

to an action or other proceeding to withhold certain documents from the inspection of the person with whom he is legally contending, may be varied by rules made under the Acts regulating the procedures of the courts and tribunals concerned;

- (2) amending the last mentioned Acts, namely the Supreme Court Act, District Court of Western Australia Act, Family Court Act, Workers' Compensation Act, and Industrial Arbitration Act, so as to enlarge the existing rule making powers to authorise the making of rules of the sort contemplated; and
- (3) amending the Motor Vehicle (Third Party Insurance) Act by making section 33(3) thereof—that is, the 1967 provision to which I have already referred—subject, so far as concerns the time for the production of a report, to the rules which it is now contemplated will be made under the District and Supreme Court Acts. This means that in relation to the reports mentioned in this provision, future rules of court can only control the time for the production of the report. The basic policy is to remain as it is; that is, reports of this kind will not be privileged in any circumstances.

The precise contents of the rules will be largely determined by technical, legal considerations. The judges of the Supreme Court and the Council of the Law Society have a joint committee which is considering these matters. It is anticipated that the recommendations of this committee will provide the basis for rules, not only in the Supreme Court, but in the other courts and tribunals as well. All such rules, of course, will have to be tabled in the Parliament and will be subject to disallowance in the usual way.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Bertram.

House adjourned at 11.22 p.m.

Legislative Council

Wednesday, the 15th September, 1976

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (15): ON NOTICE

1. PUBLIC SERVICE

Appointments: Medical Standards

The Hon. LYLA ELLIOTT, to the Minister for Justice, representing the Premier:

- (1) Has the Public Service Board been reviewing the medical standards for entry to the permanent staff of the Public Service?
- (2) If so, has it reached any conclusion?

The Hon. N. McNEILL replied:

- (1) Yes.
- (2) No. The current medical standard for permanent appointment in the Public Service is normal expectation of life and continued good health. However, the Board is currently considering changing this to one of expectation that a person will be able to work efficiently, with minimal sick leave, for a period of at least five years.

2. FREMANTLE PORT AUTHORITY

Staff Salaries

The Hon. D. K. DANS, to the Minister for Justice, representing the Minister for Works:

- (1) What is the fortnightly salary of the following positions within the establishment of the Fremantle Port Authority—
 - (a) wharf foreman;
 - (b) shed supervisor;
 - (c) assistant wharf superintendent?
- (2) What is the chain of command in respect to these three positions?

The Hon. N. McNEILL replied:

- (1) (a) \$397.00 per fortnight.
(b) \$463.30 per fortnight.
(c) \$441.89 per fortnight.
- (2) 1. Shed Supervisor.
2. Assistant Wharf Superintendent.
3. Wharf Foreman.

3. IRON ORE

Price Negotiations

The Hon. R. F. CLAUGHTON, to the Minister for Education, representing the Minister for Mines:

Further to my question on the 31st March, 1976, regarding negotiations between iron ore producers and Japanese buyers—

- (1) Has the Government yet received any advice from any of the interested parties about these negotiations?

- (2) Have these negotiations been finalised? 5.
- (3) If so, what are the prices obtained?
- (4) Are the producers having to under-bid each other in order to obtain contracts from the Japanese?

The Hon. G. C. MacKINNON replied:

- (1) Yes.
- (2) Yes, Negotiations have been finalised and agreement was reached.
- (3) Average import price per tonne F.O.B.
A\$10.07, April - September, 1976;
A\$11.52, October, 1976-March, 1977;
A\$12.89, April - September, 1977;
A\$13.37, October, 1977-March, 1978.
- (4) The negotiations and prices show that this was not the case.

4. PAROLE BOARD *Filling of Vacancy*

The Hon. LYLA ELLIOTT, to the Minister for Justice:

- (1) Is it a fact that there is a vacancy to be filled on the Parole Board?
- (2) If so, will the Minister ensure that the person appointed is—
 - (a) a woman, in view of the recent amendment to the Act; and
 - (b) a person with expertise in the behavioural sciences?

The Hon. N. McNEILL replied:

- (1) Yes.
- (2) (a) No. The recent amendment referred to reads as follows—
 - (2) Where a general matter or a matter affecting a male prisoner is to be dealt with by the Board, the Board shall consist of seven members, namely—
 - (a) a judge;
 - (b) the Director; and
 - (c) three men and two women appointed by the Governor.

The only vacancy on the Board is for a male member as referred to in (c).

- (b) This will be given consideration.

PUBLIC SERVICE

Duty Hours and Sick Leave

The Hon. D. K. DANS, to the Minister for Justice, representing the Premier:

Has the Civil Service Association given assurances that it will not use a thirty-five hour week and unexpired sick leave entitlement on retirement, if established at the Fremantle Port Authority, as a basis to achieve similar conditions for the Public Service?

The Hon. N. McNEILL replied:

Yes, but on the basis of the 35 hour week and unexpired sick leave entitlement on retirement being confined to the port area alone.

However, it would be quite unrealistic to expect that such assurances could be binding for any length of time having regard to the changing industrial scene and the fact that the Association's policy could change at any time, depending upon the decisions of its Council and Executive.

There is also the usual problem of any decision in this case being used as a basis for claims for flow-on to workers outside the Public Service.

6. WATER SUPPLIES

Country Abattoirs

The Hon. D. J. WORDSWORTH, to the Minister for Justice, representing the Minister for Water Supplies:

What was the capital cost of connecting the following abattoirs to the country water supplies—

- (a) Katanning (Southern Meatworks);
- (b) Albany (Borthwicks);
- (c) Linley Valley (Williams); and
- (d) Harvey (Greens)?

The Hon. N. McNEILL replied:

- (a) The cost of connecting the Katanning abattoirs (Southern Meatworks) to the Department's scheme was \$5 331.06 which was paid for by the Company.
- (b) The cost of connecting the Albany (Borthwicks) abattoirs to the Albany water supply is not available. However, an estimate prepared in 1913 quoted the anticipated cost as \$300.
- (c) The cost of connecting Linley Valley (Williams) abattoirs to the departmental scheme

initially was \$238.94. Subsequently, the service was enlarged at a cost of \$484.75 and all charges were paid for by the Company.

- (d) The Harvey (Greens) abattoirs is not connected to a departmental water scheme and obtains water from the Harvey irrigation scheme.

7.

HOUSING*South-East Province*

The Hon. R. H. C. STUBBS, to the Minister for Education, representing the Minister for Housing:

- (1) How many State Housing Commission homes are there in the municipalities of—
- (a) Kalgoorlie;
 - (b) Boulder;
 - (c) Coolgardie;
 - (d) Dundas;
 - (e) Yilgarn;
 - (f) Westonia;
 - (g) Merredin;
 - (h) Bruce Rock;
 - (i) Narembeen;
 - (j) Kondinin; and
 - (k) Corrigin?
- (2) Is it contemplated constructing any more homes in these areas?
- (3) If so, where?
- (4) Has representation been made for extra housing in any of the above municipalities?

The Hon. G. C. MacKINNON replied:

- (1) This information is available by reference to the Annual Report of the State Housing Commission tabled on the 13th November, 1975.
- (2) Yes.
- (3) Boulder (Adeline), 41; Southern Cross, 2; Merredin, 3; Narembeen, 2; Corrigin, 2.
- (4) Yes.

8.

PAROLE BOARD*Release of Prisoners*

The Hon. LYLA ELLIOTT, to the Minister for Justice:

- (1) How many recommendations for release of prisoners have been submitted by the Parole Board in the past 12 months?
- (2) In how many of the cases were the recommendations accepted?
- (3) Will the Minister indicate the reasons for any rejections?

The Hon. N. McNEILL replied:

- (1) Eight.
- (2) Three, with one still under review.
- (3) No. If the Hon. Member requires details of a particular case, I may be prepared to consider such a request privately.

9. FREMANTLE PORT AUTHORITY*Duty Hours and Sick Leave*

The Hon. D. K. DANS, to the Minister for Justice, representing the Premier:

- (1) Does the Premier and his Government accept as industrially valid a situation where an employee accepting greater responsibilities than another employee whom he supervises, should receive—
- (a) lesser conditions of service;
 - (b) lesser salary?
- (2) Is the Premier and the Government, in rejecting arbitration on a claim for a 35 hour week and unexpired sick leave entitlement for Government Officers of the Fremantle Port Authority, denying an avenue to those people whereby the merit of their claim may be heard?
- (3) In denying arbitration to this group, does the Premier consider that the merit of the claim may be substantiated?

The Hon. N. McNEILL replied:

- (1) Before accepting any situation under consideration as "industrially valid", the Government considers all the circumstances involved.

In the case of the Fremantle Port Authority staff, the circumstances of the situation warrant the attitude taken by the Government. Consideration will be given to any case where an employee receives less salary than another employee whose work he supervises.

- (2) As explained in the answer to Question 6 (2) of September 8, 1976, the matter of a 35 hour week is of such importance that it should not be dealt with through private arbitration. The same applies to the claim for payment of unexpired sick leave entitlement on retirement.
- (3) Because of the importance of the matters referred to in (2) above, it is considered that the Government should retain the right to determine such claims. In these circumstances the question of whether or not the merit of the

claim may be successfully substantiated by private arbitration does not need to be considered.

10. METROPOLITAN REGION TOWN PLANNING SCHEME

Disallowance of Plan

The Hon. **LYLA ELLIOTT**, to the Attorney-General, representing the Minister for Town Planning:

Will the Minister confirm that the Legislative Council's decision on the 4th November, 1975, on the following motion moved by myself, means that the amendment to the Beechboro-Gosnells Controlled Access Highway Scheme became effective as from that date, namely the 4th November, 1975—"That in accordance with the provisions of section 32 of the Metropolitan Region Town Planning Scheme Act, 1959-1974, Plan No. 13/4 forming part of the amendment to the Metropolitan Region Town Planning Scheme, laid on the Table of the House on Tuesday, the 7th October, 1975, be and is hereby disallowed."?

The Hon. **I. G. MEDCALF** replied.

No. The amendment to the route of the Beechboro-Gosnells Controlled Access Highway became effective from the date of the publication in the *Government Gazette* of a Clause 15 Amendment, i.e. 23rd August, 1974.

The 1975 Amendment tabled in the House on Tuesday, 7th October, 1975, did not propose any amendment to this Controlled Access Highway except at its junction with the Roe Freeway Controlled Access Highway.

11. WATER SUPPLIES *Country Areas*

The Hon. **R. H. C. STUBBS**, to the Minister for Justice, representing the Minister for Water Supplies:

- (1) What places constitute the boundary of the piped water supplies to country areas?
- (2) What reservoirs service the water supplies?
- (3) Are there any further extensions planned to provide water to farming areas other than those already provided for?
- (4) If so, what work will be put in hand?

The Hon. **N. McNEILL** replied:

- (1) The boundary of the Agricultural Areas, Great Southern Towns and Goldfields Water Supply Scheme

was described under the Agricultural Areas, Great Southern Towns and Goldfields Water Supply Act, 1947, which was assented to on 10th January, 1948, gazetted on 24th December, 1948, and proclaimed on 1st January, 1949.

Approximately 64 per cent (7.4 million acres) of this area is reticulated and some 0.4 million acres are reticulated outside this area in the vicinity of Kalannie, Koorda, Bencubbin and Wilgoyne.

In general, the area reticulated extends from Dalwallinu-Barbalin in the north, to Wagin-Dumbleyung in the south, with pipeline extensions to Beacon, Kojonup, Gnowangerup and Lake Grace.

- (2) The main supplies are from Mundaring and Wellington Reservoirs with supplementary supplies from Barbalin, Waddouring, Knungajin, Bruce Rock, Wadderin and Kondinin reservoirs, as well as many town water supply dams and ex-railway dams.
- (3) It is impracticable to undertake further extensions to provide reticulated water to farming areas without Commonwealth Government assistance. However, stand-pipe supplies will be provided from the proposed pipelines from Albany to Mt. Barker and Broomehill to Tambellup which will be financed from State funds.
- (4) The Albany-Mt. Barker pipeline will be commenced this financial year and completed as funds are available.

If the necessary funds can be made available, the Tambellup main will be commenced in 1977-78.

12. TRAFFIC *Flinders Bay*

The Hon. **D. W. COOLEY**, to the Minister for Health, representing the Minister for Police and Traffic:

- (1) Does the traffic speed sign, situated on the southern boundary of the Flinders Bay residential area, permit vehicles to travel at the rate of 110 kmh on the 12 ft wide bitumen road between that point and the lighthouse?
- (2) If so, does the Road Traffic Authority consider that this section is in a fit condition to carry vehicles safely at this speed?
- (3) If the answer to (2) is "No", will the Minister, in the interest of road safety, take immediate steps to ensure that the limit is reduced to a speed more in keeping with the state of the road?

The Hon. N. E. BAXTER replied:

- (1) Yes; if it is safe to do so.
- (2) Regulation 1001(4) of the Road Traffic Code states that the setting of an upper regulatory speed limit does—

“... not justify the driver of a vehicle driving at a speed that ... may constitute driving carelessly, recklessly or at a speed, or in a manner, that is dangerous to the public, having regard to all the circumstances: ...”.

The sign referred in the Question is a speed de-restriction sign, which releases a driver from the obligation of adhering to the speed limit in the townsite, following which he is free to drive at a speed consistent with safety in the conditions prevailing.

- (3) The provision of a speed limit is unwarranted in the light of Regulation 1001(4) and the nature of the road.

13. WATER SUPPLIES *Desalination*

The Hon. R. H. C. STUBBS, to the Minister for Justice, representing the Minister for Water Supplies:

Have there been any new or recent advances in the conversion of salt water to fresh water by the CSIRO or any other agency?

The Hon. N. McNEILL replied:
No.

14. HOUSING *Aborigines: Applications*

The Hon. LYLA ELLIOTT, to the Minister for Education, representing the Minister for Housing:

- (1) How many Aboriginal applicants are listed for State Housing Commission accommodation in—
 - (a) metropolitan area;
 - (b) country?
- (2) How many are listed as emergency cases in (a) and (b) above?
- (3) (a) Does the Minister know how many Aboriginal families requiring State Housing Commission accommodation are at present living—
 - (i) in reserve type accommodation;
 - (ii) with relatives;
 - (iii) in the bush, under bridges, etc.;
- (b) if not, will he take steps to obtain this information?

The Hon. G. C. MacKINNON replied:
The information sought will take some time to collate and the Hon. Member will be advised by letter.

15. RIVERS *North-west Flows*

The Hon. R. H. C. STUBBS, to the Minister for Justice, representing the Minister for the North West:

- (1) What rivers in the north of Western Australia have had gauging of river flows carried out?
- (2) What was the result?

The Hon. N. McNEILL replied:

- (1) The following rivers north of the 26th parallel are being gauged:

Wooramel,
Gascoyne,
Minilya,
Lyndon,
Ashburton and tributaries,
Robe,
Fortescue and tributaries,
Harding,
Sherlock,
Maitland,
Yule,
Tributaries of the De Grey,
Fitzroy and tributaries,
Lennard,
Isdell,
Charnley,
Mitchell,
Camp Creek and tributary,
King Edward and tributaries,
Drysdale,
Durack,
Tributary of the Pentecost,
Ord and tributaries.

- (2) Considerable data in tabular form has been collected by the Public Works Department. If the Hon. Member so desires, arrangements will be made for the Department to make this information available to him.

QUESTION WITHOUT NOTICE

PAROLE BOARD

Filling of Vacancy

The Hon. LYLA ELLIOTT, to the Chief Secretary:

In view of the Chief Secretary's answer to my question concerning the vacancy on the Probation and Parole Board, will he now give consideration to the appointment of the Chief Probation and Parole Officer to fill this position in view of the great deal of expertise that officer has and the valuable contribution he could make to the work of the board?

The Hon. N. McNEILL replied:

In reply to the honourable member's question without notice, consideration in fact has already been given to the appointment of the Chief Probation and Parole Officer to the board. So far I have not been prepared to accept that proposition and at the moment I am not persuaded that it is in fact desirable.

The services of the Chief Probation and Parole Officer are available to the board in his expert capacity. All the advice and experience which he has at his command and at his fingertips is available to the board should it be so required. I believe the availability of this advice would obviate the necessity for the Chief Probation and Parole Officer to be actually appointed to the board as a member. The fact that he is there and able to assist the board serves a purpose and leaves the way open for another appointee representing the community, as distinct from the Government service, to be appointed to the board.

LEAVE OF ABSENCE

On motion by the Hon. W. R. Withers, leave of absence for six consecutive sittings of the House granted to the Hon. V. J. Ferry (South-West) on the ground of parliamentary business.

ROAD MAINTENANCE (CONTRIBUTION) ACT AMENDMENT BILL (No. 2)

Recommittal

Bill recommitted, on motion by the Hon. N. E. Baxter (Minister for Health), for the further consideration of clause 3.

In Committee

The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair: the Hon. N. E. Baxter (Minister for Health) in charge of the Bill.

Clause 3: Section 19 amended—

The Hon. N. E. BAXTER: I move an amendment—

Delete clause 3 and substitute the following—

Section 19 of the principal Act is amended—

(a) as to subsection (1)—

(i) by deleting the word "fourteen", in line five, and inserting in lieu thereof the word "twenty - eight"; and

(ii) by deleting the word "seven", in line nine of paragraph (b), and inserting in lieu thereof the word "twenty-one"; and

(b) by adding after subsection (4) a subsection as follows—

(5) The Governor may make regulations prescribing all things that are necessary to be prescribed for the purposes of this section and of section twenty of this Act.

Members will note that sections 19 and 20 of the Road Maintenance (Contribution) Act, which the Bill proposes to amend, refer to the "prescribed form" in respect of matters relating to affidavit evidence. Attention has been drawn to the fact that there is no regulation-making power in the principal Act which would allow the necessary forms to be prescribed. A further amendment is therefore essential to enable the previous amendment contained in Act No. 23 of 1976 to operate. The amendment speaks for itself.

Amendment put and passed.

Clause, as amended, put and passed.

Bill again reported, with an amendment.

PARLIAMENTARY COMMISSIONER ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [4.56 p.m.]: I move—

That the Bill be now read a second time.

The Parliamentary Commissioner Act, 1971 provided legislation in Western Australia which, I am sure all members will agree, has proved effective since its introduction.

The parent legislation was based very largely on the New Zealand Act, which was the first of its type in the English-speaking world, and has been subsequently followed by legislation similar to ours being introduced in other States.

In the light of experience of the operation of the office of the Parliamentary Commissioner since its inception some four years ago, it is now considered desirable to make some improvements, which are relatively minor ones, to enable the office to function more efficiently.

The purpose of these amendments now before the House is not to widen the jurisdiction of the commissioner's office, nor to increase its power, but rather to provide additional safeguards and such changes which will enable advantage to be taken of experience both here and in other States.

At present the Act provides for a Parliamentary Commissioner, or for an Acting Parliamentary Commissioner to be sworn in only by the Speaker of the Legislative Assembly.

Recent experience has shown there can be occasions where the office of Speaker is vacant, and this also applies in the case of the President of the Legislative Council.

For this reason, it is proposed to provide for the oath to be administered, in the absence of the Speaker, by the President of the Legislative Council or, where both offices are vacant, by a person to be nominated by His Excellency the Governor.

Section 15 of the Parent Act is an important provision which allows either House of Parliament, or a committee of either House, or a joint committee of both Houses, to refer to the commissioner for investigation and report any matters which the House or Committee considers should be investigated by him.

In its present form this right is very wide indeed, and it is considered desirable to restrict it so Parliament cannot require the commissioner to investigate a matter beyond his jurisdiction. The amendment envisaged would remove any possibility of the power given by this section being used to involve the commissioner in matters which might be far removed from the type of problem with which the office was designed to deal.

One of the most important rights of the commissioner relates to his authority to call for any relevant documents in the possession of a department of Government or State instrumentality. Experience has shown a similar power is required in relation to the investigation of complaints against local government authorities.

Experience has also shown it is necessary to clarify the powers of the commissioner in relation to the use of documents which come into his possession. As members are aware, the commissioner and every member of his staff has taken an oath of secrecy which prevents the disclosure of information received, except for the purpose of the investigation in hand. There is no such prohibition binding either complainants, departments, or local authorities. For the purpose of protecting both authorities and complainants alike, it is desirable the commissioner should have power to prohibit the disclosure of information sent by him to either authority or complainant.

The proposed amendment is framed in this way as a total prohibition on the disclosure of any document which would have been undesirable. The proposed power would be sufficient to enable the commissioner in appropriate cases to prevent the improper use of any document received from him.

There is also another aspect of the same problem which requires clarification. Under the provisions of the parent Act, there is no privilege attached to any document passing to or from the commissioner, and it is considered this may create a situation of some danger for the parties, or even the commissioner himself. If investigations are to be effective, a frank disclosure of information is essential. It is also necessary a complainant be able to express his complaint fearlessly, and without the risk of facing an action for defamation. To achieve this purpose it is considered desirable all original documents prepared specifically for the purpose of the investigation should be absolutely privileged, and not admissible in any proceedings.

The proposed amendment does not confer privilege or inadmissibility on other material sent to and from the commissioner in the course of an investigation. It is necessary to limit the operation of that section in that way, because both complainants and departments could frustrate the ordinary rights of litigants by sending their entire files to the commissioner, thus rendering every document on the files inadmissible for future proceedings. Since the other documents on the files would not have been prepared specifically for the purposes of the investigation, they will not attract privilege or be inadmissible under the proposed amendment.

There are a number of minor amendments up-dating the parent Act in regard to the right of re-employment of a commissioner who had previously served in the Public Service, and another which clarifies a small point of jurisdiction, and one which clarifies the right of the commissioner to report progress to a complainant; but these in no way amount to changes in the principles of the legislation.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. Grace Vaughan.

AUSTRALIAN CONSTITUTIONAL CONVENTION

Appointment of Delegates—Request for Council's Participation: Assembly's Message

Message from the Assembly as follows now considered—

The Legislative Assembly having this day agreed to certain resolutions concerning the Parliament of this State continuing to participate in the Australian Constitutional Convention, transmits a copy of the Resolutions for the information of the Legislative Council.

The Legislative Assembly requests that the Legislative Council will consider its continued participation in the Convention and appoint Members

in accordance with the Resolutions to act with the seven Members of this House who have been so appointed.

The Schedule.

WHEREAS it is desirable that the Legislative Assembly of the Parliament of Western Australia should by resolution declare its will in regard to the continued participation of the Parliament in the Australian Constitutional Convention and make such decisions consequent thereupon as may seem appropriate; NOW, THEREFORE, the Legislative Assembly resolves to continue to participate in the Australian Constitutional Convention and further resolves:

1. That for the purposes of the Convention—

- (a) the delegation from the Parliament of Western Australia should consist of twelve members of whom seven should be appointed by the Legislative Assembly and five by the Legislative Council;
- (b) the seven members appointed by the Legislative Assembly shall comprise two members from the Liberal Party, four members from the Australian Labor Party and one member from the National Country Party; and
- (c) the five members appointed by the Legislative Council shall comprise three members from the Liberal Party and two members from the Australian Labor Party.

2. That each appointed member of the delegation shall continue as an appointed member while a member of the Parliament of Western Australia unless—

- (a) the House of Parliament by which he has been appointed terminates his appointment; or
- (b) he resigns as a member of the delegation by writing addressed to the President of the Legislative Council or the Speaker of the Legislative Assembly, as the case requires.

3. That the seven members appointed by the Legislative Assembly shall be—

The Hon. Sir Charles Court.
The Hon. D. H. O'Neil.
Mr W. R. McPharlin.
The Hon. C. J. Jamieson.

The Hon. H. D. Evans.
The Hon. A. D. Taylor.
Mr R. E. Bertram.

4. That the Hon. Sir Charles Court or his nominee be Leader of the delegation, and the Hon. C. J. Jamieson or his nominee be Deputy Leader.

5. That where, because of illness or other cause, a member of the delegation is unable to attend a meeting of the Convention, or of a committee of the Convention or of a sub-committee or working party of such a committee, the leader or senior available member of the party from which that member is drawn may appoint an alternate member, and the member so appointed shall be a member of the delegation for that meeting.

6. That the Leader from time to time, make a report to the Legislative Council and the Legislative Assembly respectively of such information and matters arising out of the Convention as he thinks fit, and such report shall be laid on the Table of each House of Parliament.

7. That the Leader and Deputy Leader of the delegation, or their respective nominees, be appointed to represent the delegation on the Convention's Executive Committee.

8. That the Honourable the Attorney General be asked to provide such assistance to the delegation as it may require.

9. That the Legislative Council be informed of this resolution and invited to continue its participation in the Convention on the basis outlined herein.

THE HON. N. McNEILL (Lower West—Minister for Justice) [5.07 p.m.]: I move—

WHEREAS the Legislative Assembly of the Parliament of Western Australia has resolved to continue to participate in the Australian Constitutional Convention and has by further resolution outlined a basis for such continued participation and invited the Legislative Council to continue its participation in the Convention on that basis; AND WHEREAS it is expedient for the Legislative Council to appoint members to be members of the Parliament's delegation to the Convention in place of delegates who are no longer members of Parliament or who wish to retire from the delegation: NOW THEREFORE, the Legislative Council resolves to continue its participation in the Australian Constitutional Convention on the basis outlined by the Legislative Assembly and further resolves:

1. That the following members shall be the members appointed by the Legislative Council to represent the Parliament at the Convention, namely—

The Hon. N. McNeill.
 The Hon. G. C. MacKinnon.
 The Hon. I. G. Medcalf.
 The Hon. D. K. Dans.
 The Hon. R. Thompson.

2. That the Legislative Assembly be informed of this resolution.

Members will recall that a resolution was passed by this House on the 28th August, 1974, resolving to continue to participate in the Australian Constitutional Convention and appointing certain members from this House to represent the Parliament at the convention.

Since that resolution was passed the Hon. J. T. Tonkin had resigned as Leader of the Opposition and the Hon. C. J. Jamieson and the Hon. H. D. Evans were elected as Leader and Deputy Leader of the Opposition, respectively.

Also, members will note that in clause 4 of the resolution it has been decided to include mention of nominees to be appointed by the leader and deputy leader of the delegation in their respective absence from attendance at a particular session of the convention.

Accordingly, a new resolution for this House to pass was in order—even though the composition of the delegates from this Chamber has not changed—and is now submitted for approval.

Question put and passed; and a message accordingly returned to the Assembly.

RACECOURSE DEVELOPMENT BILL

In Committee

The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. N. E. Baxter (Minister for Health) in charge of the Bill.

Clauses 1 to 14 put and passed.

New clause 12—

The Hon. N. E. BAXTER: I move—

Page 10—Insert after clause 11 the following new clause to stand as clause 12—

Representatives of applicant clubs and country associations entitled to appear before Trust.

12. Where an application has been made to the Trust by a club for a loan or grant, the Trust shall afford—

(a) a representative nominated by the club for the purpose; and

(b) the appropriate member of the Board whose appointment to the Board was made on the nomination of a conference of Country Racing Associations or a conference of

Country Trotting Associations, whichever is appropriate having regard to the type of racing conducted by the applicant club,

a reasonable opportunity to appear at and be heard before a meeting of the Trust in support of the application before the Trust makes a final decision with respect to the application.

Several points were raised by members in another place, and in this Chamber, in respect of representation on the racecourse development trust, in that the Bill appeared not to provide for country representation. The Minister responsible for the Bill has agreed to amend the legislation. While not wishing to enlarge the membership of four persons, at this stage, statutory provision to enable representatives of applicant clubs and country associations to appear before the trust is considered desirable.

The proposed amendment also provides for an appropriate member of the Totalisator Agency Board, whose appointment to the board has been made on the nomination of a conference of country racing or trotting associations, to appear before the trust in support of an application.

Although this does not give such persons the right to vote on any particular matter, it will at least ensure that the local region will be adequately served in discussions before a final decision is made in respect to an application.

New clause put and passed.

Title put and passed.

Bill reported with an amendment.

ACTS AMENDMENT (JURISDICTION OF COURTS) BILL

Second Reading

Order of the day read for the resumption of the debate from the 14th September.

Question put and passed.

Bill read a second time.

In Committee, etc.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by the Hon. I. G. Medcalf (Attorney-General), and transmitted to the Assembly.

ADOPTION OF CHILDREN ACT AMENDMENT BILL

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. N. E. Baxter (Minister for Health) in charge of the Bill.

Clauses 1 to 10 put and passed.

Clause 11: Section 23 amended—

The Hon. N. E. BAXTER: During the second reading debate Mr Thompson queried the use of the word "possession" in line 32 on page 5 of the Bill. The advice he had received was that the word was out of place and was not necessary. I would point out that the phraseology in this clause including the word "possession" was placed in the legislation in 1964. It is in section 23 of the principal Act.

I have consulted my legal adviser in the Department of Community Welfare who in turn consulted the Crown Law Department and I am advised by the Parliamentary Counsel that the word "possession" is needed, as are the words "custody or control" which also appear in line 32 of page 5. These words are necessary to remove any doubt when a person does transfer a child somewhere else. It is felt there will be a watertight case in the event of a person being charged and found guilty of an offence of transferring the child without the written permission of the director.

I feel sure Mr Thompson's adviser in this matter would do all he could to try to get his client out from under if the word "possession" were not included in the legislation.

I might add that the legislation before the Chamber is bringing us up to date and placing us on a uniform basis with the other States which have had these amendments in their legislation for some years. The matter has been discussed by all the States.

The Hon. R. THOMPSON: I thank the Minister for obtaining the opinion of the Parliamentary Counsel. I am aware of the fact that the word was included in the Act in 1964 when the Act was amended. I think it is right the matter should be raised, and I feel sure it will be raised again in another place.

If we look at the Concise Oxford Dictionary we find the definition of the word "possession" which reads, "possessing—actual holding or occupancy". That is the law.

I will accept the Minister's explanation at this stage. I am not a legal man and I know that I could have done something about the matter myself when I was Minister. The question put to me was, "How can you possess a child if you are not the parent of the child?" It is on this that the whole matter hinges. We are dealing with adoption where the parent is not involved; it could be someone other than the parent who would have custody or control of the child.

I am prepared to leave the matter there and let the legal eagles in another place fight it out.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. N. McNEILL (Lower West—Minister for Justice) (5.27 p.m.): I move—

That the House at its rising adjourn until Tuesday, the 21st September.

Question put and passed.

House adjourned at 5.28 p.m.

Legislative Assembly

Wednesday, the 15th September, 1976

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

QUESTIONS (30): ON NOTICE

1. "PROGRESS" PUBLICATION

Production and Distribution

Mr JAMIESON, to the Premier:

- (1) Does the Government intend to produce another issue of the publication *Progress* before the next State election?
- (2) If "Yes" when can it be expected to appear?
- (3) How many copies will be produced?
- (4) Where will they be distributed?
- (5) What will be the cost of production?

Sir CHARLES COURT replied:

- (1) to (5) No decision has been made on this matter.

2. DEPARTMENT OF LABOUR AND INDUSTRY

Worker Participation Section

Mr HARMAN, to the Minister for Labour and Industry:

- (1) Has he established within the Department of Labour and Industry a specialist section to provide upon request by both parties information and advice on the voluntary introduction of worker participation?
- (2) If so, who are the officers of this specialist section?
- (3) When were they appointed?
- (4) What qualifications do they hold and/or what prior experience have they in this area?
- (5) If the section has not been established, why not?