LEGISLATIVE SUMMARY

VICTORIA 1958

Consolidation and Reprinting

On 30 September 1958, 233 Consolidating Bills, representing a general consolidation of the public Acts of Victoria in force on 2 September 1958, received the Royal Assent. It may be useful to review the development of Statute law applicable to Victoria up to the enactment of this legislation, which is probably the last consolidation that will be made of Victorian Statute law.

By section 5 of the Imperial Act 13 & 14 Vict., c. 59, Victoria was separated from New South Wales and made an independent colony. Section 25 enacted that all laws then in force in New South Wales should continue to be in force in Victoria. This applied to Victoria the Statutes of the New South Wales legislature passed before 1851, and also the laws of England which had been declared to be part of the law of New South Wales by section 24 of the Imperial Act 9 Geo. 4, c. 83 which provided that

> all laws and Statutes within the realm of England at the time of the passing of this Act[1] . . . shall be applied in . . . New South Wales and Van Diemen's Land . . . so far as the same can be applied within the said colonies.[2]

This 'imported' Statute law has gradually been assimilated into the general body of legislation enacted by the Victorian Parliament.

A table of pre-1851 New South Wales legislation which applied in Victoria is included in the first consolidation of Victorian Statutes which was published, in four volumes, in 1866. The table indicates how this legislation had been dealt with; those New South Wales Acts which had not already been repealed were repealed by the consolidating Acts (many being re-enacted in substance). This measure obviated the necessity for reference to New South Wales legislation as a source of Victorian Statute law.

However, the more complex task of simplifying Imperial legislation in force in Victoria was not attempted. Indeed, judicial opinion

[1] 25 July 1828.

[2] Webb *(Imperial Law and Statutes in Force in Victoria* (2nd ed. 1892) 12-13, 22-23, 40) argues that this statute, by raising the status of New South Wales from 'little more than a State prison' to a settled colony, *introduced* the law of England existing in 1828, so far as it was applicable to the colony at that date. It is submitted that the better view is that New South Wales must be regarded as being a 'settled colony' from the date of the first settlement, that the purpose of settlement is irrelevant, and that 9 Geo. 4, c. 83, s. 24 merely *declared* the law which was to be applied by New South Wales courts. See *Cooper v. Stuart* (1889) 14 App. Cas. 286. S. H. Z. Woinarski, in a thesis in the Melbourne University Law Library, *Sine Historia Caeca Jurisprudentia* 13-21, clearly shows Webb's argument is no longer tenable.

as to the correct interpretation of the phrase 'so far as' (the laws of England) 'can be applied' was not yet settled.[3] A supplementary volume, published in 1868, contained a selection of Imperial legislation in force in Victoria, but this was necessarily far from complete.

In 1890, a further consolidation was enacted, largely as a result of agitation for regular periodical consolidations by the Council of Judges in their annual reports to the Governor. The explanatory Paper published with the Statutes offers a concise statement of the nature and purpose of consolidating legislation.

> What has been undertaken in the present scheme of consolidation is to collect into single Acts the disconnected and scattered enactments which are concerned with kindred topics; to excise all repealed, exhausted, expired, and obsolete matter; and to present the sections of the new Acts arranged in an orderly and intelligible manner and grouped together under appropriate headings.

By this means 450 enactments were consolidated into 107 Acts, amongst which for the first time appeared such comprehensive measures as the Property Law Act, the Crimes Act and the Local Government Act.

The 1890 Consolidation was exceptional in that its framers made no attempt and, indeed, resisted all temptations, to amend the law.

> The design of the work is one of pure consolidation. . . . Even merely verbal alterations have been as a rule avoided. . . . Where inaccuracies and inconsistencies not arising from obvious mistake have presented themselves, it has been thought advisable to perpetuate them rather than to attempt to reconcile them. It is conceived that amendments even where they appear to be necessary, but might give rise to difference of opinion, ought to be reserved for consideration by Parliament in amending Bills, and should be rigorously excluded from a scheme of consolidation the details of which cannot be examined and discussed by the Legislature.[4]

[3] The Judicial Committee of the Privy Council in *Jex v. McKinney* (1889) 14 App. Cas. 77, 81 approved the view taken by Lord Romilly M.R. in *Whicker v. Hume* (1851) 14 Beav. 509, 527 and by Knight Bruce L.J. in the same case on appeal before the Court of Appeal in Chancery (1852) 1 De G.M. & G. 506, 511, that the words 'can be applied' in 9 Geo. 4, c. 83, s. 24 should be read as meaning 'can reasonably be applied'.

Griffith C.J., in delivering the judgment of the High Court in *Delohery v. Permanent Trustees Co.* (1904) 1 C.L.R. 283, 310-311, appeared to deny that any element of 'reasonableness' could be read into the section, and to suggest that the true test was to inquire if there were any legal bar to the application of a particular English Statute to the colonies. However, in *Quan Yick v. Hinds* (1905) 2 C.L.R. 345 and *Mitchell v. Scales* (1907) 5 C.L.R. 405, the High Court expressly followed the interpretation approved by the Judicial Committee in *Jex v. McKinney*. See also *R. v. Kidman* (1915) 20 C.L.R. 425, 435 *per* Griffith C.J.

Webb, *op. cit.*, 30-37 refers to other interpretations of this section which had been put forward.

[4] Explanatory Paper, ix. Even without alteration in the wording of a section, its mere re-enactment in a consolidating Statute might have considerable repercussions. *E.g.*, by-laws made under a repealed Act will lapse unless the consolidating provision expressly validates them: *Martin v. Trigg* [1931] Argus L.R. 34.

Although the Council of Judges in 1887 had optimistically advocated a regular consolidation at quinquennial periods, the next did not appear until 1915. The draftsmen, led by Sir Leo Cussen, allowed themselves more liberty than did those of 1890 in making amendments to the law. The Joint Committee of both Houses, appointed to consider the consolidation, appeared uncertain as to the wisdom of this change of policy, and some proposed amendments were withdrawn; however, most were included and these paved the way for the incorporation of amendments in subsequent consolidations. The Committee included in its report the recommendation that a Joint Committee be appointed at the commencement of every Session of Parliament to deal with anomalies in the law and to make recommendations as to statutory amendments. Accordingly, the Statute Law Revision Committee Act 1916 was passed, and the Committee so created has given valuable service in this field.

It was not until the enactment of the Imperial Acts Application Act 1922, drafted by Sir Leo Cussen, that the obscurity surrounding the application of English Statute law in Victoria was effectively challenged.

Sir Leo Cussen examined all enactments in force in England in 1828 in order to ascertain which of those enactments had become, by force of 9 Geo. 4, c. 83, s. 24, part of the law of New South Wales, and had been introduced into Victoria in 1851. Some Imperial Statutes were clearly applicable to Victoria by paramount force; over these the Victorian legislature had no control. The applicability of some Statutes had been the subject of judicial decisions. But in dealing with the great majority of English enactments, upon which there had been no decision, Sir Leo Cussen found that 'the conclusion as to their operation or continuing operation is necessarily unauthoritative, and opinion may vary from complete confidence to extreme doubt'. Accordingly, the Imperial Statutes thought to be applicable in Victoria could not all be dealt with in the same way.

Enactments which were considered to be undoubtedly in operation in Victoria were re-enacted in consolidated form. The Victorian Acts which replace them appear in Part III of the Imperial Acts Application Act 1922. Here there is certainty; the Imperial Acts no longer apply and Part III is substituted.

A number of enactments of doubtful application to Victoria are transcribed in Part II. Section 4 directs that these are to have 'such force and effect, if any, as they had at the commencement of this Act'. The Second Schedule enumerates a further set of enactments also considered possibly to be in force. These, because of their minor importance, are not transcribed. They retain such force as they had prior to the Act.

Section 7 effects a general repeal of all other Imperial enactments from the Statute of Merton, 20 Henry III, 1235-1236, in force in England in 1828, so far as the Parliament of Victoria has authority to repeal them.

This Act, which stands as a monument to the scholarship and industry of one of Victoria's greatest lawyers, brought about a great simplification of the Statute law. So far as the Victorian Parliament has authority in the matter, no Imperial Statutes can apply in Victoria except those saved from repeal by inclusion in Part II or the Second Schedule.

A fourth consolidation was prepared in 1928 under the direction of Sir Leo Cussen. The assimilation of English Statute law affecting Victoria into the general body of Victorian law was carried further by the transfer of all the operative sections of Part III, together with some of the enactments transcribed in Part II, of the Imperial Acts Application Act 1922, into the appropriate consolidating Acts.[5]

Consolidations prior to that of 1928 related only to public general Acts. A vast number of other Acts had been unaffected. The Acts Enumeration and Revision Act 1928 supplemented the effect of the consolidation by listing all Acts that were to remain in force in Victoria. The First Schedule to the Act set out the consolidating Acts. The Second Schedule listed about 600 unrepealed and unconsolidated enactments passed by the legislatures of New South Wales (when Victoria was part of New South Wales) and Victoria; these enactments, most of which were of a local or personal nature, were 'to continue to have in Victoria . . . such force and effect (if any) as they had at the commencement of this Act'.[6] Section 9 effected a general repeal of all enactments prior to 1 January 1928, not mentioned in the Second Schedule.

The Statute law in force in Victoria on 1 September 1958 was consolidated under the direction of R. C. Normand, the Victorian Parliamentary Draftsman. The general pattern of the 1928 Consolidation has been followed, though the greatly increased volume of legislation made the task of preparing this consolidation even more formidable than that undertaken by Sir Leo Cussen and his assistants. About 1,000 Acts came under consideration for the 1928 Consolidation; approximately 2,500 Acts had to be dealt with in 1958.[7]

[5] The Imperial Acts Application Act 1922 was reprinted in its original form in Volume II of the Consolidation, with marginal notes indicating the sections consolidated, and the consolidating Acts to which they had been transferred.

To complete the simplification of this branch of Victorian Statute law, two further measures are required, *viz.*, a table of Imperial Statutes which apply in Victoria by paramount force, and a final declaration as to which of the enactments in Part II and the Second Schedule are to have force in Victoria. [6] S. 7.

[7] An interesting article in 33 (1959) *Law Institute Journal* 46 gives an account of the manner in which the consolidation was prepared and of the problems of production which will probably prevent any attempt to enact another general consolidation.

In previous consolidations, references were provided in footnotes to judicial decisions upon the construction of the Acts. This practice has been discontinued because it increases printing costs, which are already burdensome. It is intended instead to publish an Annotation Volume which will contain case annotations with indexes.

The amending legislation passed after the consolidation operated on the then existing law—the consolidating Acts not yet having come into operation. In order that the amendments would apply to the changed form of the law when the consolidating Acts came into operation, the Sessional Acts Revision Act 1958 was passed. This Act provides that references contained in Acts passed during the first session of the Forty-First Parliament (other than the consolidating Acts) to Acts or provisions repealed by and substantially re-enacted in the consolidating Acts, are to be construed as references to the corresponding Acts or provisions in the consolidation.

The Acts Enumeration and Revision Act 1958, enacted as a companion measure to the consolidation, fulfils the same function as its 1928 counterpart. There is one innovation: section 3 of the 1958 Act provides that references to convictions or offences in the consolidating Acts shall extend to include references to previous convictions or offences under the corresponding provisions of the repealed Acts. This principle had been followed in the Licensing Act 1928, section 235, and it was thought desirable to extend it to all consolidating Acts.

The Imperial Acts Application Act 1922 is saved from repeal by inclusion in the Second Schedule to the Acts Enumeration and Revision Act 1958, but it is not reprinted. Only fourteen pre-1851 enactments of the New South Wales legislature remain in force in Victoria; these are enumerated in the Second Schedule to the Acts Enumeration and Revision Act 1958.

The task of preparing a general consolidation has become so burdened with difficulties of compilation, printing and expense, that the 1958 consolidation of Victorian Statute law is probably the last to be undertaken. The alternative to consolidation is the system (already used in relation to Commonwealth legislation) of re-printing Acts from time to time, incorporating amendments. This system suffers by comparison with the consolidation method in that it can neither restrict the volume of legislation on the books nor set out all the Statute law in a single, orderly arrangement. But it has the great practical advantage of being easier and cheaper to operate.

The Amendments Incorporation Act 1958,[8] which, though not a consolidating Act, is included in Volume I of the consolidation for ease of reference, provides for the adoption of this system.

[8] *Cf.* Amendments Incorporation Act 1905-1918 (Cth.).

Administration of Justice

Juries

At present each court sitting in Melbourne with a jury is provided with a separate panel, which must contain sufficient surplus jurors to allow for several juries to be empanelled, and to allow for challenges. Because the time of surplus jurors is wholly wasted, the Juries (Amendment) Act (No. 6466) provides for the institution (by judicial direction) of jury pools.[9] This scheme will reduce the number of surplus jurors necessary, as any juror summoned to a pool may be called to serve in any of the courts to which the pool relates. Either separate pools are to be set up for the Supreme Court and the County Court (on the respective directions of the Chief Justice and of the Chairman of Judges of the County Court), or these two judges may direct the setting up of a joint pool for both courts. It is intended to apply the scheme first to civil juries and it will only be extended to criminal juries in the Supreme Court and in General Sessions if it proves workable. The experimental nature of this measure (which has the approval of the Judges, the Bar Council and the Law Institute) is indicated by a provision for the scheme's discontinuance by direction should it not prove satisfactory.[10]

Courts of Summary Jurisdiction

When a dispute occurs over the fencing of two adjacent properties, and one of the owners concerned resides in another state, it is necessary to invoke the Commonwealth Service and Execution of Process Act. Consequently, this matter is drawn into the sphere of Federal jurisdiction, and, by virtue of section 39 (2) of the Commonwealth Judiciary Act 1903-1955, a 'court of summary jurisdiction' to hear such disputes is to consist of one or more stipendiary magistrates. However, section 30 of the Victorian Fences Act 1928 provided that disputes over fencing were to be resolved by a court of two or more justices, one of whom is a stipendiary magistrate. To settle this conflict, which made it virtually impossible for a Victorian resident to bring such an action against the resident of another state, section 2 of the Fences (Amendment) Act 1958 (No. 6432) provides that a stipendiary magistrate sitting with or without justices may hear and determine disputes arising from the operation of the 1928 Act.

Judges

To deal with the considerable increase in court business, the Supreme Court and County Court (Judges) Act 1958 (No. 6429) amends the relevant Acts[11] to allow for the appointment of two

[9] Juries (Amendment) Act 1958, s. 3.
[10] *Ibid.*
[11] Supreme Court Act 1928, s. 7 (1); County Court Act 1957, s. 8 (2).

more Supreme Court judges, bringing the total to fourteen, and of two more County Court judges, increasing their total to fifteen.[12]

Further amendments to the Supreme Court Act 1928 and the County Court Act 1957 increase by £300 the annual salaries of all Supreme Court judges (to £6,050 for the Chief Justice and to £5,450 for puisne judges) and County Court judges (to £4,050).[13]

Status

Marriage

Certain limitations on the exercise of the Attorney-General's power to intervene in divorce proceedings are removed by section 2 of the Marriage (Amendment) Act 1957 (No. 6186). In *Robertson v. Robertson*[14] the Full Court considered that the case was one for his intervention. However, although the decree *nisi* had not been made absolute, intervention was not possible because the time limited by the decree had expired.[15] As a result of the court's adverse comments on this situation, the Attorney-General is now permitted to intervene at any time before the decree *nisi* has been made absolute.[16] Furthermore, he may stay the making absolute of a decree *nisi* by filing in the office of the Prothonotary a notice that he is investigating the proceedings with a view to intervention.[17] To prevent any abuse of this power, the parties are to be notified of the filing of the notice, which is to lapse after one month if the Attorney-General takes no further steps.[18]

To prove desertion in divorce proceedings, both the fact of desertion and the intention to desert must be shown. It has been held that insanity prevents a person from continuing an intention to desert,[19] so that a spouse could not prove desertion against a person who became insane at any time before the end of the minimum period required to maintain an action on the grounds of desertion. The Statute Law Revision Committee recommended that an insane person be deemed to have the same intention (to desert) as he had before he became insane, unless the court considered that it was probable that that intention would not have continued. This recommendation passed into law as section 3 of the Marriage (Amendment) Act 1957.

Section 13 of the English Matrimonial Causes Act 1937 provides that, where a wife has been deserted by her husband and the husband was, immediately before the desertion, domiciled in England, the

12 Supreme Court and County Court (Judges) Act 1958, ss. 2 and 3.
13 Judges Salaries Act 1958 (No. 6470), ss. 2 and 3.
14 Unreported.
15 Marriage Act 1928, s. 93 (1).
16 Marriage (Amendment) Act 1957, s. 2 (a).
17 *Ibid.*, s. 2 (b).
18 *Ibid.*
19 *Taylor v. Taylor* [1957] Argus L.R. 58; [1956] V.L.R. 680.

court has jurisdiction although the husband has changed his domicil. In *Fenton v. Fenton*,[20] the Full Court held that an English divorce pronounced on an assumption of jurisdiction under section 13 could not be recognized in Victoria, because the English court was not the court of the domicil. But it would appear from the decision of the Court of Appeal in *Travers v. Holley*[21] that a divorce granted in Victoria under section 75 (1) of the Marriage Act 1928 will be recognized in England. An attempt has been made to remove this inconsistency and to reverse the effect of *Fenton v. Fenton* by section 4 of the Marriage (Amendment) Act, which provides that divorces granted on the petition of a deserted wife in a country outside Victoria in accordance with a statutory enactment in force in that country 'in the like terms or to the like effect' as the last paragraph of section 75 (1) of the 1928 Victorian Act, shall be recognized in Victoria. However, this section may have only a very narrow operation and it may be that English divorces granted under section 13 of the 1937 Act are still not recognized in Victoria because section 13 may not be construed as being 'to the like effect' as section 75 (1).[22]

Commerce

Companies

Victorian company legislation was previously consolidated in 1938,[23] and was amended by Acts up to 1956. The Companies Act 1958 (No. 6455) consolidates this legislation, and adopts many provisions from recent enactments of the United Kingdom, New Zealand, South Africa, and some Australian states. Many suggestions by interested bodies such as the Amalgamated Institute of Secretaries, the Australian Society of Accountants, the Law Institute of Victoria, and others, have been included.

The new Companies Act contains only 308 sections and 12 schedules as compared with the previous Act of nearly 600 sections and 33 schedules. This decrease in bulk is achieved by the rearrangement of provisions, by the omission of spent and redundant portions of the 1938 Act, and by the general policy of dealing with the common features of companies under the same provisions.

The arrangement of the new Act follows the life of a company from its incorporation to its dissolution. Part I concerns the administration of the Act. A new office of Registrar of Companies (with Assistant Registrars) is set up, such person being primarily a registering officer.[24] The Companies Auditors Board is reconstituted with a lawyer of at least five years' standing as chairman, and the two

[20] [1957] V.R. 17. [2] ([1953] P. 246.)
[22] See Cowen, 'Recognition of Foreign Divorce Decrees: Section 4 of the Victorian Marriage (Amendment) Act 1957' (1958) 32 *Australian Law Journal* 102.
[23] Companies Act 1938. [24] Companies Act 1958, s. 4.

other members are nominees of the Institute of Chartered Accountants and the Australian Society of Accountants respectively.[25]

In Part II there is no change as to the types of companies that may be incorporated, but the incorporation of a no liability mining company is no longer dealt with separately.[26] The provision of the 1938 Act which required notice of intention to apply for recognition of a proprietary company[27] has been omitted, as, in practice, it had been evaded. The number of members of a proprietary company has been extended,[28] and a proprietary company may now, by special resolution, alter the clause restricting the transfer of its shares.[29]

One major addition to the new Act is the provision that henceforth the memorandum of association of a company having a share capital will include, as incidental to the objects specified, the objects and powers enumerated in the Third Schedule.[30] However, the memorandum may expressly exclude or modify these implied objects. This new provision will shorten memoranda, and, more important, should overcome many of the difficulties which sometimes arise due to the doctrine of *ultra vires*. Section 23 makes another important change in that a company may now alter its objects by special resolution; but such alteration will not be effective if, within twenty-one days, there is a protest to the court by the holders of fifteen *per centum* of the issued share capital or fifteen *per centum* of the debenture holders.

There are no substantial alterations in the provisions relating to articles of association, except that the sub-section which restricted the alteration of rights of preference shareholders[31] has been omitted. Section 28 (3) was adopted from the English legislation and provides that no member of a company shall be bound by any alteration in memorandum or articles which increases his liability to contribute to the share capital or to pay money to the company unless he agrees in writing to be bound by that alteration.

One of the aims of Part III of the new Act is to protect the unwary. The practice of advertising for money is curtailed by section 36, which provides that no company, other than a banking company, may invite the public to deposit money with or lend money to it unless a debenture is issued. Thus, a prospectus must also be issued. The provisions relating to prospectuses have been little altered, though the information allowed to be contained in the advertisement of a prospectus has been limited.[32]

Section 67 (3) is a new provision which is intended to obviate any necessity for the resealing in Victoria of a grant of administration

[25] *Ibid.*, s. 5 (2) (a).
[26] *Ibid.*, s. 12.
[27] Companies Act 1938, s. 26 (8).
[28] Companies Act 1958, s. 13 (2) (b).
[29] *Ibid.*, s. 13 (3).
[30] *Ibid.*, s. 15 (3).
[31] Companies Act 1938, s. 10 (3).
[32] Companies Act 1958, s. 37 (4).

or probate issued in another state or in a Commonwealth Territory. It has been suggested that the sub-section fails in this purpose.[33] The practice of marking transfers of shares or debentures by such notations as 'certificate lodged' is recognized.[34] It is a representation by the company that there have been produced documents showing a *prima facie* title to the shares or debentures. Liability may attach to a negligent company as if it had acted fraudulently, but such liability may be limited.

The provisions dealing with compromises and schemes of arrangement are substantially the same as in the previous Act. However, the court is given power to restrain proceedings in certain cases.[35]

An important addition to Victorian company legislation is made by section 94, which gives protection to minority shareholders by providing that any member of a company may, with the leave of the court, apply to the court for relief against 'oppression'. The court may make such order as it thinks fit.

Part IV of the Act deals with the management and administration of companies, and embodies a number of changes. At a general meeting of a public company, the appointments of directors must be voted on separately, unless the meeting, without dissent, agrees otherwise.[36] A public company may now remove directors by ordinary resolutions, but the resolution is not immediately effective where a director represents a particular class of shareholders or debenture holders.[37] By section 107 (1) the Act lays down, for the first time in the common law world, a standard of conduct for directors; that is, a director must act honestly and use reasonable diligence in discharging his duties. The standard does not seem to be an objective one. Moreover, an officer of a company may not use information acquired through his position to gain an improper advantage for himself or to cause detriment to the company.[38] Restrictions have been placed upon the capacity of a director to act also as secretary.[39]

Several changes have been made in the provisions relating to meetings. A meeting shall not be invalidated by the accidental failure to give notice of it to a member.[40] Section 117 (2) recognizes the position of a trustee or nominee who is holding shares in different interests; and a right to appoint a proxy is given to a shareholder of a public company.[41] Extraordinary resolutions having been omitted from the Act, section 119 (5) allows any matter required to be done by such resolution to be done by special resolution.

Part V of the Act provides for accounts and audit. Under the 1938 Act, a proprietary company, which was jointly owned by two or more

[33] Maxwell R. Ham, 'Companies Act' (1959) 33 *Law Institute Journal* No. 5, 167.
[34] Companies Act 1958, s. 70.
[35] *Ibid.*, s. 90 (6).
[36] *Ibid.*, s. 101 (1).
[37] *Ibid.*, s. 103 (1).
[38] *Ibid.*, s. 107 (2).
[39] *Ibid.*, s. 110 (2), (5).
[40] *Ibid.*, s. 116 (5).
[41] *Ibid.*, s. 117 (5).

public companies, was a subsidiary of neither, and it thus evaded the requirements as to disclosure of accounts. This evasion is checked by section 135, which provides that a proprietary company, in which more than fifty *per centum* of the shares is held by two or more public companies but which is not a subsidiary company, is deemed to be a public company for the purposes of this Part. A director may now, upon an order of the court, have the accounts of a company inspected by a registered company auditor.[42] Section 140 (3) is a new provision which gives an express power to the court to order that the demand by a member of a proprietary company for a copy of the last balance sheet and profit and loss account be complied with.

The provisions dealing with investigations are largely unaltered. However, the Attorney-General may, if from the report of an inspector it appears to him that proceedings ought in the public interest to be brought by any company, bring such proceedings in the name of the company.[43] It seems that officers and agents of a company whose affairs are being investigated by inspectors appointed under the Act can no longer refuse, on the ground of self-incrimination, to answer questions relevant or material to the investigation,[44] whereas any other person may refuse, on that ground, to answer questions.[45] The privilege against disclosing information to an inspector is now confined to solicitors.[46] On an application by the Attorney-General, showing reasonable cause for a belief that an offence has been committed, the court may authorize inspection and order production of any books or papers of a company.[47]

The winding up of companies is dealt with in Part VI. Winding up under the supervision of the court has been omitted, but winding up by the court and voluntary winding up are still available. One other major change is that the rules of bankruptcy have been incorporated into the provisions. There is now another ground for winding up by the court,[48] and section 164 (2) is a new provision which authorizes the court to make a winding up order when it is just and equitable to do so.

Part VII of the Act deals with its enforcement, offences, and penalties. Sections 257 and 258 embody the most important alterations, and have already been mentioned. Part VIII concerns different types of companies. Section 267, which applies the Act to no liability companies, is made necessary by the inclusion of such companies into the general provisions of the Act. The remaining provisions of the Act generally are unchanged in substance.

The overall characteristic of the Companies Act 1958 is the re-

[42] *Ibid.*, s. 136 (5). [43] *Ibid.*, s. 144 (6). [44] *Ibid.*, s. 146 (5).
[45] *Ibid.*, s. 146 (6). [46] *Ibid.*, s. 257. [47] *Ibid.*, s. 258.
[48] *Ibid.*, s. 160 (1) (h).

arrangement and simplification of its provisions, rather than any substantial introduction of new matter.

Bills of Sale

The Instruments (Bills of Sale) Act 1958 (No. 6438), which amends the consolidating Instruments Act 1958, embodies changes, suggested by the Statute Law Revision Committee and the Chief Justice's Law Reform Committee, which were designed to increase the value of bills of sale as commercial instruments. The sole substantive amendment permits a court, judge or justices to rule that a bill of sale containing an omission or misdescription is valid if satisfied that the error was accidental and not of such a nature as to deceive a person to his prejudice.[49] Previously an error or misdescription, no matter how trivial, invalidated the bill containing it.

Other amendments made are procedural since the earlier, rather inelastic, legislation caused great inconvenience among those using this form of instrument. Formerly a bill of sale had to be filed with the Registrar-General within thirty-one days of execution.[50] Since the bill may be lodged as late as fifteen days after execution,[51] only two days might remain to remove *caveats* and file the bill, since creditors are to have fourteen days after lodging to enter *caveats* against the bill.[52] A provision for the extension, by four days (to thirty-five days),[53] of time for filing after execution considerably reduces the inconvenience formerly caused by the limited time available. The possibility of an anomalous situation in which a bill could be filed on the same day as a *caveat* could be lodged (when the period for lodging *caveats* expired on a holiday Monday) is removed.[54]

The procedure for the annual renewal of a bill of sale is simplified. The affidavit formerly required[55] is now replaced by a simple renewal notice in the form of the Schedule to the amending Act.[56] Section 5 (1) of the Act further provides for twenty-one days' grace, after the expiration of the yearly period, in which to renew a bill. Where the amount owing on the bill is stated by mistake in the renewal notice to be less than the sum in fact owing, and where the court is satisfied that the mistake is genuinely due to inadvertence, the bill remains valid to the extent of the amount so stated[57] so that the lesser amount is deemed to be the sum owing. At the request of the Law Institute, an additional day is added to the period for lodging, entering or filing any document for each public holiday during the relevant period.[58] Previously these periods were cut down considerably by the closing of the Registrar-General's office during Christmas and Easter.

[49] Instruments (Bills of Sale) Act 1958, s. 3 (b). [50] Instruments Act 1958, s. 33.
[51] *Ibid.*, s. 35 (2). [52] *Ibid.*, s. 37. [53] Instruments (Bills of Sale) Act 1958, s. 2.
[54] *Ibid.*, s. 4. [55] Instruments Act 1958, s. 44.
[56] Instruments (Bills of Sale) Act 1958, ss. 5 (1), 10. [57] *Ibid.*, s. 5 (1).
[58] *Ibid.*, s. 8.

Fiscal

Stamp Duty

Intentions expressed in the Budget speech to amend the existing stamp duty legislation, so that greater revenue is secured from this source, are carried into effect by the Stamps (Amendment) Act 1958 (No. 6450). It is estimated that the changes therein will bring in an extra £4,000,000 a year (to £12,000,000).

Previously duty on premiums received by insurers was limited to the three classes of marine, fire, and fidelity guarantee, insurance.[59] Duty is now payable on all types of insurance business other than life, motor car, employers' liability, and crop damage, insurance.[60] As transport insurance other than marine insurance becomes taxable for the first time, provisions in the Principal Act peculiar to marine insurance are extended, where appropriate, to these other types of transport insurance.[61] The rate of duty on insurance business is increased from three *per centum* to five *per centum*.[62] The possibility of tax being levied on a tax is removed by section 2 (6) which exempts from duty sums representing increases in premiums due to increased duty.

The rate of duty on land transfers is increased to one and a quarter *per centum,* when the consideration is less than £3,500, and to one and a half *per centum* when it exceeds that figure.[63] Duty on deeds of settlement and on gifts is doubled.[64]

Duty is now charged on a category of documents known as 'instalment purchase agreements'—a term covering hire purchase agreements (which were previously dutiable), 'credit purchase agreements' (agreements to purchase goods with the payment of the price spread over at least six instalments and over a period of at least six months, irrespective of when property is to pass), and 'rental agreements' (where property never passes in theory but where the 'hirer' pays a nominal rent or nothing at all after having paid at least two instalments).[65] Previously, agreements of the last two kinds have been used to escape duty. The rate of duty on 'instalment purchase agreements' is now double[66] that formerly applicable to hire purchase agreements (generally two *per centum* instead of one *per centum).*[67] If the 'vendor', for constitutional or other reasons, is not bound by the Act, the 'purchaser' is required to pay the duty.[68] Consequently, hire purchase agreements entered into by the Commonwealth Bank (which is not liable for Victorian stamp duty) will still be caught for duty.

[59] Stamps Act 1946, ss. 94, 95.
[60] Stamps (Amendment) Act 1958, s. 2 (2). [61] *Ibid.*, s. 2 (1) (c).
[62] *Ibid.*, s. 2 (12) (b). [63] *Ibid.*, s. 4 (1) (a). [64] *Ibid.*, s. 5 (1).
[65] Stamps (Amendment) Act 1958, s. 6 (2). [66] *Ibid.*
[67] Stamps (Hire Purchase Agreements) Act 1956, s. 3.
[68] Stamps (Amendment) Act 1958, s. 6 (2).

Exemptions from receipt duty are extended by section 3. In view of the increased rates of duty on insurance business, and on their wider application in that field,[69] receipts for insurance premiums are totally exempt.[70] Similarly receipts for water rates and for sums received by cemetery trustees are exempt.[71]

Probate Duty

The Administration and Probate (Amendment) Act 1958 (No. 6478) was passed primarily to provide for increased revenue from Victorian probate duty. However, substantial changes in the law have been made, these relating to duty chargeable on the estate of persons dying on or after 1 December 1958.[72]

Previously a proportionate rebate of duty was allowed in respect of charitable bequests.[73] The actual rebate is increased by allowing these bequests as deductions before arriving at the final taxable balance[74]—so that they are entirely excluded from the calculation of duty. Bequests to a number of bodies such as the National Gallery of Victoria and the Public Library of Victoria are expressly declared to be within the description of deductible bequests.[75]

Concessions on duty with respect to 'quick successions' are made by section 3. Hardship occurred previously when a beneficiary in an estate ('the successor') died shortly after the testator or intestate ('the predecessor') since duty was twice payable on the same property in quick succession. The availability of the concessions depends on the fulfilment of certain conditions. The successor must be husband or wife, parent, child, grandchild, brother or sister or son-in-law or daughter-in-law of the predecessor, and the beneficiary claiming through the successor must be within a similar degree of relationship to the successor. The property of the successor must be identified as representing property in the predecessor's estate but need not be identical with that property. The successor's death must take place within five years of that of the predecessor. The actual reduction of duty will be the appropriate percentage of the duty payable in respect of the property either in the successor's estate or in the predecessor's estate, whichever is the less. The reduction begins at fifty *per centum* for the deaths occurring in one year, and decreases by ten *per centum per annum* until there is a ten *per centum* reduction for the deaths taking place within five years.[76] This provision will be especially helpful where a number of deaths occur in quick succession in the one family, since there is no restriction on

[69] *Ibid.*, s. 2 (1). [70] *Ibid.*, s. 3. [71] *Ibid.*
[72] Administration and Probate (Amendment) Act 1958, s. 1.
[73] Administration and Probate Act 1928, s. 160.
[74] Administration and Probate (Amendment) Act 1958, s. 2.
[75] *Ibid.* [76] Administration and Probate (Amendment) Act 1958, s. 3.

the number of times the provisions may operate on the same property in respect of successive deaths within the relevant degrees of relationship.

A new Third Schedule is provided for the parent Act,[77] setting out four scales of duty whereas formerly there was only one scale, with provision for rebates for estates passing to widows and children.[78] Scale (a) sets out the rates of duty on estates passing to widows, widowers, children under twenty-one, wholly dependent adult children, and wholly dependent widowed mothers. No duty is paid there if the estate's value does not exceed £5,000—beyond that figure the rates are the same as in the old Schedule. The slightly increased rates on estates passing to other children over twenty-one, and to grandchildren, are found in scale (b). The new rates on estates going to brothers, sisters and parents are lower when the estate does not exceed £6,000. Above £6,000 there is a sharp rise. Rates on estates passing to persons not covered by scales (a), (b) and (c) are also greatly increased when the value of the estate exceeds £6,000.

Land Tax

Exemptions from land tax are extended by the Land Tax (Exemptions and Rates) Act 1958 (No. 6447). Owners of land of an unimproved value of £1,250 or less (previously £1,000) are totally exempt from tax.[79] The exemption is decreased by £5 for every £1 in excess of £1,250, so that there is no exemption when the value reaches £1,500.[80] The rates of tax are unaltered.

Building, Housing and Development

Co-operative Housing Societies

Three Acts have amended the Co-operative Housing Societies Act 1957. Under that Act a member of a housing society who entered into a life assurance contract to provide a sum to meet his debt to the society in the event of untimely death, paid his premium to the society, which reimbursed the assurer and recovered any default in payment from the member as an ordinary debt to that society.[81] The societies wished to institute assurance schemes of their own, under which the amount of the endowment would diminish with the member's liability, to allow for smaller premiums. The schemes were simplified by the appointment, by deed, of trustees to act as the assurers' agents, collecting premiums and paying them in a lump sum to the assurers. Because the Crown Solicitor considered that

[77] *Ibid.*, s. 5.
[78] Administration and Probate Act 1928, Schedule 10.
[79] Land Tax (Exemptions and Rates) Act 1958, s. 2 (a).
[80] *Ibid.*, s. 2 (b). [81] Co-operative Housing Societies Act 1957, s. 26 (2).

schemes involving trust deeds were not, 'contracts of insurance', within the Principal Act,[82] it appeared that the societies might be precluded from collecting unpaid premiums. The Co-operative Housing Societies (Insurance) Act 1958 (No. 6461) makes premiums payable to, and recoverable by, the societies, under any contract or insurance policy, legal or equitable assignment or trust.[83] Where a wife is a society member, she may take out assurance on her husband's life,[84] so that the liability may be met upon the death of the breadwinner.

The purchase of 'own-your-own' flats will be facilitated by the passing of the Co-operative Housing Societies (Residential Flats) Act 1958 (No. 6457). The old form of flat ownership involved the formation of a company, the articles of association of which provided that the holders of particular shares were entitled to occupy certain flats in a block. The scrip representing the owner's title, however, was not accepted by societies as security for a purchase loan. This system has been largely replaced by the stratum title form of ownership, where each owner has a freehold interest in his flat, with an absolute right of disposal, but subject *(inter alia)* to a charge of a service company (in which he is a compulsory shareholder) which holds the residual property, maintains the building and pays rates and taxes. The Principal Act is amended so that the stratum estate and collateral interest in the service company are available as security for a purchase loan.[85] Such a loan may be made despite the precedence which the service company charge takes over mortgage repayments.[86] (Co-operative housing society repayments must normally have first charge.) Schemes for the sale of blocks of flats through the societies must be approved by the Registrar of Co-operative Housing Societies,[87] to ensure that the rights of other flat holders are protected.

The Co-operative Housing Societies (Guarantees) Act 1958 (No. 6446) increases the amount of liability which the Treasurer may incur in guaranteeing the societies from £60,000,000 to £70,000,000.[88]

Home Finance

Co-operative housing societies have been permitted to advance money for the erection and purchase of dwellings on *(inter alia)* first encumbrances on rights to occupy residence areas within Division II Part 1 of the Land Act 1958, and on a first lien on improvements on a site held for a residence under a licence under section 138 of

[82] Co-operative Housing Societies Act 1957, s. 26 (2).
[83] Co-operative Housing Societies (Insurance) Act 1958, s. 2. [84] *Ibid.*
[85] Co-operative Housing Societies (Residential Flats) Act 1958, s. 2 (5).
[86] *Ibid.*, s. 2 (8). [87] *Ibid.*, s. 2 (6), (7).
[88] Co-operative Housing Societies (Guarantees) Act 1958, s. 2.

the Land Act—providing in each case a dwelling is built or to be built on the site.[89] The Home Finance Trust is now given similar powers.[90] But valuations of these rights for the granting of loans by the Trust are subject to the same limitations as those valuations made by housing societies.[91] The effect of this extension will be felt chiefly in the old mining areas, where the miner's right was succeeded by the residence area under the Land (Residence Areas) Act 1935.

General

Motor Car

Since there are over 900,000 licensed drivers in Victoria, with an annual increase of the order of 50,000, much clerical work is involved in the issuing of drivers' licences. The burden on the Motor Registration Branch will be greatly lightened by section 2 (2) of the Motor Car (Amendment) Act 1958 (No. 6483), which provides for the issuing of drivers' licences every three years, instead of annually. The Police Commissioner's power to test licensed drivers annually is, however, retained, and the period of cancellation upon failure of such a test is to be twelve months or until the licence expires, whichever is the shorter time.[92]

Under the Road Traffic Regulations, the speed limit for private cars in de-restricted areas is fifty miles per hour. Section 32 (2) (c) of the Motor Car Act 1951 placed a limit of forty miles per hour, in such areas, on cars used for carrying passengers for hire. Discrimination against drivers of taxis is removed by the raising of the latter limit, for them, to fifty miles per hour.[93]

It has been held that the requirement in the Principal Act that a motorist involved in an accident must give his name, address and car registration number to the other party[94] may be complied with by giving such information at a later date than that of the accident, and at a place different from that of the accident;[95] now these details must be given at the scene of the accident and as soon as possible after it.[96] Provisions for the arrest of persons who are suspected of being drunk and who are found in charge of vehicles on the highway[97] are extended to cover those found in the same circumstances in parking areas, drive-in theatres and other places of public resort.[98]

Section 46 of the Motor Car Act 1951 provided that in cases where the driver of a vehicle which had caused an accident could not be

[89] Co-operative Housing Societies Act 1958, s. 3 (2) (d).
[90] Home Finance (Amendment) Act 1958 (No. 6444), s. 2.
[91] *Ibid.* [92] Motor Car (Amendment) Act 1958, s. 2 (3).
[93] *Ibid.*, s. 4. [94] Motor Car Act 1951, s. 77 (1).
[95] *Price v. Mulraney* [1957] Argus L.R. 56; [1956] V.L.R. 677.
[96] Motor Car (Amendment) Act 1958, s. 5.
[97] Motor Car Act 1951, s. 79.
[98] Motor Car (Amendment) Act 1958, s. 6.

found after a thorough search, an injured party might recover from the driver's insurer only if he gave to the insurer a written notice of his intention to claim, and of the grounds of his claim, within a reasonable time after the conclusion of his search. Similar provisions applied where the identity of the vehicle was unknown,[99] and where the vehicle was uninsured.[1] (In the last two cases the notice was to be given to the Minister.) There has been argument as to what should be included in the grounds of claim and in *Bakaj v. Incorporated Nominal Defendant*[2] the Full Court held that the material given in the notice of claim in issue was insufficient, and that the claim therefore failed. To ensure that the rights of an injured party will not be prejudiced by any technical defect in his notice of claim, the Motor Car (Third Party Insurance) Act 1958 (No. 6463) sets out the particulars which must be included in the notice under sections 46, 47 and 49 of the 1951 Act,[3] and provides that if a notice of claim is not made at the earliest possible time, or if it is defective in form, the claim will not fail on that ground if the claimant can show that such irregularity has not materially prejudiced the insurer in his defence.[4]

Police Offences

Amendments have been made to Part IV of the Police Offences Act 1957, relating to gaming. Section 2 of the Police Offences (Gaming) Act 1958 (No. 6480) extends the definition of 'lottery' in section 85 of the Principal Act to cover schemes in which the persons eligible to receive prizes or to participate further are at some stage determined by chance, although a test of skill is also required to be passed. The effect of this provision is to make 'quiz raffles' (which were previously taken outside the operation of the Principal Act by the expedient of asking the ultimate winner 'a simple quiz question') subject to the provisions of that Act. At the same time, some limitations applying to ordinary raffles have been removed; raffles may now be held for the benefit of cultural, sporting and social clubs and associations approved by the Governor-in-Council,[5] and the wider definition of what may be offered as a prize ('any property matter or thing')[6] permits the raffling of houses, animals and trips—all of which could not formerly be raffled.

The prohibition against bookmakers mailing sheets of provisional odds to known customers has been relaxed for certain 'doubles combinations', as it was felt that little harm resulted from this practice.[7] However, this relaxation does not extend to the making of wagers.

[99] Motor Car Act 1951, s. 47. [1] *Ibid.*, s. 49. [2] [1958] V.R. 612.
[3] Motor Car (Third Party Insurance) Act 1958, ss. 2, 3, 4. [4] *Ibid.*
[5] Police Offences (Gaming) Act 1958, s. 3 (a). [6] *Ibid.*, s. 3 (b).
[7] Police Offences (Gaming) Act 1958, s. 4.

Formerly Victoria was the only state in the Commonwealth which permitted live-bird trap shooting. Following a fierce controversy in Parliament and the press, it was made an offence to engage in, or to permit premises to be used for, the trap shooting of live birds.[8] Trap shooting is defined as 'shooting at a bird which is released from a box trap cage or other contrivance used for the holding of a bird, or which, after being held in captivity is released or projected whether by mechanical means or by hand'.[9]

Damage done by careless shooting on the part of trespassers on farm land led to the passing of the Police Offences (Trespass to Farms) Act 1956[10] which applied to land proclaimed as such by the Governor-in-Council following a request by the local municipal council.[11] However, it was discovered that there were some districts (for example, French Island) which did not fall within the jurisdiction of any municipality. The Governor's power of proclamation under the 1956 Act is therefore extended to districts not within any municipality.[12]

Local Government

A government election promise to set up a separate Department of Local Government, in view of the increased burden and more diversified duties imposed on municipal government by Victoria's rapid development in recent years, is kept by the passing of the Local Government Department Act 1958 (No. 6479). The new department is subject to the control of a responsible Minister,[13] who is given power to improve and co-ordinate local government and to control town and country planning.[14] Section 7 (1) and the Schedule expressly provide for the transfer of the administration of certain statutes to the Minister, since this transfer could not have been carried out by the customary executive procedure (as the Acts charge the Commissioner of Public Works with their administration). This sub-section does not prevent the transfer of power to administer other statutes to the Minister by executive act.[15] Legal proceedings having reference to Acts subject to a transfer of power under section 7 (1), to which the Public Works Commissioner or other Minister is a party, will not be substantially affected by the transfer.[16] The new department now has control over a large area of administration formerly subject to the Public Works Department—so that the co-

[8] Police Offences (Trap Shooting) Act 1958 (No. 6488), s. 2 (3) (a).
[9] *Ibid.*, s. 2 (3) (b).
[10] See 'Legislative Summary, Victoria 1956' (1957) 1 *M.U.L.R.* 237.
[11] Police Offences (Trespass to Farms) Act 1956, s. 2 (2), (3). Now consolidated in Division 7, Part VII of the Police Offences Act 1958, s. 229 (3).
[12] Police Offences (Trespass to Farms) Act 1958 (No. 6423), s. 2.
[13] Local Government Department Act 1958, s. 3.
[14] *Ibid.*, s. 4 (b). [15] *Ibid.*, s. 7 (5). [16] *Ibid.*, s. 7 (4) (c).

ordination of municipal councils with bodies concerned with local government, such as the Melbourne and Metropolitan Board of Works, is expedited.

Superannuation

An amending Act has rectified an anomaly with regard to the payment of pensions to widows of persons eligible for superannuation. In 1955 the fraction of the contributor's pension which the widow received was increased from one-half to five-eighths,[17] and at the same time the rates of most contributors' pensions were raised.[18] However, no provision was made for the widow of a person dying before 1958 to take advantage of these increases. Now such widows may claim the higher rate.[19] The rates of pensions for the children (of deceased contributors) who are left with no parents,[20] and for the children of deceased contributors generally,[21] are increased.

A person treated as a 'limited contributor' (one not entitled to full benefits because of a medical defect) may now, at the discretion of the Superannuation Board, be treated as an ordinary contributor on the presentation of a clear medical certificate *at any time* after his initial contribution.[22] The previous limited time was inadequate since the removal of some temporary disability often took longer than the six months allowed.[23]

Friendly Societies

Close supervision of the funds of benefit societies is required to ensure that each fund is self-supporting and covered by members' contributions. However, this need has been partially removed in the case of medical and hospital benefit funds by the Commonwealth National Health Act 1953-1958, which makes provision for special benefit subsidies in case of illness (especially in cases of chronic illness), since payments no longer have to be made solely from contributions received from members. So the requirements, in the Friendly Societies Act 1928, of actuarial investigation and certification of funds of a friendly society,[24] of a quinquennial valuation of its assets and liabilities,[25] and of the certification by the Government Statist of amendments to its rules,[26] are removed in the case of medical and hospital benefit funds[27] save where the society does not accept the Commonwealth subsidies.[28] A further extension of sickness benefits is encouraged by a provision increasing from five pounds

[17] Superannuation Act 1955, s. 12. [18] *Ibid.*, s. 2.
[19] Superannuation (Amendment) Act 1958 (No. 6451), s. 4 (1).
[20] *Ibid.*, s. 5 (1) (a). [21] *Ibid.* [22] *Ibid.*, s. 7.
[23] Superannuation Act 1955, s. 10 (3). [24] Friendly Societies Act 1928, s. 11 (5).
[25] *Ibid.*, s. 14 (1). [26] *Ibid.*, s. 13 (2).
[27] Friendly Societies (Amendment) Act 1958 (No. 6445), s. 2. [28] *Ibid.*

to ten pounds the maximum payments for illness which may be made weekly to benefit society members.[29]

Filled Milk

To protect the Victorian dairy industry and to preserve a high standard of food purity in the state, the Filled Milk Act 1958 (No. 6468) was passed. It forbids the packaging, manufacture and sale of filled milk,[30] which is defined as milk in which butterfat has been replaced by vegetable fats.[31] Penalties of up to £300 are provided for offences against the Act.[32] A system of inspection to police the provisions of the Act is set up,[33] and the duties and powers of inspectors are enumerated in detail.[34] This legislation being affected by section 92 of the Commonwealth Constitution, the sale of filled milk in the course of interstate trade and commerce is expressly excluded from the operation of the Act.[35]

The period, during which officers of the Forest Commission may be granted permits to destroy game which has been damaging plantations, is extended for a further twelve months.[36]

Where an Act repeals an enactment which has itself amended or repealed an earlier Act, the provisions repealed *in* the earlier Act are not revived.[37] However, it has been doubted if the amendments made to the earlier Act still stand after the passing of the later repealing Act. Section 2 of the Acts Interpretation Act 1958 (No. 6182) provides that such amendments will be read into the earlier Act.

A person employed by the Railways Department who had not had two years' service or who had not been appointed to a permanent office in the Department was not a 'railway employé' within section 159 (2) of the Railways Act 1928. Consequently, the only disciplinary power held over him by the Commissioners was one of summary dismissal, since he could not be brought before the Railways Board of Discipline. The unjust and inconvenient sub-section 2 is now repealed,[38] so that all persons employed by the Department may now be brought before the Board of Discipline.

To raise the status and salaries of the two Honorary Ministers, the number of responsible Ministers is increased from twelve to fourteen.[39]

The maximum loan commitments of the Melbourne and Metropolitan Board of Works are raised to £90,000,000.[40] To facilitate office

[29] *Ibid.*, s. 3. [30] Filled Milk Act 1958, ss. 4 (1), 5 (1). [31] *Ibid.*, s. 2.
[32] *Ibid.*, ss. 4 (2), 5 (2). [33] *Ibid.*, s. 6. [34] *Ibid.*, s. 7. [35] *Ibid.*, s. 5 (3).
[36] Game (Destruction) Act 1958 (No. 6175), s. 2.
[37] Acts Interpretation Act 1928, s. 5 (1).
[38] Railways (Employé's) Act 1958 (No. 6183), s. 2.
[39] Responsible Ministers Act 1958 (No. 6428), s. 2 (a).
[40] Melbourne and Metropolitan Board of Works (Borrowing Powers and Debentures) Act 1958 (No. 6430), s. 2.

work, the signatures of Board members and the Board's seal may now be engraved on its debentures;[41] formerly actual signing was required.[42]

To permit the use of cheques drawn by the State Savings Bank of Victoria for payments made under contracts of sale incorporating the conditions in the new Fourth Schedule of the Property Law Act (substituted by section 3 of the Property Law and Transfer of Land Act 1955, or in the Seventh Schedule to the Transfer of Land Act 1954, amendments have been made to these schedules,[43] since the State Savings Bank is not a 'bank as defined by the Commonwealth Banking Act 1945' as required in the schedules.[44]

Once a municipality is declared part of the metropolitan fire district by proclamation published in the Government Gazette, it may now take part in the election of a representative to the Metropolitan Fire Brigades Board,[45] and should it be excised from that district, *ipso facto* it loses this right.[46] These voting rights are expressly extended to three such municipalities.[47]

Provisions for the licensing of inquiry agents and process servers[48] are extended to cover persons repossessing, and seeking to repossess, goods held under a hire purchase agreement.[49]

The Wheat Industry Stabilization Act 1958 (No. 6440) is complementary to Federal wheat stabilization legislation and is required for the operation for a further five years of the 1948 Wheat Industry Stabilization Plan for the marketing of all wheat through the Australian Wheat Board.[50]

The Dog Act 1958 is amended to provide, in effect, that a guide dog for a blind person may go anywhere his master may go,[51] since the extent of the removal in that Act of certain restrictions on the use of dogs for this purpose[52] was doubted. No blind person can be guilty of an offence simply because he takes such an animal into any building or place, or on to any public transport.[53]

Since 1906 it has been an offence for bookmakers at a race meeting to bet with those apparently under twenty-one years, or with women,[54] although people apparently under twenty-one years are the only persons not permitted to wager on the totalizator.[55] The prohibition against betting by women has not been enforced for many years and

[41] *Ibid.*, s. 3. [42] Melbourne and Metropolitan Board of Works Act 1928, s. 193.
[43] Contracts of Sale (Payments) Act 1958 (No. 6433), ss. 2, 3.
[44] The Schedule to the Property Law and Transfer of Land Act 1955, Condition 15; the Seventh Schedule to the Transfer of Land Act 1954, Condition 16.
[45] Metropolitan Fire Brigades (Board) Act 1958 (No. 6434), s. 2 (1).
[46] *Ibid.*, s. 2 (2). [47] *Ibid.*, s. 3 (1).
[48] Process Servers and Inquiry Agents Act 1958; see reference to this legislation prior to the consolidation in 'Legislative Summary, Victoria 1956' (1957) 1 *M.U.L.R.* 234-5.
[49] Process Servers and Inquiry Agents (Repossessions) Act 1958 (No. 6435), s. 2.
[50] Wheat Industry Stabilization Act 1958, ss. 7, 8.
[51] Dog (Guides for the Blind) Act 1958 (No. 6441), s. 2. [52] Dog Act 1958, s. 32.
[53] Dog (Guides for the Blind) Act 1958, s. 2. [54] Racing Act 1957, s. 5 (2).
[55] *Ibid.*, s. 108 (1).

is removed by section 2 of the Racing (Amendment) Act 1958 (No. 6462). Doubts have been cast on the power of the Trotting Control Board to control and license bookmakers. The Board is expressly given such a power.[56]

Wholesale gun dealers are now required to be licensed in the same way as retail gun dealers,[57] to prevent all direct trading to the public in firearms by unsuitable persons. The requirement that a second-hand firearm dealer deal mainly in firearms before he could be licensed[58] has been removed.[59]

Control of the Victorian Government Tourist Bureau is transferred from the Railways Commissioners to the Tourist Development Authority.[60]

The Game (Licences) Act 1958 (No. 6473) requires all persons desiring to hunt ducks in Victoria to take out a licence at the cost of one pound.[61]

The Minister of Transport is empowered to retire workers at the Wonthaggi State Coal Mine who attain the age of fifty-eight years between 1 January 1959 and 30 June 1961, and to pay them the pension they would have received had they retired at sixty years.[62]

All licences issued to pilots permitting them to operate in the Port of Melbourne ('harbour pilots') are cancelled.[63] This completes the amalgamation of the schemes for sea pilots and harbour pilots, so that now all pilots are licensed for Port Phillip Bay.[64] Provision is made for the payment of compensation to holders of cancelled licences until they become entitled to superannuation.[65]

Certain rates levied by the State Rivers and Water Supply Commission were believed to be illegal because the provisions in the Water Act regarding periodic valuation[66] for rates were not complied with. It is therefore enacted that all valuations made between June 1958 and June 1959 are to be deemed to have been properly made.[67]

The pensions of children of deceased members of the Police Force or of deceased police pensioners, are doubled.[68] Under the Police Regulation (Pensions) Act 1955[69] pensioners receiving less than £364 a year gained a pension increase, but those whose pensions exceeded this figure did not. To rectify this anomalous situation, increases are granted to the latter.[70]

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[56] Racing (Amendment) Act 1958, s. 3.
[57] Firearms (Amendment) Act 1958 (No. 6464), s. 2.
[58] Firearms Act 1951, s. 7. [59] Firearms (Amendment) Act 1958, s. 3.
[60] Tourist (Amendment) Act 1958 (No. 6467), s. 3.
[61] Game (Licences) Act 1958, s. 2.
[62] Coal Mine Workers Pensions (Early Retirement) Act 1958 (No. 6475), ss. 2, 3.
[63] Marine (Amendment) Act 1958 (No. 6481), s. 4 (1). [64] *Ibid.*, s. 3.
[65] Marine (Amendment) Act 1958, s. 4 (2). [66] Water Act 1928, s. 308.
[67] Water (Valuations) Act 1958 (No. 6485), s. 2.
[68] Police Regulation (Amendment) Act 1958 (No. 6486), s. 2 (3).
[69] Police Regulation (Pensions) Act 1955, s. 2.
[70] Police Regulation (Amendment) Act 1958, s. 2 (1).