) out of overseas reserves instead of financing these purchases by overseas loans.

35 Acts No. 48 and 114 of 1964.
36 No. 96 of 1964.
37 No. 49 of 1964.
38 *Ibid.*, sec. 6.
39 No. 15 of 1964.
40 No. 117 of 1964.

The Loan (Housing) Act[41] authorized the raising of £51,350,000 to be allocated to the States under the Housing Agreement Act 1961[42] to be used in financing home building during the year 1964-1965. This represented an increase of £1,500,000 in the amount raised in the previous year. The other Loan Act passed during the year was the Loan (War Service Land Settlement) Act[43] which authorized the raising of loan monies amounting to £4,500,000 to be used in war service land settlement in the States of Western Australia, South Australia, and Tasmania.

Financial Assistance to the States.

In introducing the Bill which became the Commonwealth Aid Roads Act 1964, the Treasurer pointed out that[44] "the roads problem is one of the largest confronting Australian governments today and the Commonwealth is fully alive to its implications, both for the efficient running of the economy and for community life." The roads problem was simply the need for greater expenditure on roads caused by the greater use of roads, in turn caused by increased motor vehicle ownership.[45]

The total expenditure on roads in Australia from 1950-1 to 1963 had risen from £41,000,000 to £160,000,000 per annum, which represented a rise of 1.1 per cent to over 2 per cent of the gross national product. Much of this expenditure had been financed by the Commonwealth but the Act under which this financial assistance had been given was due to expire on 30th June 1964 and so this measure was introduced to replace it.

The Act provides for payments to the States for the construction and maintenance of roads for the ensuing five years. The payments fall into two categories; firstly basic grants of the following amounts:

1964-1965	£62,000,000
1965-1966	£64,000,000
1966-1967	£66,000,000
1967-1968	£68,000,000
1968-1969	£70,000,000

These sums are to be divided between the States as to one-twentieth to the State of Tasmania and the remainder between the

41 No. 85 of 1964.

42 See (1962) 5 U. WEST. AUST. L. REV. 689.

43 No. 86 of 1964.

44 (1964) 41 COMMONWEALTH PARL. DEB. (H. of R.) 1209.

45 In the last ten years the number of motor vehicles on Australian roads had risen from 1,800,000 to 3,200,000 or two vehicles for every ten people in 1953 to nearly three vehicles per ten people in 1963.

other five States on the basis of one third in proportion to the population; one third in proportion to the areas; and one third in proportion to the number of motor vehicles registered in the respective states.

Secondly, a further sum of £45 million is to be made available to the States over the same period, in the same proportions as the basic grants but in this case subject to their making matching contributions on a £1 for £1 basis over and above certain base amounts. The financial assistance provided in the Act is not completely free from conditions as to how it is to be expended as by section 5 it is provided that at least two-fifths of the moneys paid to the States under the Act must be spent on rural road construction.[46]

Flood Mitigation.

In order to assist Local Authorities carrying out flood mitigation works on six northern New South Wales rivers the Government of that State agreed to match the expenditure of the Local Authorities on the basis of £3 to every £1 spent on the Hunter River and £2 for every £1 spent on the other five. By the New South Wales Grant (Flood Mitigation) Act[47] the Commonwealth matched the State's grant to the total amount of £2,750,000 to be paid over the ensuing six years.

Mental Health.

The States Grants (Mental Health Institutions) Act 1964[48] continued the policy of Commonwealth assistance to the States for the building and equipping of mental health institutions. Under the Act the Commonwealth will pay to the States an amount equivalent to one third of the amount spent by them on building and equipping mental health institutions during the three year period ending 30th June 1967, without any limit to the aggregate amounts payable.

Universities.

To implement the recommendations of the Eggleston Report on university salaries it became necessary to amend the existing legislation to provide the Commonwealth financial support appropriate to the new salary scales recommended.[49] This was done by the States Grants

46 Defined as roads in rural areas other than highways, trunk roads and main roads—Sec. 2.

47 No. 4 of 1964.

48 No. 16 of 1964.

49 Mr. Justice Eggleston recommended that the standard salaries should be £5,200 for a Professor, £4,300 for a Reader, £3,800 as a maximum for a Senior Lecturer, and £2,400 as a minimum for a Lecturer.

(Universities) Act[50] and the Universities (Financial Assistance) Act.[51]

Science Laboratories and Technical Training.

An election promise was fulfilled by the States Grants (Science Laboratories and Technical Training) Act.[52] The Government had said that if returned it would provide annually the sum of £5 million for the provision of science buildings and equipment in secondary schools, whether government or independent, and a similar sum for State technical education. By this Act these amounts were made available and divided amongst the States and Territories. The formula used for the division of the money for science laboratories and equipment was firstly to divide the money between government and non-government schools in all States in proportion to the respective numbers enrolled and then to divide these two sums between the States in proportion to the population of the States.

The division of funds according to this formula resulted in the following allocations:—

New South Wales	£1,854,400
Victoria	£1,399,600
Queensland	£717,400
South Australia	£402,200
Western Australia	£353,800
Tasmania	£165,500
	£4,952,900

The balance of £47,100 was to be shared between the schools in the Australian Capital Territory and the Northern Territory. The division of the £5,000,000 allocated for buildings and equipment for use in trade and technical training was almost in the same proportion but the individual figures were higher as the whole of the amount of £5 million was allocated; presumably there were no qualifying institutions in the federal territories.

Income Tax.

The Income Tax and Social Services Contribution Assessment Act (No. 3)[53] made a number of important changes to Australian income tax law relating to companies, leases, trusts and partnerships,

50 No. 130 of 1964.
51 No. 129 of 1964.
52 No. 50 of 1964.
53 No. 110 of 1964.

superannuation funds, and alienation of income. The measures introduced by the Act were "complex"[54] because as the Treasurer pointed out so were the situations with which they dealt. Most of the changes effected by the Act arose out of the Government's consideration of parts of the Report of the Ligertwood Committee on Taxation[55] relating to tax avoidance, and accordingly as the Treasurer commented, "people who [had] not gone to the trouble of complicating their business or family arrangements for tax purposes [would] not generally be affected" by the Act.[56] A necessarily general summary of the more important changes effected by the Act follows under headings indicating the topic being dealt with.

Companies.

The division of companies into private and public has been placed on a different basis. Instead of defining private companies for the purposes of taxation, now public companies are defined and those not falling within the definition are private companies.[57] Broadly the new section 103A makes a company public if its shares, other than preference shares, are listed on a stock exchange at the end of the income year, and 20 or fewer persons[58] throughout the year do not own three quarters of the paid up capital or control three quarters of the voting power or be entitled to three quarters of the dividends declared.[59] In addition, co-operative, non-profit making, and mutual life assurance companies, friendly society dispensaries, statutory or Government controlled companies and a subsidiary (as defined) of a public company are classified as public companies.[60] Despite the definition of a public company the Commissioner is given the power to treat as a public company a company not coming within the definition, or not to treat as a public company one that does come

54 The act covers 62 pages but the explanatory memorandum which accompanied the Bill ran into 116 pages.

55 Report of the Commonwealth Committee on Taxation, June 1961 (hereafter referred to as Report). The Act did not give effect to all the recommendations of the Committee as a number had already been implemented.

56 (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2213.

57 The significance of the distinction between the two types of company is that although a private company pays tax at a lesser rate it is liable to a tax of 10s. in the pound on undistributed profits over a permitted retention amount.

58 A person, his nominees, his relatives and their nominees are all deemed to be one person.

59 The Ligertwood Committee recommended that the fraction should have been two thirds instead of three quarters. Report para. 24.

60 See Sec. 103A (2) (b), (c), (d).

within the definition, having regard to certain criteria specified in the Act.[61]

Because a rebate of tax was formerly granted on a private company's income to the extent that that income represented dividends from a private company, tax could be avoided by setting up a "chain" or "circle" of companies.[62] The new section 46 makes these schemes considerably less attractive by halving the rebate, but the Commissioner is empowered to allow a further rebate in certain prescribed situations or where he thinks it reasonable to do so.[63]

Another matter relating to companies dealt with by the Act was to tighten up the provisions which permit losses of a company to be carried forward and set off against income in the ensuing seven years. These provisions had resulted in a traffic in shares in companies which had accumulated losses, which could be subsequently set off against future profits even if the nature of the business radically altered. In the case of private companies previously losses could be taken advantage of if there had been a 25% identity of shareholding in the year of loss and year of recoupment[64] but no such restriction was placed upon public companies. By new sections 80A, B, C and D public and private companies are placed on the same footing. Past losses will not be allowed as deductions against future income unless during both the loss and income years there is found a beneficial ownership by the same shareholders of shares in the company which carry at least 40% of the voting and dividend rights and 40% of any distributions of capital in the event of the company being wound up or reducing its capital. Similarly a holding company cannot now offset past losses of its subsidiary unless there is the same continuity of ownership of shares in the holding company.[65]

61 See Sec. 103A (5) and (6).

62 A "chain" was created by establishing a new company each year and paying to it by way of dividends sums that would otherwise have been retained and subjected to undistributed profits tax. A "circle" was simply to arrange for company A to hold all the shares in company B and for company B to hold all the shares in company A. By shuttling the profits each year again undistributed profits tax was avoided.

63 See Sec. 46 (3).

64 The Ligertwood Committee found that in the case of a private company the provision could be easily avoided by changing the articles so as to permit a previous shareholder to retain shares with 25% of the voting power but with no other rights or by the giving of an option exercisable within seven years to purchase the 25% of shares left with the existing shareholders. In the latter situation it appeared that Camphin's case (1937) 57 C.L.R. 127, prevented the Commissioner from disallowing the past losses.

65 Sec. 80A - C.

Leases.

The income tax law relating to improvements carried out on leasehold premises and premiums paid for the granting, assigning or surrendering of leases, was contained in numerous and complex provisions of the Act broadly based on the principle that the person who spent the money could claim a deduction while the recipient of the money, or benefit of the improvements, was taxed upon it. However, anomalies in the Act had resulted in deductions being obtained but tax being avoided,[66] and action was required to prevent further loss to the revenue. Although the Committee recommended a number of changes which would have removed many of the anomalies, the Government's view was that these changes would in some respects have added to the complexities in the law and then only partial solutions to some problems would have been provided. Accordingly, it was not prepared to give effect to these recommendations but proposed an entirely different approach to the problem. It proposed that the provisions in the Act relating to lease premiums and expenditure on improvements on leasehold land should not apply to leases entered into in the future or to future assignments or surrenders of leases. This proposal was effected in the new section 83AA which, however, preserved the existing law in relation to leases already entered into. Also premiums paid in respect of leases of property not producing assessable income would continue to be assessable income in the hands of the recipient and neither the lessee nor anyone else would be entitled to a deduction therefor.[67] As the Treasurer explained this would forestall landlords taking advantage of the new scheme by seeking the payment of a premium instead of rent and thereby rendering the proceeds from the lease not liable to tax.[68]

Trusts.

"We are informed" the Ligertwood Committee reported[69] "that

66 The Ligertwood Committee gave as an example the anomolous position of uncovenanted improvements on leasehold land. On assignment the whole cost of the improvements could be claimed as a deduction by the lessee but the benefit to the lessor was not taxable, which it would have been had the improvements been carried out with written consent. Thus the following was possible: Parent company leased land from its subsidiary. Parent company erected a £250,000 building on the land without written consent. Parent company then assigned the lease to another subsidiary. The tax position was that the parent company was entitled to a deduction of £250,000 and neither subsidiary was taxable on the value of the improvements.

67 Sec. 26 AB.

68 (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2215.

69 Report para. 710.

increasingly in recent years there has been a loss of Revenue arising from the deliberate use of trusts as a tax-avoiding device." Although again the Government did not follow the Committee's recommendations as to how this practice could be prevented in the future, it did by the new sections 99 and 99A attempt to prevent one of the more outstanding practices which, by the use of trusts, resulted in income splitting. The new provisions specified a special rate of tax (which it was proposed would be 10s. in the pound) on the income of trusts, in the hands of the trustee, to which no person had a present entitlement.[70] Trusts created by will, intestacy or a court order varying a distribution of the assets of a deceased's estate are exempt from this new basis of taxation. Again the Commissioner was given a discretion not to apply this basis of assessment where having regard to certain criteria he considered it reasonable not to do so. The proposal by the Committee that the scope of section 102 (dealing with trusts established for infant children of a settlor) should be extended to cover all infant relatives, was rejected.

Partnerships.

Experience has shown, reported the Ligertwood Committee, that the old section 94, which, in the case of a partnership constituted in such a way that a partner did not have real and effective control and disposal of his share of the profits, caused his share to be notionally added to the share of the other partners for the assessment of tax, was ineffective except in rare instances,[71] resulting in businesses being rapidly converted into family partnerships and a consequent loss of revenue.[72] The new section 94 deals with this problem by imposing a special rate of tax (proposed to be 10s. in the pound or the personal rate of the partner, whichever is the higher) upon the income from a partnership received by a partner who lacks real control or disposal of his share of the partnership income. The additional former requirement, which made the old section 94 so difficult to apply, that an-

70 For example, a trust to accumulate the income and pay it to the beneficiary if and when he reached a particular age. If this income were less than £209 it would not formerly have been taxed in the hands of the trustee. Thus as the Treasurer pointed out the former basis of taxation of trusts encouraged a multiplicity of trusts each with an income below the taxable level.

71 Report paras. 696 and 697.

72 In one case reported to the Committee seventeen children, in respect of each of whom two trusts had been established were admitted by the four partners (the fathers of the children) as limited partners. The claim submitted that the partnership consisted of the four brothers and 34 trusts. If the income of the partnership had been assessed solely to the four original partners the tax payable would have been £27,257. With the multiple trusts as partners only £7,710 was payable.

other person be definitely identified as having control of that share, has been discarded. A person under the age of 16 years is deemed to lack the requisite control but the special rate will only apply to so much of his share of income as exceeds reasonable reward for his services. Similar provisions apply where a trust is interposed between the partnership and the person entitled to a share in the partnership income. Once again the Commissioner has a discretion not to apply the new section where he considers it unreasonable to do so.

Alienation of income.

A new Division has been added to the Act to render ineffective for the purpose of tax liability certain alienations of income which are not accompanied by an alienation of the assets producing such income. The Ligertwood Committee was told[73] that a large number of such alienations had been effected[74] and recommended that in the interests of the revenue and other taxpayers who did not desire to adopt, or were ignorant of, such devices, some attempt should be made to control them. Accordingly, it is now provided (by section 102) that where a right to receive income from property is transferred, other than by will, for a period of less than seven years, then any income derived from the property shall be treated as if the transfer had not been made, and accordingly will be treated as assessable income in the hands of the transferor.

Superannuation funds.

Changes to the law relating firstly to deductions for contributions to superannuation funds[75] and secondly to the exemption from tax of the income from superannuation funds[76] were made by the Act. The first of these changes followed the Committee's recommendations and limited the right to claim a deduction for contributions made by persons other than the employer; generally limited the total amount deductible in respect of contributions from all sources to £200 or 5% of the remuneration for that year, with the Commissioner being given the power to allow a greater amount in special circumstances; and imposed restrictions upon the amount deductible for contributions made by a relative of an employee or by a private company in respect of benefits for directors and shareholders or their relatives.[77]

73 Report paras. 717 and 719.

74 One method was simply to assign by deed the income from property. It should be noted, however, that income from salary, wages or professional fees cannot be alienated for taxation purposes.

75 See Sec. 79 and subdivision AA (secs. 82AAA - AAAR).

76 See Secs. 23F and 79.

77 For the types of schemes which had taken advantage of the pre-existing law,

The second of these changes was designed broadly to deal with schemes which the Treasurer said[78] "though in the guise of superannuation funds, can only be viewed as a means of accumulating tax-free income." The traditional type of scheme established to provide benefits for employees and their dependants will continue to enjoy tax exemption for most of its income,[79] however detailed tests are set out which must be satisfied for a fund to qualify for exemption.[80] In addition, income by way of dividends from a private company will only be exempt if the Commissioner in his discretion elects to treat it as such,[81] and income derived from a transaction entered into where the parties are not dealing at arms length is also not exempt.[82] A measure of relief, however, is provided for those funds which do not meet the tests in section 23F but which meet certain other requirements in a new section 79(2). The relief is a deduction equal to 5% of the cost of the net assets of the fund.[83]

Payments to Relatives.

The existing provisions in the Act permitting deductions for payments made by a taxpayer to his relatives, only in so far as the Commissioner considers reasonable in amount and for the purpose of producing assessable income, were extended by new section 65 to cover payments by a partnership to a relative of a partner. With one exception where a payment is disallowed as a deduction it will not be taxable in the hands of the recipient.

The Income Tax and Social Services Contribution Act[84] substantially re-enacted the same rates of tax that had been applicable for the previous (1963-1964) financial year. Changes made, however, were firstly, an omission to re-enact the 5% rebate in tax which had been enjoyed by taxpayers in the previous three financial years; secondly, following the rise of 5s. per week in age pensions, the level of exempt net income for an aged pensioner was raised from £481 to £494 with corresponding increases in the case of a combined net income for married taxpayer pensioners; thirdly, primary tax rates

and which presumably these provisions were designed to prevent in the future see Report para. 733.

78 (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2217.

79 Sec. 23F.

80 Sec. 23F (2).

81 Sec. 23F (8).

82 Sec. 23F (10).

83 It was proposed to tax other funds not exempt or partially exempt at a rate of 10s. in the pound. This proposal was given effect to in the Income Tax and Social Services Contribution Act (No. 2) 1964.

84 No. 69 of 1964.

payable by companies were increased,[85] and the tax payable by superannuation funds were increased by 6d. in the pound.

"As an incentive to recruitment and an encouragement to long service in the citizen forces,"[86] the Income Tax and Social Services Contribution Assessment Act (No. 2)[87] made exempt from tax the pay and allowances of members of the citizen forces except when on full-time duty. In addition, the Act gave the civilian personnel engaged overseas with an armed force under the control of the United Nations the same income tax concessions as enjoyed by members of the defence forces serving overseas.[88]

The provisions in the Income Tax and Social Services Contribution Assessment Act 1936-1963[89] which permitted as a deduction share capital subscribed to a petroleum exploration company due to terminate on 30th June 1964, were extended for a further three years by the Income Tax and Social Services Contribution Assessment Act 1964.[90] The principal Act did not permit as a deduction the value of shares received as payment for the sale of mining or prospecting rights[91] but this had been overcome by a vendor taking cash on the sale and agreeing to subscribe for shares to the equivalent value of the cash received. The money so paid for the shares was an allowable deduction. The new subsection (17A) to section 77A prevents such a deduction from being allowed in the future. Similar provisions were enacted preventing a deduction being allowed in a corresponding situation but where the company was engaged in mining or prospecting for minerals instead of oil.[92]

IV. DEFENCE.

Repatriation.

The Repatriation Act[93] gives effect to the Government's budget proposals on repatriation, and provides for increases which extend to

85 The maximum primary tax rate thus became 8/6 in the pound for a public company and 7/6 in the pound for a private company.

86 *Per* Dr. Forbes, Minister for the Army, (1964) COMMONWEALTH PARL. DEB. (H. of R.) 901.

87 No. 68 of 1964.

88 Beneficiaries of this provision would have included the Australian Police unit then stationed in Cyprus.

89 Contained in Sec. 77A.

90 No. 46 of 1964.

91 Because money spent by the company in buying these rights was not accepted as being expended in actual mining or prospecting which was the qualification for the deduction in respect of the shares.

92 See new subsec. (8A) to sec. 77AA.

93 No. 62 of 1964.

all the main pension rates for ex-servicemen and war-widows as well as to the war pensions of wives of both special and general rate pensioners. Provisions for fares, subsistence and loss of earnings for appellants attending appeals at tribunals will be brought into line with the corresponding provisions for attendance for other repatriation purposes; for example for treatment or for pension review. These allowances are provided for by regulation and the Act amends section 72 of the principal Act to enable this to be done. The Repatriation Act (No. 2)[94] gives effect to a number of desirable machinery changes in repatriation legislation and corrects some anomalies of the principal Act with regard to medical treatment and pension appeals. The interim Forces Benefits Act,[95] the Repatriation (Far East Strategic Reserve) Act[96] and the Repatriation (Special Overseas Service) Act,[97] apply these amendments to other repatriation legislation. Discussion on the Repatriation Act (No. 2) adequately covers these accompanying Acts. Changes effected by this Act include a new definition of "step-child" which includes the child of a member where the parents are divorced and provides for maintenance where the step-parent 'member' has the responsibility of the child's maintenance or, after the member's death, where the widow has accepted that responsibility. Of equal importance are the provisions dealing with medical sustenance for service pension purposes. Previously, where a claimant or pensioner was receiving sustenance, due to medical treatment, such sustenance was regarded as income and the pension correspondingly decreased or even cut out. Such adjustments were of course temporary and so caused considerable inconvenience, and moreover, cancellation or suspension of the service pension could result in temporary loss of eligibility for associated medical and other Commonwealth benefits provided for the pensioners, from public and private sources. Under this Act, medical sustenance will not be regarded as income, and any necessary adjustment in total payment will be made to the sustenance allowance instead of the service pension.

In the service pension area three changes have been made. The first abolishes the present means test as to a child's own means in the case of the first or only child of a service-pensioner in the custody of his parents. The second makes it quite clear that a younger child is eligible for payment on higher rate of 15s. per week where an older child has ceased to receive a pension. Younger children up to three

94 No. 105 of 1964.
95 No. 106 of 1964.
96 No. 107 of 1964.
97 No. 108 of 1964.

in number receive 2/6 per week. Thirdly, the Act, in consequence of reciprocal arrangements with the United Kingdom and New Zealand, enables Australian pensioners to receive their pensions for an indefinite period while in these countries. Visitors to other countries retain their limitation of six months. These are the most substantial amendments under the Act. The Seamen's War Pensions and Allowances Bill (No. 2) Act[98] is concerned with amendments similar to the Repatriation Acts above. Thus the definition of step-child is inserted, which provides for its maintenance in case of the parents' divorce, where it is being maintained by the mariner, or where at the time of his death it was being maintained by him, or after his death, is maintained by the widow. Under section 4 where the marriage of a pensioner is dissolved otherwise than by death, the wife of the pensioner ceases to be eligible for a pension under the Act. The principal Act requires that where a mariner or any of his dependants is entitled to a war pension under the law of any other part of the Queen's dominions, such payment is taken into account in assessing the amount of pension payable to him under the Australian law. Since many countries have ceased to be part of the dominions of the Crown, this Act extends this provision to cover payment from countries which have ceased to be dominions of the Crown as well as from those which still are. Greater medical benefits are also conferred by this Act.

Defence.

The Defence Act[99] and its associated Acts aim at improvement of Australia's defence situation in circumstances short of general war. Two particular measures give effect to this broad policy; the establishment of a volunteer emergency reserve, in all branches of the armed forces, that is, army, navy, and airforce and changed obligations of citizen forces, such that they can be called out for active military service, not only in time of war but also in time of defence emergency. In introducing the Bill Dr. Forbes, Minister for the Army, spoke at some length on the changed scene regarding hostilities between nations, saying that times of war and peace were no longer well defined, but with the advent of cold war, there existed shades of grey between the two extremes; the instability is not covered by previously existing legislation which had not been adjusted to the new international scene. Speaking of South East Asia, Dr. Forbes said "One has only to contemplate the present, and in the forseeable future, the continuing unstable situation to see how possible it is that hostilities could

98 No. 113 of 1964.
99 No. 92 of 1964.

occur in South East Asia which, whilst posing no immediate direct threat to Australia could if unchecked, gravely prejudice our security."[1]

The Act thus establishes the Regular Army Emergency Reserve which can be called out when the Governor-General considers it desirable to do so. This contemplates a situation less serious than a time of defence emergency of war. The force will consist of eligible former regular soldiers who have served continuously for not less than three years, and who volunteer and are listed in that Reserve. Except in time of defence emergency or war, members of the Reserve called out for full time service are liable for any period of up to twelve months, but once released are not liable again for service until a period equal to that for which they have served has elapsed. However, in time of defence emergency or war they are liable for continuous service. The Naval Defence Act[2] and the Air Force Act[3] provide for a Naval Emergency Reserve and an Air Force Emergency Force. These forces are liable for full time service under exactly the same conditions as the Army Emergency Reserve.

Members of all three branches of the emergency reserve are required to undergo a 14 day annual refresher training; they receive normal Army, Navy or Air Force rates of pay for those days; in addition a member who completes a year's service and has during that time satisfactorily completed his annual training is eligible to receive a bounty of £100, which bounty increases by £25 per year until it is £175. In addition if he is called out for full time service he will receive a gratuity of £55. This last gratuity is meant to tide a family over until army-pay commences. These forces are entirely voluntary.

With regard to citizen forces, the principal Act has been amended to be more adequate for the present scene of cold war and instability. Under the previous Act members of citizen forces were not available for call up except in time of war, and cannot be sent overseas unless they are volunteers. The Defence Act provides for the call up of the Citizen Military Forces by Proclamation of the Governor-General after a state of defence emergency has been proclaimed; certain safeguards are placed on this power—the proclamation must state the reason for making it, and the Governor-General must communicate to Parliament, the reason for calling out the forces. These amendments are again followed in the Naval Defence Act and the Air Force Act, applying the same conditions to the Citizen Naval and Airforce

1 See (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2317.
2 No. 93 of 1964.
3 No. 94 of 1964.

Forces.[4] However, in view of these changes in the obligations of citizen forces, each Act provides for members to have the right to resign or obtain their discharge if they are not prepared to serve on the new basis. Under section 21(2) of the Naval Defence Act, a person called up in time of war under section 60 of the Defence Act, to enlist in the Citizen Forces, shall not be required to enlist in the Citizen Naval Forces unless he voluntarily agrees to do so.[5]

The Government has also included in the new Act, sections to ensure the protection of the civil employment of men who volunteer to join the Reserves or the Citizen Forces. Subject to some qualifications,[6] a member of the Reserves and Citizen Forces is entitled on his return from a period of defence service to resume his employment with his former employer or his former employer's successor. He is protected from dismissal except for legitimate causes, for a period equal to the period spent in defence service.

Other amendments to the Defence Act are purely machinery matters relating to discharge in time of defence emergency, punishment, promotion etc., and are reflected where necessary in the Naval Defence Act and the Air Force Act.

The National Service Act[7] is one of the most controversial Acts of 1964. Introducing the Act, Mr. McMahon said: "This Bill is an historic one. Never before have we taken action of the kind this Bill authorizes . . . . In the changed circumstances announced by the Prime Minister last night, selective national service has become inescapable."[8] The Act reintroduces National Service training, extensively amending

4 The Citizen Air Force Forces are the Active Citizen Air Force, the Air Force Reserve, and the University Squadrons.

5 Since all members of the Navy are required to serve overseas, this makes for consistency with Section 50C of the Defence Act 1903-64 which states that members of the Citizen Forces specified in paragraph (B) and (C) of subsection (2) of Section 32A of the Act, are not required to serve beyond the territorial limits of Australia unless they volunteer to do so. Paragraph (C) refers to persons called upon under Section 60 of this Act to enlist and serve in time of war and are allotted to the military forces.

6 It is a defence for an employer on a charge of not having re-employed a person returned from Defence Service, that by reason of changed circumstances, it was not within the power of the employer, or was not reasonable or practicable to reinstate the employee, or that it was not reasonable or practicable to permit the member to be reinstated but the employer had offered him other employment under conditions that were the best that it was reasonable and practicable to offer. The member must also have been an employee of the employer for at least 30 days before he was called up, and must present himself to his employer etc within a reasonable period after discharge.

7 No. 126 of 1964.

8 See (1964) 44 COMMONWEALTH PARL. DEB. (H. of R.) 2838.

the principal Act.[9] Men are required to register for national service in the year in which they turn twenty; persons thus registered are liable for service under the Act. Section 12 of the Act amends section 27 of the principal Act to enable registered persons to be called up for two years continuous service in the Regular Army Supplement, followed by three years in the Regular Army Reserve or the Regular Army Emergency Reserve. During these latter three years they are liable to 14 days annual training. Under the Defence Act 1903-1964 they are liable to be called up for continuous service in time of defence emergency of war. The section repeals section 28 of the principal Act which expressly made National Service trainees not eligible for overseas service unless they had volunteered to do so. Thus the provisions as to National Service are altered in three major ways.

(1) The age-group liable for call-up is altered from 18 year olds to 20 year olds.
(2) Trainees are enlisted in the Permanent Military Forces rather than the Citizen Military Forces, and
(3) They are liable for overseas service in peacetime.

Married men are not liable to call-up if they are married before call-up action commences. Apprentices, University students or other persons engaged in full-time study or training, may defer their call-up until they have completed their course. In all cases where services have been temporarily deferred, such men remain liable for service up to the age of 26 and in some cases 30. Of those registered for national service not all will be called up. The same method of balloting used in the latter stages of the earlier national service scheme will be used to select trainees.[10]

The Act repeals Part V of the principal Act which is a code dealing with rights to reinstatement in civil employment of National Servicemen. This has not been replaced by analogous provisions, as it is intended that the code in the 1964 Defence Act dealing with this matter, will be extended to National Servicemen, with such modifications as are necessary.

V. G. KERRUISH.

(To be continued.)

9 National Service Act 1951-57.

10 The ballot is based on dates of birth. Marbles are drawn corresponding to days in the year up to the number needed to produce the required number of men. From those whose birthdays correspond with the marbles drawn, the required number will be provided, after consideration by the Department, interviews and medical examinations.