REVIEW OF LEGISLATION, 1952

I. Western Australia

Introductory.

The Fourth (and last) Session of the Twentieth Parliament began on 31st July 1952 and ended on 13th December—at sixteen minutes past six in the morning after a sitting which had commenced at 11 a.m. on the previous day. Members then dispersed, not to meet again unless re-elected; for the triennial election required under the Constitution had necessarily to be held within a few months.[1] As might be expected of a last session, no measures of a highly controversial nature were introduced by the government; one which might have produced an acute divergence of opinion, cutting across party lines, was adroitly set aside during the second-reading debate. This was a Bill introduced into the Legislative Assembly from the Opposition side as a private member's bill, to abolish the death penalty on conviction of murder; the member introducing the Bill had prepared his brief very carefully and quoted an impressive list of countries that had done away with capital punishment without any marked increase in unlawful homicide; but the Attorney-General moved to defer further consideration until the House had before it the Report of the Royal Commission on Capital Punishment then sitting in England, and the motion was carried on party lines.[2] The same member also sponsored a Bill for the abolition of whipping which still survives (theoretically) as a form of penalty which may be imposed on conviction of certain offences. Though there were a number of interjections during the mover's speech, only one member on the Government side spoke to the Bill, which he intended to oppose because he thought whipping should be retained mainly as a means of punishing delinquent children! The second reading was defeated; but that does not justify any inference that Government

1 The election was held on 14th February 1953; the retiring government, a Liberal-Country Party coalition, was narrowly defeated. Labour, under the Hon. A. R. G. Hawke, returned to the Treasury benches after six years in opposition.

The official figures of electoral enrolments for the fifty constituencies of the Legislative Assembly establish the need for redistribution under the Electoral Districts Act 1947. As to this Act, see *Review of Legislation 1947*, 1 U. of West. Aust. Ann. L. Rev. 131-134.

2 See 132 Parliamentary Debates (Western Australia), 1468-1475, and 133 Parliamentary Debates, 2332-2339.

supporters (who formed the majority) indorsed the views of their solitary spokesman.[3]

Another—and, as usual, unsuccessful—attempt was made by the Legislative Assembly to widen the franchise for the Legislative Council.[4] The Bill, introduced by the leader of the Opposition, proposed to give the vote to any person whose spouse was already registered (by virtue of ownership or occupancy of land) as a Council elector, to abolish plural voting,[5] and to reduce from 30 to 21 the qualifying age for candidates for election to the Council. Though the Attorney-General expressed doubts as to the wisdom of the last provision, all clauses were passed without division and the Bill was sent to the other House.[6] There it found a hostile majority which, though it spent more time on the Bill than the lower House, rejected it on the second reading by 17 to 10 (the total membership of the Legislative Council being 30).[7] Earlier in the day of rejection the Minister for Transport, on behalf of the Government, had moved the second reading of another Bill to enable the Chairman of Committees in the Legislative Council to take the President's place in the same way as the Speaker is replaced when necessary by the Chairman "in the other place." The Labour supporters of the first Bill did not oppose this measure, possibly hoping by their co-operation to secure support for their own Bill; their effort was wasted. But when the second Bill reached the Legislative Assembly the latter knew that the Council had rejected the first; piqued by the Council's attitude, the Opposition saw no reason why it should help to improve the administration of the Council and therefore decided to oppose the Bill. A division was called for, but the Bill was defeated by 22 to 21, an Independent member on this occasion siding against the Government.

A Gilbertian situation arose in the Council on the same day. A Bill had been introduced, by one of those private members who had voted against the amendments sponsored by the Opposition, mainly for the purpose of giving the vote to occupants of "luxury" and

3 See 132 Parliamentary Debates, 1539-1541, and 133 Parliamentary Debates, 2339-2341.

4 For similar attempts in recent years see *Review of Legislation*, 1 U. of West. Aust. Ann. L. Rev. 133, 303.

5 At present it is permissible to be registered, and to vote, in every electoral province in which the elector has the requisite property qualification.

6 See 132 Parliamentary Debates, 1070-1073, 1225-1231.

7 See 132 Parliamentary Debates, 1605-1610, 1731-1735, 1785-1790, 2010-2012, and 133 Parliamentary Debates, 2067-2070, 2366-2372.

near-luxury flats.[8] Needless to say the Bill was opposed by the Labour members, who were joined by sufficient government supporters to make the voting equal—13 to 13. The President was not required to give his casting vote because, if he had done so in favour of the Bill, it would have been of no avail; an absolute majority (i.e., 16) must vote in favour of any Bill to change the composition of either House, and the President had already ruled that the Bill was of that kind. So ended in failure, for another Parliament, attempts to alter the franchise for the Legislative Council.

I. CONSTITUTIONAL.

Electoral Machinery.

Minor amendments to the Electoral Act 1907-1951 were made to remove anomalies and increase efficiency in administration; none call for special comment.[9]

II. ADMINISTRATION OF JUSTICE.

Industrial arbitration.

As a result of a strike of metal trade workers earlier in the year—the strike being alleged to have been inspired by trade union officials of communist affiliation or sympathies—the government decided to introduce a Bill for the exercise of greater control over the election of union officials and the conduct of union elections. The Industrial Arbitration Act Amendment Act (No. 5 of 1952) copies with minor variations the amendments to the federal scheme of conciliation and arbitration made by the Conciliation and Arbitration Act (No. 2) 1951[10] in relation to secret ballots, the maintenance of proper records of membership, and in particular cases the holding of union elections under the supervision of the Industrial Arbitration Court. Power is also given to the Court (a) to punish breaches of existing awards, even where such breaches are already declared by the Act to be offences for which a penalty is provided, as contempt of court, and (b) to impose a penalty not exceeding £500 on any industrial union (which includes an employers' organisation) whose

[8] For some years past the electoral officers, acting on a ruling given by the then Crown Solicitor, have refused to register a flatdweller no matter how high his rent unless the flat had a separate and independent entrance from the street. The ruling was based on the definition of "dwelling-house" in the Act.

[9] See Electoral Act Amendment Act, No. 57 of 1952.

[10] See pp. 432-434, *supra*, for an explanation of the major provisions of the federal Act.

executive or members take part in or encourage a lock-out or strike. The only way in which the union can escape liability under the second provision is by convincing the Court that through "the enforcement of its rules *and* (italics added) other means reasonable under the circumstances" it tried to prevent its members from taking any part in the lock-out or strike.

Criminal law.

A minor amendment of the Criminal Code 1913[11] repeals a provision, archaic and barbarous, of which it can only be said in extenuation that it has not been used for many years. Sec. 678 of the Code (copying sec. 663 of the earlier and repealed Code of 1902, which inherited the provision from the Capital Punishment Amendment Act 1875) permitted, though it did not peremptorily require, the public execution of an aboriginal native sentenced to death. The Bill passed both Houses without a division; it had been first introduced into the Assembly by the same private member who had tried in vain to have the death sentence and flogging abolished. It is to be hoped that this success, minor though it may be, will encourage him to continue his efforts to improve the criminal law.[12]

Police.

For some years the Police Act 1892 and its many amendments have been out of print; in anticipation of its being at long last reprinted a short Act[13] gave authority for the consolidation of all the enactments and "cutting away dead wood" as the Attorney-General described it. The consolidated Act was in due course reprinted but had to be withdrawn almost immediately because of the discovery of a printer's error; the word "lawful" appearing instead of "unlawful" in sec. 84 dealing with gambling offences. Even as consolidated it is far from being a model Act; but at least it is now available to the police, to legal practitioners, and to law students.

Children's Courts.

Experience of the working of the Child Welfare Act 1947[14] having shown that the definitions of "destitute" and "neglected"

11 See Criminal Code Amendment Act, No. 27 of 1952.

12 The member in question is now Minister for Housing and Forests in the Labour government; it remains to be seen whether he will be able (or will make the attempt) to convince his colleagues of the need for criminal law reform.

13 Police Act Amendment Act, No. 15 of 1952.

14 See *Review of Legislation 1947*. 1 U. of West. Aust. Ann. L. Rev. 135-136.

children were inadequate to bring within the supervisory jurisdiction of Children's Courts all children for whose maintenance some provision was obviously necessary, the definitions have been widened by the Child Welfare Act Amendment Act (No. 16 of 1952). "Destitute" child now includes any child "who has been placed in a subsidised institution *otherwise than* in pursuance of an order of the Court *and* whose near relatives have not contributed regularly towards the maintenance of the child." "Neglected" child includes any child "who is living under such conditions as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy." A new sec. 30 clears up doubts as to the duration of the period for which a destitute or neglected child may be committed to the care of the Child Welfare Department; the Department's rights and responsibilities end on the child's eighteenth birthday or on such earlier date as the court determines. Two other provisions call for brief comment. If a justice of the peace is satisfied on sworn information that there is reasonable ground for suspecting that a destitute or neglected child is residing "on any premises or in any place" he may grant a search order to an officer of the Department; it is made an offence to refuse entry or deny facilities for investigation to the person named in the order. The parents (which term includes stepfather or stepmother of a legitimate, but not of an illegitimate, child) may now be required to contribute to the maintenance of a neglected or destitute child a maximum of £2. 10s. per week instead of the sum of £1 specified in the principal Act.

III. STATUS.

There was no legislation in this category in 1952.

IV. PUBLIC HEALTH.

Pesticides.

The increasing use of pesticides in agriculture and industry, in the home and in the garden, has made some form of supervision necessary since some of these agents may be harmful to human beings in the course of their manufacture or use. By amendments to the Health Act 1911-1950[15] provision is made for the establishment of an Advisory Committee consisting of the Commissioner of Public Health, the Government Analyst, the Registrar of the Pharmaceutical Council, and the Director of Agriculture (or his nominee), who may co-opt one or more persons "conversant with trade requirements."

15 See Health Act Amendment Act, No. 11 of 1952.

On the advice of this Committee regulations may be made to cover every phase of the manufacture and sale of pesticides and, to some extent, their use by the ultimate purchaser.

Miscellaneous.

A second amendment[16] contains a variety of provisions, (a) for the better control and supervision of temporary sanitary conveniences where building is going on, (b) for the registration (in certain districts) of piggeries, (c) for the prosecution of persons selling manufactured food or drugs which in some way do not conform with the conditions of manufacture or sale prescribed by the Act, and (d) to widen the remedies available to local authorities seeking to recover maintenance and other costs in respect of patients in hospitals or other institutions provided by the authority.

Doctors, nursing aides, physiotherapists, and pharmacists.

The opposition of the medical profession to the indiscriminate admission of doctors from other parts of the world (and particularly from Europe with the sole exception of the United Kingdom) is still strong; but concessions continue to be made. Under earlier amendments to the Medical Act[17] doctors trained in countries with which there is no reciprocity might be allowed to practise in certain parts of the State (usually areas which Australian-trained doctors tend to avoid for various reasons), and after seven years of such practice could with ministerial approval be admitted in effect to full membership of the medical profession. By the Medical Act Amendment Act (No. 65 of 1952) these doctors may now, after three years of restricted practice or such shorter period as the Medical Board in its absolute discretion thinks sufficient,[18] apply to the Board for full recognition. But the concession is so hedged in with safeguards as to make this short cut to general practice very difficult to negotiate. The applicant must pass such examinations as the Board may prescribe, and even if he does so the Board will only recognise him if it thinks "that he should be . . . registered." If for any reason an applicant for registration is unsuccessful he must wait at least a year before applying again.

16 Health Act Amendment Act (No. 2), No. 25 of 1952.

17 See, for example, *Review of Legislation 1950*, 124-125 *supra*.

18 The Bill as drafted did not contain this discretionary power, which was given by an amendment moved by a government supporter though opposed by the Minister of Health: 133 Parliamentary Debates, 2678-2682.

Recognition is granted, by the Nurses Registration Act Amendment Act (No. 41 of 1952), to the valuable auxiliary work done in hospitals by persons (usually young women) who are not trained or certificated nurses. A separate register of such persons, henceforth to be described as "nursing aides", is to be kept by the Nurses Registration Board. So far as concerns persons already employed in this work, they can apply, within six months of the date of the Act, to be registered, and the Board must enter their names if satisfied as to the extent and nature of their practical experience. For newcomers different rules apply. A minimum age of 17 is fixed, and the Board is to say what standard of education and health will be required; the individual has to take a course of training and reach a certain standard of efficiency before registration will be granted. The Board has power to remove the name of a nursing aide from the register on the grounds of (a) incapacity or (b) conviction of an offence against the Act or the regulations, the most serious breach being for a "nursing aide" to pretend to be a "nurse".

During the course of the debate, in which members on both sides of the House endorsed the purpose of the measure, a former Minister of Health sitting on the Labour benches gave it as his opinion that as the trained nurses are represented on the Board, the nursing aides (who are usually members of the Hospital Employees Union) should also be able, through their Union, to nominate a representative. He moved an amendment in committee with that object, only to find it ruled out of order on the ground that it was outside the scope of the Bill. Undismayed, he got his leader to introduce a second amending Bill, but though he urged his point strongly at the second reading the Bill was lost on the voices; apparently his colleagues did not feel sufficiently enthusiastic about it to call for a division.

When physiotherapy came under legislative control in 1950[19] and a Board was set up to supervise methods of training, etc., the usual practice of making such a board a body corporate and of giving it power to acquire, hold, and dispose of property was for some reason not adopted—possibly by mere oversight on the part of the Minister or the draftsman. The Physiotherapists Act Amendment Act (No. 12 of 1952) makes the Board a body corporate with perpetual succession, a common seal, and the usual powers, and validates everything done by the Board in the first two years of its existence notwithstanding any vacancies in its membership; it also relieves the members of the

[19] By Act No. 75 of 1950; see *Review of Legislotion 1950*, 125 *supra*.

Board from personal liability for acts done before its statutory incorporation.

The Pharmaceutical Association of Australia having recommended that, subject to adequate safeguards, migrants with appropriate qualifications should be allowed to practise, the Pharmacy and Poisons Act Amendment Act (No. 10 of 1952) gives effect to this in Western Australia; but one provision of the Act may have an operation not intended by its sponsor, the Minister of Health. The first clause of the Pharmacy and Poisons Act 1910-1948[20] says that "No pharmaceutical chemist shall practise or carry on business as a pharmaceutical chemist, or either as agent, employee, or otherwise be engaged with any other person in the practice or business of a pharmaceutical chemist, except under the authority of a licence from the Council as prescribed by the regulations." With the laudable object of preventing an absentee from purchasing a pharmacy here and putting a migrant in charge, his own knowledge of the business being, as the Minister put it, gained "through the annual balance sheet", the words "and unless he is domiciled in the State" have been added to sec. 16 (1). A change of domicile, as experts in the field of private international law know only too well, is never easy to establish in our courts, so that even a person resident in the State may find it difficult to prove that he is domiciled. Moreover, it may well be doubted whether the legislature intended this new requirement to apply to Australian citizens resident but not domiciled in this State (and it is submitted that the purchase of a pharmacy in this State is not even prima facie evidence, if the purchaser is already domiciled in another State, of an intention to reside here "permanently or indefinitely"). Anomalously enough, if the word "domiciled" is given its technical connotation, the Act does not debar an absentee who is domiciled though not at the moment resident in the State; and he may well reside out of the State for many years without being deemed to have abandoned his domicile here.

Control of the register of pharmaceutical chemists is, under the principal Act, vested in the Council of the Pharmaceutical Society of Western Australia. The Council can now admit migrant pharmacists trained elsewhere if satisfied both as to their professional competence and as to their command of the English language.

20 For the Act as amended to the end of 1937 see Vol. I of The Reprinted Acts of the Parliament of Western Australia.

V. CONTROL OF PRICES AND COMMODITIES

Price control.

Members on the government side of the House left it to the Attorney-General to do all the talking, both on the second reading and in committee, on what became the Price Control Act Amendment and Continuance Act (No. 25 of 1952). The principle of price control (in respect only of those commodities as to which the Minister thinks control is desirable) is reaffirmed for one more year. Two amendments were made; one to give effect to an agreement between the States to adopt a uniform price for butter and cheese as fixed by the federal Minister for Commerce and Agriculture, the other to repeal the Profiteering Prevention Act 1939-41 on the ground that it is not necessary or desirable to have two Acts relating to the same subject matter. Members of the Legislative Council were much more loquacious about the Bill, several who normally support the government announcing their intention to vote against it; but the second reading passed by 13 votes to 10, and none of the amendments proposed in committee were successful.

Building control.

The Building Operations and Building Materials Control Act Amendment and Continuance Act (No. 17 of 1952), which continued the earlier Act for one more year,[21] had a much easier passage through both Houses. The hard core of opposition to any form of control consisted of seven members of the Legislative Council, 19 voting in its favour.

Rents and tenancies.

The Act[22] which controls rents and the conditions under which possession of a rented house can be recovered by the owner would have expired on 31st October 1952 but for the passing of the Rents and Tenancies Emergency Provisions Act Amendment (Continuance) Act (No. 8 of 1952), which, despite the efforts of the "no controls whatever" group in the Legislative Council, passed the second reading in that House by 19 to 6 after having been approved on the voices in the Legislative Assembly. The smallness of the minority may have been due to the impending election; the government could

21 On 28th November 1953 the Minister for Housing announced that no further extension of the Act would be sought.

22 See *Review of Legislation 1951*, 413-415, *supra*.

expect to receive the support of house-owners in any event, and must therefore avoid antagonizing the much larger class of tenants. It is unprofitable to speculate whether the opponents of rent control will swell in number in 1953 with the election safely over.

The continued life of the parent measure being assured, the government introduced a short Bill to amend it—a Bill which became law as the Rents and Tenancies Emergency Provisions Act Amendment Act [No. 2] (No. 13 of 1952). It had been discovered that the parent Act, which protected a serviceman (and his family) from eviction, only applied where the serviceman himself was lessee or tenant; if the rented house was in his wife's name there was no protection. The new measure gives the status of protected person to the wife of a serviceman, provided that she is dependent upon him; that status may also be conferred, *by regulation,* upon any other person who is dependent upon the serviceman. A member of the Legislative Council thought that if a new class of dependent persons entitled to the protection of the Act was to be created, it should be done by the Act and not by regulation; but his amendment to remove that part of the clause which offended his sense of constitutional propriety was defeated.

Marketing of barley.

The production and sale of barley in this State has been rigidly controlled since 1946 in which year the Marketing of Barley Act was passed. Every person seeking to grow barley for profit had first to get a licence from the Board established by the Act; his licence—if granted, the Board having a discretionary power—stipulated the maximum quantity he could grow. Having grown it, he could only sell it to the Board or to a purchaser approved by the Board; in the former case he simply got a proportionate share of the total net proceeds of sales by the Board. These very obvious restrictions upon private enterprise were imposed at the request of the growers themselves, for a period of three years; when the end of that time came—in 1949—the scheme was extended for three more years. The Marketing of Barley Act Amendment (Continuance) Act (No. 31 of 1952) prolongs the life of the scheme until 9th December 1955 despite a vigorous attempt in the Legislative Council to substitute "1953" for "1955".

Barley growers come within the scope of the Referenda on Proposals for Marketing Wheat, Oats and Barley Act (No. 5 of 1952). This Act gives the Minister (for Agriculture) power to arrange at

the public expense a ballot of the growers of any of the named cereals "in order to ascertain (their) views in respect of a proposal." The Act does not say by whom a "proposal" may be made or in any way limit what may be "proposed"; hence it would seem that a proposal may be made by growers themselves, by the Minister or his technical advisers, by persons who are or may be interested in the production and sale of any one of the three commodities, or even by anyone who succeeds in getting the Minister's ear. The Act does not require the Minister to give effect to any "proposal" even if it has the unanimous support of all who vote at the referendum; but as the only persons entitled to vote are the growers themselves (as defined rather widely in the Act), it may be assumed that the Minister will bow to the expressed wishes of any one of these three pressure groups. Each group, however, can only vote on proposals affecting it; it cannot impose upon the other groups its views as to pooling, controlled marketing, or any other of the currently popular economic panacea.

VI. GENERAL

Industrial developments—private enterprise.

In the hurry to put through the Industrial Development (Kwinana Area) Act 1952[23] it was not appreciated that the controls which that Act instituted were appropriate if the whole area were to be devoted to industrial establishments but not if any part were required for residential purposes. One of the government's obligations to Anglo-Iranian was to build houses at an agreed rate of construction; already a rapidly growing township, Medina, is a new feature on the map, about three miles away from the refinery site, and another town site is being planned. The Industrial Development (Kwinana Area) Act Amendment Act (No. 37 of 1952) takes any land within the Area which is set apart or reserved for town-planning purposes out of the control provisions of the principal Act; if this had not been done no house in any of the new townships planned for the Area could have been sold or mortgaged without ministerial consent.

Another mammoth industrial organisation has come to the Kwinana Area—Broken Hill Steel. The Broken Hill Proprietary Steel Industry Agreement Act (No. 46 of 1952) gives legislative approval to an agreement of 7th October 1952 between the State government and the Company, which is registered in Victoria but conducts most

23 See *Review of Legislation 1951*, 417-419 *supra*.

of its present industrial activities in New South Wales and South Australia. The State undertakes to sell to the Company, to enable the latter to erect a steel rolling mill, not less than 500 acres of land with a minimum frontage of 3,000 feet to Cockburn Sound; the price is to be the total sum which the State has to pay in acquiring the land from its present owners. Within six months of the passing of the Act the State is to supply electricity, at standard rates, in such quantities "as may be mutually agreed"; on six months' notice being given by the Company the Metropolitan Water Supply Department (a State instrumentality) is to make available at the northern boundary of the site up to 4,000,000 gallons of potable water each week. Adequate roads and railways to the site are also to be provided by the State. The Company's obligations are to erect a mill of an annual capacity (on a three-shift basis) of not less than 50,000 tons of steel products; to construct wharves and retaining walls; to allow these wharves to be used by other shipping when not required for the company's purposes; to pay harbour dues on all inward cargoes discharged on the Company's wharves; and to collaborate with State research officers in investigating the possible use of Collie coal (a sub-bituminous coal produced in the south-west of the State) in primary furnaces. The most controversial provisions of the Act relate to the substantial iron ore deposits (estimated to be nearly 100,000,000 tons) in Cockatoo, Irvine, and Koolan Islands off the north-west coast near Derby. These are at present leased, for relatively short terms, to a subsidiary of the contracting Company; they are to be assigned to the Company or its nominees for 50 years with a possible extension to 71 years. In return for this monopoly of the only substantial iron ore deposits yet discovered in the State the Company undertakes not to export any of the iron ore won from the leases,[24] and upon 12 months' notice to make available to the State 200,000 tons of ore per annum for use in the State, delivery to be made at the Islands themselves. The government's object in giving these valuable rights to the Company was to encourage it to establish a full-scale plant at Kwinana in place of the steel rolling mill which is all that the Company need set up under the agreement.

[24] At the time of the outbreak of war in 1939 some of the leases were held by a company (not, it would seem, in any way associated with the Broken Hill organisation) which was exporting iron ore to Japan. The Right Hon. Robert G. Menzies, then Prime Minister of the Commonwealth, refused to put an embargo on this trade; in the result his critics, mainly Labour supporters and certain trade unions, christened him "Pig Iron Bob."

The coastal railway from Fremantle at present comes to an end at some distance from the Kwinana Area. The Coogee-Kwinana Railway Act (No. 24 of 1952) authorises the southern extension of this railway for a little more than eight miles so that it will serve the new industrial establishments.

State-controlled industries.

While new industries are being set up in the coastal area, another is being shut down. In 1942, by agreement between the State and the Commonwealth, large sums of money were spent on the exploitation of the alunite deposits at Chandler, mainly for the purpose of producing potash of which there was an acute shortage owing to import restrictions during the war. In 1946 the industry was given statutory approval by the State (Western Australia) Alunite Industry Act; all the assets and responsibilities of the undertaking were transferred to an "Alunite Industry Board of Management" consisting of three persons appointed by the Governor. In 1950, when the industry was meeting intense competition, the government decided to draw in its horns; the Act was amended (by No. 57 of 1950) to authorise the sale or lease of any part of the Board's assets—but with the proviso that Parliamentary approval was required for any sale which in effect would bring the industry to an end. That proviso having been repealed by the State (Western Australian) Alunite Industry Act Amendment Act (No. 38 of 1952), the way is now clear for the complete liquidation of an industry which, having served its purpose during the national emergency, is now found to be unnecessary and uneconomic.

In contrast with the alunite industry another State activity is flourishing but needs more money in order that it may continue to grow. Most of the expenses of the State Electricity Commission in recent years have been financed out of loans raised by the Commonwealth on behalf of itself and the States;[25] but that source could not in 1952 provide all the capital that the State required. To ensure that the work of the Commission would not be hampered by lack of funds, the State Electricity Commission Act Amendment Act (No. 4 of 1952) authorises the Commission, with the Governor's consent, to borrow money by the issue of inscribed stock or debentures. Two such loans have already been raised, both issues being oversubscribed.

25 For the technique of co-operation between Commonwealth and States in regard to the raising of loans, see S. R. Davis, *A Unique Federal Institution*, 350-404 *supra*, especially at 372-380.

Housing.

Two years ago,[26] the maximum which the State Housing Commission could spend or lend on houses built by it was raised from £1,500 to £2,000. Rising costs have made the second figure out of date; by the State Housing Act Amendment Act (No. 23 of 1952) the maximum goes up to £2,500. If these figures accurately represent rates of increase, there is some consolation in the fact that the rise was 33⅓% in 1950 but only 25% in the next two years; it seems more likely, however, that the gross increase of £500 in 1950 and again in 1952 was made more for the sake of simplicity in calculation than as an exact reflection of rising costs.

University buildings.

The University of Western Australia is almost entirely dependent, both for revenue and for capital expenditure, upon grants from the State government, augmented since 1951 by much smaller grants, for income purposes only, from the Commonwealth. Since the end of the war the University has received, out of the total loan moneys available to the State, a small annual allocation which has been used mainly for temporary buildings. The reduced loan quota for 1952 (and the prospect of further pruning in 1953) caused the government to stop grants for capital expenditure; but the University was still in urgent need of more buildings. A temporary solution is provided by the University Buildings Act (No. 43 of 1952).

The University has only a few endowments, nearly all of which are earmarked for special purposes and thus make practically no contribution to its general income. It is authorised to borrow up to £100,000 on the security of its trust funds (or alternatively to sell the securities) and to spend the money on buildings; the government undertakes to pay interest thereon to the University (so that the latter may still have an income out of which to perform the trusts of the endowments) and to restore the capital by means of a sinking fund of at least two per cent. per annum. The governing body of the University has decided to use the funds so made available on the construction of permanent buildings only; one building, at an estimated cost of approximately £35,000, has already been started, and other plans are under consideration.

26 See *Review of Legislation 1950*, 133 *supra*.

Public and private educational institutions.

Since the war Western Australia has received and on the whole has successfully absorbed a large number of migrants whose native tongue is not English. Certain sections of the Education Act Amendment Act (No. 30 of 1952) are designed to prevent the creation of foreign enclaves. All schools which are not already included in the list of schools inspected and found to be efficient must, if they purport to give instruction up to and including matriculation standard, apply to be put on the register of efficient schools. These latter must use English as the medium of instruction except when foreign languages are being taught; any breach of this provision exposes the head teacher and the proprietors to a fine not exceeding £25, and to an additional penalty of £10 for every week during which the breach continues.

Investigations of other and earlier migrant groups has led to the following conclusions:— (1) few foreign-born migrants attain a complete mastery of English, and some (particularly the women) still speak their native tongue; (2) their Australian-born children are usually bilingual, completely at ease in both languages (but speaking the foreign language in the same dialect as their parents); (3) their grandchildren speak English only, unless they learn a foreign language at school. It is of course desirable to accelerate the assimilation of non-British migrants and their children; but it will be unfortunate if the effect of the latest amendment of the Education Act is to make bilingualism much rarer.

Taxation of gambling.

Under the innocuous title of the Stamp Act Amendment Act [No. 2] (No. 48 of 1952) provision is made for the imposition of a tax on winning bets made on racecourses. Whether legal or not—a moot point—betting at racecourses has always been tolerated, while off-the-course betting also flourishes but produces a steady crop of offenders (and of fines) at the police courts every Monday morning.[27] The Act discreetly refers to persons "permitted by a racing club or persons conducting a race meeting to bet as bookmakers at the meeting," and requires them to deduct "threepence for each ten

27 There are exceptions to the practice of harrying the "starting price" bookmaker. In the coalmining area the bookmaker openly plies his trade on Saturdays; the police do not interfere, the assumption no doubt being that the coalminer would go on strike if deprived of this week-end "amenity".

shillings and each fractional part of ten shillings of every winning bet"—unless the gambler's "investment" is so modest that he wins less than five shillings. The racing club is made the government's agent to collect from the bookmakers and is allowed to keep 20% for itself; one-half of its share must be devoted to increasing the stakes, the remainder can be used as the club thinks fit. Patrons of the unlawful "off course" bookmaker will continue to get their winnings —if any—in full.

State Government Insurance Office.

For many years the State Government has engaged in the insurance business though entirely without statutory authority until 1938. The business has flourished; and since the State Government Insurance Office was a State instrumentality and operated with public funds, its profits might go into reserves or might be taken into general revenue by an impoverished Treasury. The State Government Insurance Office Act Amendment Act (No. 52 of 1952) protects the reserves from Treasury raids by authorising the Office to create reserve funds and puts the whole of them out of the reach of the Treasury unless the Auditor-General is prepared to certify that the reserves are greater than is necessary to cover liabilities. The Act also authorises the investment of the reserves and empowers the Office to acquire property, to borrow money, and to erect buildings for its purposes; the Act also confirms past practice by declaring that the Office "shall be deemed always to have had" the powers and authorities to which the Act refers.

Although the operations of the Office have always been backed by the credit of the State, it is obviously better business for it to build up reserves out of profits. As a result of inquiries made by the Leader of the Opposition during the second-reading debate the Attorney-General, who sponsored the Bill, admitted that from 1940 to 1945 £222,000 was transferred from the Office reserves to consolidated revenue. He charitably refrained from pointing out that those transfers were made when Labour governments were in office.

Traffic control.

Perth has long enjoyed the dubious distinction of being the only capital city in Australia in which traffic lights are not used. This omission must be ascribed to the inertia or complacency of the Traffic Department of the police force which is sublimely indifferent to the fact that many cities much smaller than Perth have

installed traffic lights and thereby not only have regulated better the flow of traffic but have reduced the accident rate. Since Western Australian statistics of traffic accidents and deaths make very gloomy reading, the legislature at long last has, by the Traffic Act Amendment Act (No. 35 of 1952), authorised the Minister—without in any way compelling him—to spend not more than £20,000 in any one year on the provision and maintenance of traffic lights. Authority has in fact been given for such installations to be made at five busy metropolitan intersections; it remains to be seen whether motorists in this State, notoriously careless of their own safety and apparently hostile to the continued existence of pedestrians, will begin to mend their manners—at least at the light-controlled intersections.

Another overdue change, made by the Main Roads Act Amendment Act (No. 34 of 1952), enables the government on the recommendation of the Main Roads Commissioner to declare any road to be a "controlled-access" road which may only be entered or left at specified places. Under this Act a new road between Fremantle and the Kwinana Industrial Area will be declared a controlled-access road as soon as it has been constructed.

VII. MISCELLANEOUS

Other measures were passed in 1952—

(1) to alter the procedure on applications for registration as a land agent, and to provide for the revocation of licences issued;[28]

(2) to regulate the business of warehousemen defined as persons lawfully engaged in the business of storing goods as bailees for hire or reward;[29]

(3) to confirm the sale of the Fremantle electricity undertaking to the State Electricity Commission,[30] and to ratify the consequent agreement as to payment;[31]

(4) to amend the law as to branding of sheep and stock;[32]

(5) to authorise the discontinuance of the branch line to Mundaring Weir (the source of the water supply for the goldfields), there

28 Land Agents Act Amendment Act, No. 13 of 1952.

29 Warehousemen's Liens Act, No. 26 of 1952.

30 Fremantle Electricity Undertaking Agreement Act, No. 40 of 1952.

31 Fremantle Electricity Undertaking (Purchase Moneys) Agreement Act, No. 66 of 1952.

32 Brands Act Amendment Act, No. 55 of 1952.

being not enough passengers or freight traffic to justify its retention;[33]

(6) to authorise the closure of a number of public roads in certain metropolitan and country municipal districts;[34]

(7) to create a Board and to vest in it control of the Midland Junction Abattoir in the metropolitan area;[35]

(8) to amend the Alsatian Dog Act 1929, which required every dog (male or female) of that species to be effectively sterilised, and was amended in 1938 in such a way as to make it an offence to bring an unsterilised puppy into the State; such a dog may now be brought in if it is to be trained as a guide to a blind person, but it must be effectively sterilised before it is three months old.[36]

F. R. BEASLEY.

33 Railway (Mundaring-Mundaring Weir) Discontinuance Act, No. 20 of 1952.
34 Road Closure Act, No. 54 of 1952.
35 Abattoirs Act Amendment Act, No. 58 of 1952.
36 Alsatian Dog Act Amendment Act, No. 61 of 1952.