

**Mr. ROSS HUTCHINSON:** It is quite incredible that the Leader of the Opposition should seek to impute sinister motives because someone in Busselton wanted the prohibition taken out of the Water Boards Act to enable a woman to serve on such a board.

It is certainly possible that when the word "male" is removed from the Act some woman in the Busselton area will seek election to that water board. There are only four boards concerned in this matter—the Dunsborough Water Board, the Busselton Water Board, the Bunbury Water Board, and the Harvey Water Board.

In the other bodies about which the Leader of the Opposition was speaking there is, to my understanding, no prohibition or bar to women serving, but it so happens that there is this bar in relation to this particular piece of legislation.

**Mr. Tonkin:** Are you sure of that?

**Mr. ROSS HUTCHINSON:** I really cannot see any need to go on and have a foolish argument about nothing.

**Mr. Bertram:** What about section 26 of the Interpretation Act?

**Mr. Court:** This particular piece of legislation refers to the word "male."

**Mr. ROSS HUTCHINSON:** The Interpretation Act does not cover this situation.

**Mr. Jamieson:** Is there any other Act that might?

**Mr. ROSS HUTCHINSON:** This is a specific fact and I do not want to enter into an argument. Before I formally commend the Bill to the House I would like to say that I would be surprised if anybody gave any real credence to the remarks made by the Leader of the Opposition in connection with what he was pleased to call the sinister behaviour of the Government in relation to a Bill of this kind.

**Mr. Tonkin:** Where will the first appointment be made?

Question put and passed.

Bill read a second time.

#### *In Committee*

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Ross Hutchinson (Minister for Water Supplies) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Amendment to section 10—

**Mr. TONKIN:** The Government should smarten up its legal advisers, because this is another Bill which is not really necessary. The Women's Legal Status Act of 1923 provides—

A person shall not be disqualified by sex from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from being admitted and

entitled to practise as a practitioner within the meaning of that term in the Legal Practitioners Act, 1893, or from entering or assuming or carrying on any other profession, any law or usage to the contrary notwithstanding.

So without this Bill it is quite competent for the Government to appoint the lady from Busselton to the Busselton Water Board.

**Mr. Court:** I do not think that is quite right in this particular case. You are quoting a 1923 Act.

**Mr. TONKIN:** Earlier there was the Act of 1891.

**Mr. Court:** This particular section in the Water Boards Act refers to a male, and it is unusual language to use in an Act.

**Mr. TONKIN:** Surely the Minister is not arguing against the 1923 Statute! My understanding of the language used in the section I have read is that it is all-embracing. It covers not only any law, but also any usage to the contrary notwithstanding. That means every usage. There are a few lawyers in this Chamber who might have something to say about this Act. It seems to me to be crystal clear that the appointment of a woman to a water board, or to any other board—whether or not a male is specified—can be made.

**Mr. Williams:** Does not that section which you have read refer to a profession?

**Mr. TONKIN:** It refers to everything. It would seem that the opinion I formed earlier is correct: that the Government is scratching around for subjects to form the basis of Bills in order to keep the House engaged. If we are not careful we will run out of business and have nothing left for next Thursday.

Clause put and passed.

Title put and passed.

#### *Report*

Bill reported, without amendment, and the report adopted.

*House adjourned at 9.35 p.m.*

## **Legislative Council**

Wednesday, the 3rd September, 1969

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

### **STANDING ORDERS COMMITTEE**

#### *Report Presented*

The Hon. N. E. Baxter presented the report of the Standing Orders Committee.

Ordered: That the report be printed and its consideration made an Order of the Day for the next sitting.

**QUESTIONS (6): ON NOTICE****1. HEALTH***Shortage of Doctors in Goldfields and Country Areas*

The Hon. R. H. C. STUBBS asked the Minister for Health:

In view of the reply to my question on the shortage of doctors in country areas, stating that "The only vacant practice in the country at present advertised is Pingelly"—

- (a) does the Minister know that Doctor A. M. Clark Stephenson arranged to purchase the practice at Pingelly from Doctor Hames;
- (b) is he also aware that Doctor Clark Stephenson's application to lease the Pingelly Shire Council's surgery was rejected by the shire; and
- (c) was the decision by the Pingelly Shire Council to reject Doctor Clark Stephenson's application due to any action by the Commissioner of Public Health, Doctor W. S. Davidson?

The Hon. G. C. MacKINNON replied:

- (a) No.
- (b) No.
- (c) No.

**2. DROUGHT***Declaration by Dundas Shire Council*

The Hon. R. H. C. STUBBS asked the Minister for Mines:

- (1) Is the Minister aware that the Salmon Gums branch of the Farmers' Union of W.A., has requested the Dundas Shire Council to declare the agricultural portion of the shire a "drought affected area"?
- (2) Will the necessary relief that is required be provided as rapidly as possible?

The Hon. A. F. GRIFFITH replied:

- (1) Yes.
- (2) Concessions which have been announced for drought areas will apply in the Salmon Gums district immediately.

**3. *This question was postponed.*****4. WATER SUPPLIES***Key Dam Scheme*

The Hon. R. H. C. STUBBS asked the Minister for Mines:

What are the requirements and procedures necessary for a farming district to be included in the key farm dam scheme?

The Hon. A. F. GRIFFITH replied:

The farm water supply scheme is designed to assist farmers in specified areas outside the limits of the comprehensive water supply scheme to obtain key water supplies on their farms from either surface or underground sources.

Applications from districts seeking inclusion in the scheme should be made direct to the Secretary of the Farm Water Supply Committee, c/o Rural and Industries Bank, Barrack Street, Perth, and will receive consideration on their respective merits.

**5. NOISE ABATEMENT***Legislation*

The Hon. R. H. C. STUBBS asked the Minister for Health:

- (1) Is there any legislation in Western Australia similar to the Noise Abatement Act of Great Britain?
- (2) If not, will the Government give consideration to the introduction of such legislation?

The Hon. G. C. MacKINNON replied:

- (1) No.
- (2) This matter is under examination.

**6. WATER SUPPLIES***Salmon Gums District*

The Hon. R. H. C. STUBBS asked the Minister for Mines:

Will the Government give serious and urgent consideration to the inclusion of the Salmon Gums district in a comprehensive water supply scheme from either the available Esperance supplies or the country water supply from the Coolgardie-Norseman main?

The Hon. A. F. GRIFFITH replied:

The Government is under considerable pressure from many areas both outside and inside the boundary of the present comprehensive water supply area for extensions of the scheme.

With the present and future commitments under the 1963 comprehensive scheme these extensions cannot be considered at present.

**BILLS (2): INTRODUCTION AND FIRST READING****1. Church of England (Diocesan Trustees) Act Amendment Bill.**

Bill introduced, on motion by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

**2. Child Welfare Act Amendment Bill.**

Bill introduced, on motion by The Hon. L. A. Logan (Minister for Child Welfare), and read a first time.

## COLLIE RECREATION AND PARK LANDS ACT REPEAL BILL

### *Second Reading*

**THE HON. G. C. MacKINNON** (Lower West—Minister for Health) [4.42 p.m.]: I move—

That the Bill be now read a second time.

As the message accompanying this Bill indicates, Mr. President, the Bill has been passed in another place and comes to this Chamber for the concurrence of members.

The Collie Recreation and Park Lands Act of 1931 made provision for the vesting of certain reserves in a board under the name of the Collie Recreation and Park Lands Board, consisting of five members. Of these members, one was a person nominated by the Governor; then there was the mayor and a councillor of the Collie Municipal Council; and the chairman and one member of the Collie Road Board.

Consequent on the merging of the two local authorities, the board became defunct and the Collie Shire Council has requested the repeal of the Act to enable it to obtain control of the lands in question and have authority to continue existing leases and to negotiate further leases within the area concerned.

The land in question, comprising Wellington locations 1314 and 4515 and part of Wellington location 4344, contains 576 acres and is held in fee simple by the board. The Bill proposes that this land be revested in Her Majesty and removed from the operation of the Transfer of Land Act.

The shire council requires clarification of requirements for roads and sites to be made available to various clubs and it is the intention—should Parliament approve this measure—that the land, after provision has been made for roads and specific reserves and the inclusion of land in closed roads, be set apart as a new reserve for “Recreation and Park Lands” and classified class “A.” The reserve would be vested in the Shire of Collie in trust with power to lease for the purposes specified.

The rights and privileges of sporting clubs will be preserved, although, indeed, some bodies such as the rowing club and the racing club, are now defunct. Nevertheless, should the clubs be re-established in the future, they will be able to apply to the Shire of Collie for a lease. I commend the Bill to the House.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

## LEGAL PRACTITIONERS ACT AMENDMENT BILL

### *Second Reading*

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Justice) [4.45 p.m.]: I move—

That the Bill be now read a second time.

This Bill inserts into the Legal Practitioners Act a new part VA for the control of certain practitioners.

Since parts I to IV and part VI of the Legal Contribution Trust Act were proclaimed on the 29th March, 1968, consideration has been given to the need for some amendments in order to provide maximum protection for clients of legal practitioners in regard to money held in trust.

Accordingly, it is considered necessary for the Barristers Board to have additional powers under the Legal Practitioners Act to enable, firstly, the freezing of the bank account of a practitioner where there are reasonable grounds for believing there is a deficiency in a trust account or undue delay in properly paying or applying trust moneys; and, secondly, the appointment of a supervisory solicitor to conduct the practitioner's practice for the purpose of concluding or disposing of clients' matters, where such practitioner is unavailable to do so.

Under the provisions of the Land Agents Act, a judge of the Supreme Court, on an application by the Land Agents Supervisory Committee, may order the freezing of a land agent's bank trust account when there are reasonable grounds to do so and may subsequently order that the amount of such account be paid to the Treasurer for distribution to the persons entitled to it.

A similar provision is required in relation to legal practitioners. As the Barristers Board is the disciplinary body for legal practitioners, any application to a judge should be made by the board.

The Legal Contribution Trust has been empowered to receive and determine claims against defaulting practitioners and payment of the proceeds of bank accounts to the trust is desirable in order to enable all claims to be dealt with by one authority.

Recently, in the case of a legal practitioner who had been struck off the roll and was not available in his office, it was found that his clients were greatly inconvenienced, if not prejudiced, by the delay in finalising their business. It is therefore considered reasonable to give the Barristers Board power to appoint a supervisory solicitor for the purpose of dealing with uncompleted matters.

This Bill accordingly provides that where a judge, on the application of the board, is satisfied that there are reasonable grounds for believing, firstly, that there is a deficiency in any trust account of a practitioner; or secondly, that there has been undue delay on the part of the practitioner in properly paying or applying trust moneys to or on behalf of a person for whose use or benefit they have been received, the judge may make an order directed to the practitioner and his bankers and their respective servants and agents, restraining dealings in all or any of the bank accounts of the practitioner, subject to such terms and conditions as the judge may think fit.

There is power also for relocation or varying of such an order on the application of the board, the practitioner, or any interested person. The foregoing provisions deal with restraint on bank accounts. As to control of trust moneys by the trust, a judge in similar circumstances may order that the trust take possession of the moneys constituting the balance of the account and amalgamate them with moneys deposited by the practitioner to the credit of the trust under section 11 of the Legal Contribution Trust Act, 1967.

Here I might add that there is need for a complementary amendment to the Legal Contribution Trust Act, which is the subject of a separate piece of legislation.

Proceeding, the judge may order that the trust deposit the amalgamated moneys in a separate account in the name of the trust and deal with those moneys according to law.

Special powers are granted the board under new section 58D, in the event of an order, other than an order of revocation being made under either of the two preceding sections during the currency of the order.

In that event the board may, on such terms and conditions as to remuneration and indemnity as it thinks fit, appoint a certified practitioner to be supervising solicitor of the practice and may authorise the trust to advance money out of the solicitor's guarantee fund, established by section 16 of the Legal Contribution Trust Act of 1967, to the supervising solicitor for the purpose of carrying on the practice and to the practitioner for his sustenance.

The board may further determine what, if any, proportion of any profit, and costs recovered on account of the practitioner, and what proportion, shall be paid to the trust towards the expenses and remuneration of the supervising solicitor and for reimbursement of advances made out of the guarantee fund.

It is further provided that the supervising solicitor shall conduct the practice for the purpose of concluding or disposing of matters commenced but not concluded on behalf of the clients of the practice and, where necessary, for the purpose of disposing of, or dealing with, documents relevant to such matters.

If an order is made involving the trust, it may, on the certificate of the supervising solicitor, pay to him, out of the moneys deposited in the separate account under the order, such amount or amounts as may be specified and directed in the certificate without inquiring or being liable in respect of the correctness of the certificate or the application of any money paid on it. Furthermore, a judge may, on the application of the board, the trust, or any person interested, give such directions as he thinks fit for the payment by the trust of any part of the moneys deposited in the separate account under the order. I commend the Bill to members.

Debate adjourned, on motion by The Hon. J. Dolan.

### LEGAL CONTRIBUTION TRUST ACT AMENDMENT BILL

#### *Second Reading*

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Justice) [4.53 p.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the current Bill which seeks to amend the Legal Practitioners Act. Its purpose is to insert into the Legal Contribution Trust Act provisions, firstly, for the temporary disposition of moneys received; and, secondly, for the source of moneys to be paid or advanced under the proposals contained in the new part VA to be inserted into the Legal Practitioners Act for the purpose of controlling certain practitioners.

This amendment is required to empower the trust to receive the proceeds of the trust bank account and to dispose of them in a proper manner.

Debate adjourned, on motion by The Hon. J. Dolan.

### FISHERIES ACT AMENDMENT BILL (No. 2)

#### *Second Reading*

**THE HON. G. C. MacKINNON** (Lower West—Minister for Fisheries and Fauna) [4.54 p.m.]: I move—

That the Bill be now read a second time.

In 1965 this Parliament faced up to the very serious situation confronting the rock lobster industry in this State. Catches had dropped to an all-time low of 16,000,000 lb.; the taking of undersized

and out-of-season rock lobster was reported to be rife; fishermen were leaving the industry, and there were grave dangers that a valuable and lucrative activity would be lost to the State of Western Australia.

With the full support of this Parliament rigorous control measures were introduced. At the time some doubts were expressed that these would be 100 per cent. effective. In effect, it has turned out that they have worked better than any of us might have hoped. Nevertheless, it has been necessary, from time to time, to bring further amendments to Parliament. This also was foretold when the original amending Bill was introduced, and is not unnatural. It is extremely difficult to draft any Bill in such a way that it will cover any contingency. The basis, however, is there, and the basis is good.

The Bill which I have the pleasure to introduce today is aimed at covering one or two situations which have arisen in the meantime and in blocking one or two loopholes which, at that time, were overlooked.

For a variety of reasons—not the least of which is the very rigid control agreed to by this Parliament—the rock lobster industry of Western Australia has become even more worth while. From 16,000,000 lb. four years ago, the catch rose last year to an all-time high level of 22,500,000 lb. Many marine biologists consider that this catch was dangerously high.

The recruitment in 1968 of juveniles on to the coastal reefs was dangerously low and indeed, this year, again it was not as high as one might have hoped. This state of affairs does not necessarily give cause for alarm. A lower number of juveniles means more food for those that do exist, hence a more rapid rate of growth. The catch need not necessarily drop alarmingly and, indeed, it is considered that the species is at no grave risk.

It does mean, however, that the total take of rock lobster this year will probably be only in the vicinity of about 18,000,000 lb. The lower catch rate is compensated for by high prices and the industry is in good heart. Some of this drop was occasioned also by a generally low water temperature in the early part of the season. The marine biologists are carefully watching juvenile recruitment on to the reefs in order to keep a close finger on the pulse of the stocks of *panulirus cygnus* which it will be safe to take.

Those members who attended the W.A. Marine Research Laboratories' field day recently will recall being told of the excellent co-operation existing between the Fisheries Department and the Division of Fisheries and Oceanography of the C.S.I.R.O. In relation to the rock lobster research, C.S.I.R.O. has Dr. Chittleborough, Dr. Phillips, Dr. Dall, Dr. Ritz, and Mr.

Rochford undertaking different aspects of research on the Western Australian rock lobster.

One stage of their vital research with regard to rock lobster is life during the larval stage. As most members now probably know, rock lobster eggs hatch in the inshore areas and during the first year of life drift out to sea to an extent of some 200 miles. They return on to the inshore reef areas as juvenile rock lobster.

Research work on drift tides, currents, and general oceanography work is currently being done by the departmental research vessel *Flinders*. This is an excellent research vessel of some 67 feet in length, but it is not adequate for oceanographic research. Some preliminary work in this regard was done by the Navy using the *Diamantina*. There is, however, a very real need in Western Australia for an oceanographic vessel. Australia, at the present time, is without such vessels.

Those interested in fisheries research around Australia are generally very anxious that the Federal Government should accept the responsibility of supplying the necessary vessels for this work. Such ships are quite expensive, costing in the vicinity of \$1,000,000 each. They would need to house something up to 20 scientists and carry a crew of about eight. They would also be expensive to run. It is considered, however, that in the fullness of time, this research is essential from a national point of view and it is hoped, and indeed believed, that ultimately the Federal authorities will accept this.

The rock lobster industry must be saved, not only for itself, but also for the reason that it has given the State of Western Australia an admirable foundation on which to build a diverse fishing industry. Using the boats and the sea knowledge gained by the crayfishermen, excellent prawn fisheries have been established in Shark Bay, Exmouth Gulf, and a small and somewhat intermittent base at Nickol Bay. This year it is firmly believed that a new commercial area will be established at Admiralty Gulf. Investigations are proceeding in other areas adjacent to Admiralty Gulf with good prospects of success. The first purpose-built tuna boat constructed in Western Australia has been commissioned by the Poole brothers after having sold their successful crayfishing boat.

Some 360 tons of tuna have already been taken at Albany. Whilst up to date these fish have been rather on the small side, being mostly something like 20 lb., it is confidently expected that larger tuna will be found and that time will find us having a successful tuna industry. It is anticipated that next year's catch could be as high as 1,000 tons.

Observations have shown that there are quite extensive fields of tuna out from Broome. The department believes that ultimately a tuna fishing operation will be based on that town.

The most recent development in Western Australia has been that of scallops. Some difficulties have been experienced in developing this industry, but most of the difficulties have now been overcome. The others are in process of solution. The Department of Primary Industry is now issuing export licenses for scallops. Many of the members who attended the laboratory field day had the opportunity to try this product. The scallops are on sale locally, and we have great hopes of an expanding industry based on Geraldton, Shark Bay, and Exmouth. Fortunately it appears as though the catching of these creatures will fit in well with the prawning season.

With fishing in Western Australia, however, there are also some very grave difficulties. All fishing in this State—as indeed in most places—is based on the estuary fishing carried out around the south-west corner of Western Australia. Difficulties are being experienced by those fishermen operating in the estuaries along the coast. Their resource is feeling the impact of the expanding tourist activity—amateur fishermen, ski-boat operators, and power boats generally. The Government has engaged the firm of W. D. Scott and Co. Pty. Ltd. to undertake a study into the economic future of the wet fish industry in Western Australia, so that the department will be better informed on the problems confronting this sector of the industry.

Conflict between fishing interests wishing to use certain waters or prey upon certain species will always be an aspect of fisheries management. Despite this problem, however, Western Australia is in the happy situation of being the envy of other States in that we have been able to establish a stable and a developing industry. Naturally these changing conditions mean that from time to time the Act must be changed. The purpose of this Bill is to make certain adjustments necessitated by these changing conditions and to correct certain shortcomings which have become apparent.

The Government has agreed to change the common name "crayfish" to that of "rock lobster" on the American market. The need for this has arisen out of the deliberations of an international codex committee on which Australia is represented. Our member country on the committee, France, is attempting to have all the *panulirid* crustaceans of the world marketed as "crawfish" instead of the accepted "rock lobster." I do not believe France will be successful in its endeavours, but the name in the Western Australian

Fisheries Act should be changed to provide the Australian delegation with additional persuasive powers. Clauses in this Bill provide for the substitution of "rock lobster" or "rock lobsters," as the case may be, in all proclamations, notices, ministerial directions, licenses, etc., in force at the time this amending legislation is proclaimed. Indeed this action takes up most of the Bill.

On occasions, professional fishermen endeavouring to dispose of undersized rock lobster use fictitious names on the bags. These are paid for by the processing firm; that is, in respect of rock lobsters. When the inspector has attempted to trace the original owner of the rock lobster he has, on several occasions, found himself at the residence of quite eminent metropolitan businessmen.

Some amateurs have also used this subterfuge in trying to dispose of an abundance of rock lobster at a processing plant. It is therefore suggested that the person catching the fish should have to place not only his name and place of abode on the bag, but also the registered number of the fishing boat used in taking the rock lobster. Whilst this requirement will probably not entirely stamp out the practice, it will make it easier for the processor to ensure that the correct name and boat number are used, and will tend to assist in controlling the sort of operations I have just mentioned.

When the previous amendments were incorporated in the Act it was laid down in relation to the penalties for undersized rock lobster or underweight rock lobster tails that "if any such rock lobster or rock lobster tails are found on premises which are licensed as a fish processing establishment under the provisions of the Fisheries Act, the licensee of such premises is liable to an additional penalty of \$2,000."

Contrarywise, if undersized rock lobster or underweight rock lobster tails are found in the possession or under the control of the licensee of a processing establishment, but on other premises not so licensed, the additional penalty does not apply.

The purpose of the amendment is to ensure that irrespective of the premises on which undersized rock lobster or underweight rock lobster tails are found, if such rock lobster and tails are in the possession or under the control of a person who is the holder of a processor's license in respect of any fish processing establishment, such person shall be liable also to the additional penalty of \$2,000. At present a person can get out of this by hiring another establishment. I think members will agree that a person should not be able to take advantage of a much lower penalty just by undertaking to pay for storage facilities and putting his illegal rock lobster into such premises owned by somebody else.

I commend the Bill to the House.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

## LICENSING ACT AMENDMENT BILL

### *Second Reading*

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Justice) [5.7 p.m.]: I move—

That the Bill be now read a second time.

This is a brief Bill amending only one subsection of section 44D of the Licensing Act in order to extend the period in which canteen licenses may be issued in certain circumstances.

Section 44D was added to the Licensing Act by amending Act No. 7 of 1956. Its purpose was to enable a canteen license to be granted in such licensing districts as the Governor declares, on the recommendation of the Licensing Court, and it was to have particular application in the northern parts of the State.

By Act No. 42 of the same year, and by No. 85 of 1965, premises situated within 20 miles of licensed premises—namely, those carrying a publican's general license or a wayside house license—became ineligible to hold a canteen license.

In 1967, further amendments were made to this section when it was found, in some remote areas, that construction workers within the prescribed 20 mile radius of a publican's general license or a wayside house license, on account of the topography of the area, were obliged to travel greater distances than those where direct routes were possible. It was considered at that time that these problems would not exist when certain projects in the north were finalised, and power to grant such licenses was therefore restricted to the 31st December, 1969. It can be seen now, however, that projects in the north will go on for some time.

The Licensing Court has advised of licenses which are current under the special provisions made in 1967 and which cannot be renewed after the 31st December, 1969.

When this time factor was being debated in Parliament, it was made quite clear that Parliament would have to make up its mind whether this provision should become permanent, in the light of experience, or be allowed to lapse. In other words, the Government of the day would have to make a decision and come to Parliament with a proposition asking for an extension of time; or to make the provision permanent if it were not to be allowed to lapse with the result of the canteen provisions having no force or effect.

Having considered the provision from all points of view, and in the light of present experience, there appear to be good rea-

sons in the interest of the workmen still engaged in the areas concerned to permit certain canteens to continue to function; and at this point it is proposed to extend the period during which such licenses may be issued until the 31st December, 1970.

Bearing in mind that the Government has appointed a committee to inquire into the Licensing Act, perhaps I should add that I would not have brought this small Bill to Parliament had the question of time not been a factor. As I have already explained, the court has no power to extend these licenses beyond the 31st December, 1969.

In view of the difficult conditions, particularly those in the north, I think it is proper that we do not wait for the report of the committee which has been appointed by the Government; because if we did we would probably have a situation in which many men now working under difficult conditions in remote areas would not have, to say the least, the facility of obtaining a cold beer which the canteen license provision is able to give them.

The Hon. W. F. Willesee: Does this apply almost entirely to the north?

The Hon. A. F. GRIFFITH: It applies to the State, but my particular interest lies in the difficulties which have arisen while the projects are in progress in the north.

Debate adjourned, on motion by The Hon. F. J. S. Wise.

## METHODIST CHURCH (W.A.) PROPERTY TRUST INCORPORATION BILL

### *Second Reading*

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Justice) [5.12 p.m.]: I move—

That the Bill be now read a second time.

This Bill is presented at the request of the Methodist Church. At the present time, each parcel of Methodist land is vested by the Methodist Church Property Trust Act of 1912—a Western Australian Statute—in three or more trustees, appointed as provided in the Methodist Church Model Deed of Western Australia, 1912, and its subsequent variations. This is a document lodged and registered in the deeds office at Perth. Thirty trustees in one case are involved. Each parcel of land is so held for the purposes of the church, subject to the trusts set out in the model deed. The 1912 Act also establishes the offices of custodian and acting custodian of deeds in whose custody are all the documents of title to Methodist land in Western Australia, and whose duties include the keeping of a register of trustees.

The system is a rather unwieldy one and, as a consequence, Mr. Keith H. Olney, as legal adviser to the Western Australia

Conference of the Methodist Church of Australasia, was commissioned by that conference to provide and implement a more modern and simpler system for the holding of the land and other property in Western Australia now vested in or in future to be acquired by the Methodist Church.

The new system envisages the creation of a central body corporate—Methodist Church (W.A.) Property Trust—consisting of the chief executive officers of the Western Australian conference, *ex officio*, and five other members appointed by that conference, and the vesting of all Methodist land in Western Australia in that body, to be held as trustee for the church, subject to trust regulations, which will replace the model deed.

The General Conference of the Methodist Church of Australasia—the supreme governing body of Australian Methodism—at its triennial meeting held between the 12th and the 22nd May last in Brisbane approved of the proposed legislation and of the proposed trust regulations, subject to a minor amendment to which there is no necessity for me to refer, as the trust regulations are not embodied in this Bill.

The general conference this year also approved of similar legislation submitted by Victoria and Tasmania, and gave South Australia permission to proceed on the same basis. Approval was given previously to Queensland, in 1963, and to New South Wales in 1966, so there is now machinery for the new system to become uniform throughout Australian Methodism.

It is of interest to note, with respect to parts IV and V of this Bill, which deal respectively with variation of trusts and incorporation of church instrumentalities, that the procedures set out are distinctive to the Western Australian Methodist Church legislation, and were generally acclaimed at conference; and one State, at least, intends to amend its proposed legislation to include them. This is, I believe, a tribute to the author of this Bill. They do not appear in the draft Acts being prepared by the New South Wales, Victorian, and Tasmanian conferences, but at the general conference here last May, all of the State conferences commended the provisions and intimated that they would probably move to amend their Acts to include them.

Part IV can find a precedent in the Charitable Trusts Act of 1962, where power is given to the court to vary trusts in some cases. Part V has a precedent in subsection (1) of section 21 of the Presbyterian Church Act, 1908, and was inserted by Act No. 19 of 1964, and similar provisions can be found also in section 5 of the Churches of Christ, Scientist, Incorporation Act, 1961, which, incidentally, I introduced into the House on behalf of that church.

Broadly, the proposed legislation provides for—

- (a) The establishment and constitution of the Methodist Church (W.A.) Property Trust as a body corporate.
- (b) The vesting of all Methodist land in Western Australia in the property trust as the single holding body, to be held subject to the trusts set out in the proposed trust regulations. In this connection, I would add that the regulations have already been adopted and will become operative if and when this Bill passes into an Act.
- (c) The abolition of the offices of custodian and acting custodian of deeds.
- (d) The transmission of all Methodist land now vested in trustees under the model deed to the property trust without charge and with exemption from stamp duty.
- (e) Power for the Western Australian conference, in its discretion, to vary the trusts upon which any property in Western Australia granted or devised to the church, or any of its constitutions is subject and to direct the application of such property to some other purpose of the church. This is contained in part IV.
- (f) Power for that conference, in its discretion, by virtue of the proposed Act, to incorporate as a body corporate any church institution which it considers ought to have a separate legal entity and, in some circumstances, to allow an institution so incorporated to hold its property in its own name. Methodist Church institutions at present incorporated under the Associations Incorporation Act will cease to be incorporated under that Act and will automatically become incorporated under the proposed legislation. These provisions are in part V.

I desire members to be aware that it is not proposed to repeal the 1912 Act, as this Act, *inter alia*, approves the union in 1902 of several sects subscribing to the doctrines of John Wesley, and vests their property in the Methodist Church of Australasia. The proposed legislation can quite satisfactorily be read as one with the 1912 Act.

The first day of January, 1970, is inserted as the date on which the proposed Act comes into force, for the reason that the Methodist year is the calendar year and it will be most convenient to implement a new system from the beginning of the year. The church would, therefore, be most grateful if the business of Parliament and the acquiescence of members would permit of this legislation being passed during the first part of this session.

As I said at the beginning of my speech on this Bill, I am introducing the measure at the request of the Methodist Church. Members will see from the notice paper that I have asked for leave to introduce a Bill for an Act to amend the Church of England (Diocesan Trustees) Act, 1898. The approach in that legislation, which will be explained later on, is similar to the provision in the Churches of Christ, Scientist, Incorporation Act, 1961. Legislation of this type has no effect on anybody other than the believers in those particular forms of religion, and I commend this Bill to the House.

Debate adjourned, on motion by The Hon. S. T. J. Thompson.

### LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

#### Second Reading

THE HON. R. H. C. STUBBS (South-East) [5.22 p.m.]: I move—

That the Bill be now read a second time.

The reason for my introducing a Bill to amend the Local Government Act is because of my very grave concern at the many tragic drownings of children in private swimming pools in Western Australia in recent years. To the best of my knowledge, from the information I have obtained, six children have been drowned in Western Australia in private swimming pools since October, 1968, and all of them were four years old or under.

My hope is that if local authorities are given powers to make by-laws for the protection of young children from drowning in private swimming pools, they will readily use that power.

The Bill provides for an amendment to section 6 of the principal Act by inserting after the definition of "powers" the following definition:—

"private swimming pool" means a place or premises situated on privately owned property provided for the purpose of swimming or wading by persons in water specially provided at the place or premises.

He also proposes to amend section 13 of the principal Act by inserting after paragraph (32a) the following paragraph to stand as paragraph (32b):—

- (32b) (a) for the regulation and control of the design, erection, construction, maintenance and fencing of private swimming pools;
- (b) for the proper purification of the waters thereof; and
- (c) for the safety of persons using a private swimming pool.

Many local authorities have requested the power to make by-laws covering private swimming pools, and if this Bill becomes law those local authorities which desire to do so will be able to make the necessary by-laws to cover the position.

In an article in *The West Australian* of Thursday, the 31st October, 1968, the National Safety Council executive director (Mr. R. G. Clark) said that the dangers of private swimming pools, so far as young children were concerned, could only get worse. He added that the council believed that local government bodies should have the authority to enforce safety precautions. The article in the paper went on to say—

Swimming pool safety precautions were outlined by Health Education Council executive officer, J. T. Carr yesterday. They are:

Fence the pool and keep the gate locked when unguarded.

I first got in touch with the Local Government Association of Western Australia by telephone last December and I asked that body for a copy of the draft by-laws which it required. I received a letter from the association dated the 7th December which stated that it had decided to request the Minister to provide power in the Local Government Act for councils to make by-laws relating to private swimming pools. Also, I have a copy of draft by-laws and amendments to the consolidated by-laws of the Shire of Perth. That authority wanted to introduce a number of new by-laws, and to have others altered, but the ones in which I am particularly interested relate to private swimming pools.

The principal proposal of that authority in this connection was to amend section 329E to provide as follows:—

Every swimming pool shall be completely enclosed. The enclosure shall be not less than 4 ft. in height, and so constructed as to be difficult to climb; all gates shall be self-locking with locks placed in a position inaccessible from the outside to small children.

Many private citizens have requested protection for children against the dangers of unfenced private swimming pools. I have conducted my own little survey around the suburbs and during conversation with different people I have asked for their ideas in regard to the matter. Everyone I have contacted has agreed that there should be some protection for children against the dangers of unfenced private swimming pools.

I have received advice from the Women's Service Guide of Western Australia, which is composed of mothers and grandmothers, and other women with young relatives, of

its members' concern at the tragic drownings that have occurred. That organisation, too, believes that something should be done to make it possible for the shires to draft by-laws to cover the position.

Previously I mentioned the Local Government Association and the National Safety Council. Both of those organisations are very much in favour of the protection of young children against the dangers from unfenced private swimming pools. I have referred, too, to the Health Education Council, which also believes that something should be done, as do many local authorities. A Rotary club contacted me and advised that its members will make this matter a project for this coming year—that is, the fencing of private swimming pools. Several service organisations are also interested in the matter.

We must realise, of course, that 90 per cent. of the owners of private swimming pools in the metropolitan area have done the right thing and, by various means, have fenced their pools. In such cases the pools cannot be seen from the road. However, this Bill is aimed at the other 10 per cent. who have built pools but have done nothing about the safety aspect. They disregard their neighbours and have done nothing to make their pools safe from children.

I maintain that if a person has sufficient finance to construct a swimming pool on his private property he has enough money to be able to complete the job and provide fencing of some sort. When I refer to fencing I mean an outside fence. As long as a fence of rigid construction is provided—one over which children cannot climb—and the entrance to the house has a locking device that cannot be interfered with, I would consider it a sufficient fence. Once the Bill becomes law it would be up to the local authorities to make their own by-laws to cover the position.

As I have said, six children of four years of age or under have been drowned in Western Australia since last October; that is, in a period of almost 12 months. Over a 15-month period five children have been killed as pedestrians on the roads. When one considers that there are thousands of motorcars on the road, and thousands of children, it can be seen swimming pools are much more hazardous so far as loss of life is concerned since six children have been drowned in swimming pools over a period of approximately 12 months.

The research which I have undertaken has revealed that no children of four years of age and under have been drowned in our rivers or at our beaches. No children have been killed by electrocution. These examples indicate the terrific hazard which unprotected swimming pools constitute compared with other comparable hazards to children.

The enticement is too great for the innocent mind to resist when children see water. Water is an obvious attraction and cannot be resisted by them, and their curious natures and young minds do not have a comprehension of danger. Consequently, swimming pools are a trap to unsuspecting babies and, after all, that is all a child of four years is. The result of a drowning is great tragedy and grief to the broken-hearted parents and relatives.

The point is that any person in Western Australia can build a completely open and unprotected swimming pool in his front garden. It is possible to build swimming pools a few feet from the footpath and nothing can be done about it. This is simply a trap for children.

This kind of thing is certainly a selfish, I-am-all-right-Jack attitude to adopt and it is very unfair to people who live in suburbs where there are great numbers of children. What a terrifying and horrifying situation this represents for parents who cannot be watching children all the time. Children must be given a certain amount of freedom. Also, their little legs are so quick that they are off in a flash. Every one of us who has had children has had that experience. One thinks one has them under control and, next minute, they are gone.

This is all the more argument, in my opinion, why Parliament should allow local authorities to make by-laws in this regard.

I have checked the statistics not only for Western Australia, but for other places in Australia and also for America, and these tell the same old story. Children of two to four years of age—which is the usual age of children who drown in swimming pools—do not drown in rivers or at beaches. I presume this is because parents take their children to rivers and beaches, where they are under supervision. The parents know the danger in the proximity and, of course, they keep their eyes on the children.

The same thing does not apply to private swimming pools, because a mite may wander away for only a few minutes and a drowning can happen so very quickly. The result is we see terrible headlines in the Press such as, "Tragic Story of Pool Drowning," and, "Small Girl Dies in Home Pool." It is absolutely tragic to read these things in the Press.

I have a great deal of information on this subject, and it all tells the same story. People want swimming pools to be protected. I have in my hand a letter which has been written to me on this subject. I have received similar letters from other people. I will not read the letter; because, as I said, all the documents I have in my possession simply tell the same old story.

In the United States of America there were 230 deaths from drownings in private swimming pools in one year and two-thirds of these were children of under four years of age. The largest number of fatalities

occurred amongst children who were aged two years, and the next highest group of fatalities were aged one year. The remainder consisted of children who were all under four years.

As I have said, I have sought information from all over Australia. One letter I have was sent to me from Brisbane. It says, in part—

I would point out that a number of local authorities have made such by-laws and these incorporate requirements as to safety.

This letter was sent by the office of the Minister for Local Government and Conservation in Brisbane, and the Minister sent me a copy of the by-laws. The main one is that pertaining to fencing. It reads—

- (i) The swimming pool which has the coping thereof less than four (4) feet above natural ground level shall be enclosed by a fence at least four (4) feet high, and so constructed and maintained that a person cannot enter the swimming pool except by climbing over the fence or by passing through a gateway.
- (ii) Every gate in the fence required by clause (i) of this By-law shall be the same height as the fence and shall be so constructed and maintained that a person cannot enter the swimming pool except by passing through the open gate or by climbing over the closed gate.
- (iii) Every gate shall be kept locked except when a person is passing through it or a person is within the fence enclosure.

The by-law then goes on to provide for regular inspections of gates and equipment.

Further, I have a letter from the Minister of Local Government in South Australia who expresses concern about the position. No law on this subject is in force in that State. He says—

Accordingly, consideration is being given to the desirability of introducing legislation to provide controls.

Consequently, the South Australian Government is also awake to the hazards and dangers which private swimming pools represent to children.

As I have said, I endeavoured to obtain information from America as well. I have received information from the Embassy of the United States of America, Canberra. In addition I have literature from the Attorney-General in Florida; from Sacramento, California; Ordinance 89 of the City of Lansing, Michigan; from the City of Los Angeles, U.S.A.; Ordinance 841 of

the City of Las Vegas; and Public Notice, City of Rye, New York. All this literature tells the same story. Private swimming pools in the United States have to be fenced and must have self-locking gates which cannot be entered by children. The authorities prescribe the height of the fences and gates. I will not weary the House by reading all the information which I have, but it is available for any member to see.

I would like to read portion of an article entitled, "Can Home Swimming Pools be Really Safe?" written by Daniel P. Webster. He says—

A toddler, and a home swimming pool . . . an active curious youngster, seduced by the magnetism of water . . . temporarily unattended, and unprotected. . . . These are the components of a tragedy in the making, sleepless nights of soul-searching and remorse, which neither parents nor pool owner will soon forget.

Far too little has been said or written about one of the most important aspects of the "backyard pool"—accidents and their prevention. This is a conclusion which can be drawn from a recent Public Health Service study of pool fatalities in the United States. An analysis of fatalities reported in newspapers for the year 1965 revealed that of nearly 500 deaths in pools of all categories of ownership and management, private home wading and swimming pools accounted for the greatest number of lives lost—230 of the 484 total victims.

In three fourths of the home pool fatalities, a youngster of age under 10 was the victim; in fact two-thirds of all victims were children four years of age or younger . . .

It is not lack of interest in safety, but the lack of centralised reporting of pool accidents that accounts for the apparent unconcern of pool owners and prospective purchasers about the seriousness of the drowning problem.

The article also mentions the mushrooming popularity of swimming pools, which has resulted in a 200-fold increase, and this is increasing every year. Again, this tells the same story which I have related to the House about the inadequacy of protection, and that sort of thing. That is why the States in America, which I have mentioned, brought in safety regulations. The information I have is that this practice is spreading rapidly to other States which have not done something about the problem already. Consequently, members will see that Western Australia—and, indeed, Australia—is a little behind in providing for safety in this regard.

I have a letter from the National Safety Council of Michigan which also tells the same story. I consider I have researched this subject very thoroughly. I have one from Illinois also. I honestly believe I have made out a case for this Bill to be accepted and passed through the House. I hope Parliament will adopt the measure. All drownings in Western Australia except one were as a result of unprotected swimming pools; in that one case a gate was left open.

I have also researched the matter legally and have found what Fleming on the Law of Torts has to say. I will not use his words, which are very involved legally, but the meat of his advice was that if a child has drowned in a private, unprotected swimming pool, his parents can sue the owner of that pool for funeral expenses. Of course, that would not involve a great sum of money. However, should a child be injured in a swimming pool and subsequently partially recover, the owner of the pool could be sued for a very great amount of money if the child had any disability as a result of the accident.

On pages 290, 291, and 292 of the pink pages of the telephone directory a great number of advertisements appear, all of which extol the virtues of swimming pools. Consequently, members will see that very many people are in this business. I will not mention names or any firms, but the advertisements range from "No Deposit" to "Easy Terms." Consequently, pools will become more and more popular, and people will be paying them off. The number of pools will increase greatly and, therefore, the hazard to little children will further increase. If the hazards do increase, then public outcry and demand will make us do something about it. My opinion is that it is necessary for us to act right now, before the situation gets out of hand when hundreds of more pools are built and perhaps dozens more children die.

It must be remembered that there are various ways to fence pools. Fencing does not necessarily mean wire netting. This kind of fencing may be all right in Widgiemooltha, or some remote country town, but perhaps not in Floreat Park. The important thing is to provide protection. Feature fencing, landscaping, and other methods which make for the protection of swimming pools are not unattractive, but they hide pools from public view and, consequently, from the temptation of little children.

I think I have stated a case for the introduction of this measure to give local authorities the power to make by-laws. I hope members will agree to the Bill as I think it has a humanitarian objective. We have nothing to lose in letting the shire

councils bring in their own by-laws. After all, they know their districts and their members are able to assess each district. Therefore, I commend the Bill to the House.

Debate adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

## ADJOURNMENT OF THE HOUSE: SPECIAL

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Mines) [5.44 p.m.]: I move—

That the House at its rising adjourn until Tuesday, the 9th September.

Question put and passed.

*House adjourned at 5.45 p.m.*

## Legislative Assembly

Wednesday, the 3rd September, 1969

The **SPEAKER** (Mr. Guthrie) took the Chair at 4.30 p.m., and read prayers.

### QUESTIONS (35): ON NOTICE

1.

#### BRIDGES

##### *Fremantle*

Mr. **FLETCHER** asked the Minister for Works:

- (1) What is the present anticipated—
  - (a) commencement date;
  - (b) completion date,
 of the bridge planned from Point Brown, North Fremantle to the East Fremantle area?
- (2) Is another traffic bridge planned parallel to the existing traffic bridge, Fremantle?
- (3) If so, what is the anticipated date—
  - (a) of commencement;
  - (b) of completion?

Mr. **ROSS HUTCHINSON** replied:

- (1) (a) No firm programme has been approved. It is possible that construction could commence in the latter half of 1971.
- (b) Approximately two years would be required for construction so that completion could be possible towards the end of 1973.
- (2) No, but when replacement is required it will need to be constructed alongside and parallel to the existing bridge.
- (3) Answered by (2).