

# Legislative Council

Tuesday, 28 April 1981

The PRESIDENT (the Hon. Clive Griffiths) took the Chair at 4.30 p.m., and read prayers.

## QUESTIONS

Questions were taken at this stage.

### EDUCATION: HIGH SCHOOL

*Bentley: Personal Explanation*

**THE HON. R. HETHERINGTON** (East Metropolitan) [4.53 p.m.]: Mr Deputy President (the Hon. V. J. Ferry) I seek leave to make a personal explanation.

Leave granted.

The Hon. R. HETHERINGTON: I wish to correct an inaccuracy in my speech made on the Address-in-Reply debate on Wednesday, 15 April. Normally I would not have worried unduly, but a minor controversy has arisen about this matter in the Press, so I felt I should mention it. I am referring to a statement of mine which appears on page 981 of *Hansard*, in which, in relation to the Bentley Senior High School, I said the following—

It is fed by four primary schools: that is, the Wilson, Millen, Bentley and McKay Street Primary Schools, all of which are in my electorate.

That statement, of course, is not correct. Three of these primary schools are in my electorate, but about half the children attending the Wilson Primary School come from the electorate of South-East Metropolitan. So I wanted to make that clear. I then went on to say—

In other words, the majority of children attending the Bentley Senior High School live with their parents in my electorate and it is their parents' problems that I am worried about.

That statement was accurate. I thank the House for the opportunity to correct my original statement.

### BILLS (3): INTRODUCTION AND FIRST READING

1. Companies (Acquisition of Shares) (Application of Laws) Bill.
2. Companies and Securities (Interpretation and Miscellaneous Provisions) (Application of Laws) Bill.

3. Securities Industry (Application of Laws) Bill.

Bills introduced, on motions by the Hon. I. G. Medcalf (Attorney General), and read a first time.

### THE ASSOCIATION OF APEX CLUBS OF AUSTRALIA

*Appreciation: Motion*

**THE HON. P. H. WELLS** (North Metropolitan) [4.58 p.m.]: I move—

That the Legislative Council of the Parliament of Western Australia records its appreciation to The Association of Apex Clubs of Australia for their 50 years of activities as a young men's Service Club in Australia.

We record that:

- (i) We recognize the worthwhile contribution that the clubs and their members have made, and are making, to the community at National, State and Local levels, ranging from assistance for National Medical Research, to practical welfare assistance for pensioners and community members in need;
- (ii) we welcome the continued development and expansion of Apex Clubs in Western Australia, both as a means of providing an outlet for the personal development of young men, and also of contributing to the development of citizens, and the building of better communities; and
- (iii) we commend the Apex Club for its ideals, which are symbolized in the Apex Badge which depicts the rising sun on an equilateral triangle, the three sides being representative of Citizenship, Fellowship, and Service.

We request that the President convey this expression of appreciation both to the Zone Presidents of The Association of Apex Clubs of Australia in this State, and to their National President.

Henry Ford said "Coming together is a beginning, keeping together is progress, working together is success." Success is something which the Association of Apex Clubs can claim today with more than 800 Apex clubs in existence involving some 18 000 plus members spread

across Australia, South-East Asia, and the Pacific area.

By compounding that figure by the effect obtained by the projects that Apex clubs have undertaken, it is feasible to imagine that millions have gained from the contribution the clubs have made to their individual communities.

We share in the success of Apex through our experience of the betterment and the enrichment of the communities as a result of the clubs' presidents and their activities. Therefore, on this special occasion of the Apex jubilee celebration of 50 years of tireless devoted voluntary work, we pause here at the seat of government in this State to say "Thank you" to the Apexians past and present.

We are proud to say "You have made, and are making, a worth-while contribution to communities in Australia, and our State, and we pray that you continue to strive and perform the good works of which we have seen so much evidence. With such achievements behind you, coupled with your high ideals Apex is sure to have a most fruitful and rewarding jubilee year."

Today's Apexians may face great challenges, but they can take heart by remembering their founders (Sir John Buchan, Langham Proud, and Ewan Laird) the three young architects who, on 10 March 1931, formed the first Apex Club in Geelong, Victoria. Certainly, it was not the best year in which to establish a new group, for this period, with its miseries and injustices, is now referred to as "The Great Depression". R. S. Love and V. M. Branson, in their book *Apex—The First 25 Years*, speak of this period in the following words—

It is not without significance that the Apex movement had its beginning in the period of miseries and injustices which is now called 'The Great Depression'. Following the first World War—the war to end all war—there had been a period when mankind had looked forward to the benefits of peace and prosperity. But the high hopes were not fulfilled and there came the period of general unemployment, the period of stagnation of business, the period of the general collapse of morale. The dark cloud of the Depression obscured the vision and in the minds of men there was raised the haunting fear that all effort was futile.

However there were men who refused to drift into indifference to the needs of the community. They believed that the spirit of man could overcome his material difficulties.

But with so many difficulties to be faced, with so much evil to be matched, a man, fighting singlehanded, could wreck himself financially and physically, without making any lasting impression on the forces opposed to him. His high purpose and great courage could go for naught. No man alone could hope to succeed against the deadweight of the Depression. It was necessary to enlist and organize the forces of decency and to raise the morale through friendly intercourse.

This fact was apparent to Ewan Laird, Langham Proud and John Buchan, young architects of Geelong. They realised that the greatest danger to young men was this depression of spirit and the general collapse of morale. It was not in the character of these young men to sit back and do nothing about such a situation. They discussed the problem and sought means of assisting young men affected by the Depression.

What could be done to raise and maintain the morale of young men?

One of the successes of Apex is that despite the gloom of 1931, it was able to bring a ray of hope—a positive effort in a negative, depressed community. The ray of hope, like the rays of the rising sun on the Apexian badge, has not gone down, and it is to the credit of every Apexian past and present that we have an organisation today; one that the community respects and holds in such high standing because of its proved record of service.

Although 10 March 1931 is recognised as the foundation day of this truly Australian young men's service club, it was really the collective efforts of Buchan, Laird, and Proud in 1930, when they formed the "Geelong Young Men's Business Club" for business and professional men aged between 18 and 35, with none of the classification limits that were usual for a Rotary club, which initiated the association's formation.

It is perhaps interesting to mention the expense which the original 60 members were liable for, remembering that money was something most members did not have in 1931.

The proposed annual membership fee was 5s. compared with \$35 today. The luncheon fee was 2s., compared with approximately \$5 today—the luncheon actually cost 1s.6d. to 1s.9d., the additional amount paying for the guest speaker.

When the first Apexian constitution was adopted in 1931, its article (ii) expressed the ideals that have kept Apex in good stead for 50 years. Today, although the club uses a shorter

version of the 1931 article (ii), it embodies the same ideals. An example is as follows—

**Section I. THE IDEAL OF SERVICE AS  
A BASIS OF ALL WORTH  
ENTERPRISE**

- i. To participate in genuine good fellowship
- ii. To create an interest in other men's work
- iii. To encourage and foster high ethereal standards in business and professions
- iv. To encourage and foster the active interest of every member in the civic, commercial, social and moral welfare of his community
- v. The interchange of ideas and business methods as a means of increasing the efficiency and usefulness of members.

The club was started for young men, and despite one minor amendment to increase the upper age limit of service to enable members to retire at 40 years rather than at 35, the club has discussed on a number of occasions—but has never succumbed to accepting—senior Apexians, or creating an old men's Apex.

This limit on the age group has been responsible for a large turnover of members. Research has indicated that most Apexians serve for six years or less, with only about 10 per cent of the membership being in the 35 to 40 years age bracket. It is usually those Apexians with the extra keenness and driving force—those who have made the zone or national offices—who tend to stay.

Apex looks on this turnover of membership not as a loss to Apex; rather, it would have it said that Apex has developed another citizen.

Rotary has been heavily involved in the formation of the inaugural club, and often has been the driving force in its expansion. At the inauguration of the club, Rotary President Neilson of Geelong said—

Rotary congratulates and will stand behind you in every possible way. Rotary feels that your movement has for its objects something that is closely akin to the ambition of its own Club.

This message of good wishes was reinforced at the 1932 convention with a message of greetings from the founder of Rotary International (Paul Harris) whose message was as follows—

**GREETINGS FROM THE FOUNDER OF  
ROTARY INTERNATIONAL**

Where there's a will there's a way.

Assuming of course, that the will is strong enough. Nothing is impossible to one possessed of a will which is indomitable. Accomplishments, whether they rank as great or relatively insignificant, are generally the result of the application of someone's will power.

In one respect, the Association of Apex Clubs enjoys a great advantage over Rotary. Your field is with the younger men. Their lives are before them and their minds are still receptive. The success of Rotary never could have been achieved had it not been for man's innate capacity for friendship.

If the Association of Apex Clubs will reinforce the work of Rotary by work among the younger men, we shall all have occasion to rejoice, but don't confine your efforts to Australia.

Remember: 'Where there's a will, there's a way'.

Kind regards and best wishes for your success.

Here we have two service clubs working together for their mutual benefit and that of the community.

Apex can be proud that it is a truly Australian organisation today, standing firm on its own two feet as a service club which is making its mark on Australian history.

Apex expanded to Western Australia in 1935 with the formation of the Perth club and today Apex thrives in 81 communities of the State. Many instances of real and meaningful service remain as examples of Apex endeavour today.

- (1) Foundation 41, which provides research for the first 40 weeks of the unborn child and the first week of birth. This research foundation was suggested by Dr William McBride, the doctor who discovered the connection between the deformities in babies and the drug Thalidomide. Apex took up Dr McBride's challenge, and raised over \$400 000 for the research undertaken by this foundation.

On a national level, Apex has been heavily committed to national medical research with projects such as—

- (2) Practical help and support was provided for the sufferers of multiple sclerosis. Around \$350 000 was raised for a research foundation on microsurgery.

- (3) During the Year of the Child, Apex ran a campaign "Help a Kid Make It", and raised \$1.25 million for the Children's Leukaemia and Cancer Foundation.
- (4) It ran a public awareness campaign in the area of drugs, and more recently has raised around \$1 million for research for "SIDS"—the sudden infant death syndrome. Many women in our State would welcome Apexian interest in SIDS when it is realised that the sudden infant death syndrome is responsible each year for the deaths of 43 babies in WA alone.

Hence, at a national level, Apex is playing a major part in medical research. Apexian Bob Gilliver, the 1980 National Service Director of Apex, perhaps stated it more succinctly in his report to the Apex publications zone talks in September 1980 when he stated—

Our zone service schemes are facing up to the challenge of cancer sufferers, the blind, the disabled, school children, and the youth of Australia.

But that is not where the Apex service ends; whilst accepting those tasks on a national level, Apexians continue to support State and local projects as follows—

#### Citizenship

- Organising blood drives.
- Producing publications concerning the history of different localities.
- Organising public speaking competitions.
- Hosting international visitors to the State.
- Providing secondary school scholarships.
- Assisting police and citizens clubs with equipment.
- Organising community fun runs.
- Supporting t-ball clubs.
- Donations of books to school libraries.
- Purchase of aged persons' commuter buses.
- Involvement in plan—supporting overseas families.
- Attendance at local meetings of shire and town councils.
- Hosting refugees.
- Erecting barbecues for public use.
- Student hosting.
- Organising skateboard championships.

The list continues—

#### Service

- Renovating homes of historical interest.
- Assisting riding for disabled centres.
- Building Apex parks and children's playgrounds.
- Carols by candlelight.
- Assisting brain-damaged children.

- Repainting senior citizens' buildings.
- Organising wood for pensioners.
- Pruning trees.
- Assisting meals on wheels.
- Cleaning up of cemeteries.
- Building school halls.
- Collection of old medicines for safe disposal.
- Organising and running community fairs and fetes.
- Distribution of Syrup of Ipecac.
- Erection of beach shelters.
- Arranging for old steam engine to be preserved.
- Arranging for an overseas victim to receive hole in the heart surgery.
- Arranging Christmas dinners for senior citizens.
- Arranging street carnivals.
- Painting old houses for community work and various charity organisations.
- Mowing lawns.
- Cleaning yards of those unable to do the work themselves.
- Rubbish removal.
- Erecting scout halls.
- Running of soap box derbies.
- Organising senior citizens' picnics.
- Building ramps for the handicapped.
- Haycarting.
- Time capsules and memorials.
- Donating overseas bursaries.
- Organising summit clubs.
- Organising apple festivals.
- Assistance for the intellectually handicapped.

Apex is also involved in fund-raising activities over the whole spectrum of the community; I have already mentioned many areas in which the organisation is involved. The association is also involved in the following work on a State-wide basis—

- Apex Jurien Bay camp.
- Apex holiday camp for civilian widows. Point Peron.
- Purchase of an aerial ambulance for St John Ambulance Association.
- Publishing of WA businessmen's handbook.
- Assisting with 1979 paraplegic games.
- Assisting with 1979 Scout Jamboree.
- Operation jobseeker.
- Raising funds and providing assistance for cyclone "Alby" victims.
- Raising funds and providing assistance for Carnarvon flood victims.
- Raising funds for community work through the Quest of Quests competition.
- Arranging building of Wright Memorial centre for the aged.

There is no doubt that the contribution of Apex is a worth-while one. The list of jobs speaks for itself.

The more Apex expands, and the greater the number of clubs in existence, the better it will be for this State, because as well as being a service club in the true sense of the word, Apex provides for its members an area of personal development, by fostering the development of management confidence and public speaking skills. Men grow and develop as they share in fellowship and service. This development is not in the classroom style, but one that is tempered with fellowship and service. Hence, Apex offers to the young men of our State an opportunity to gain experience in new skills and enjoy themselves while learning.

The ideals of Apex, the cornerstone of the association, are symbolised by its badge, depicting the rising sun and five rays of sunshine on an equilateral triangle, symbolic of the rising of youth. The three sides of the triangle remind Apexians of the ideals of the club, with the base representing citizenship, and the sides fellowship and service.

The early ideals of the "Young Businessmen's Club of Geelong" are today embodied in the following three-part statement on the aims and objectives of the Association of Apex Clubs—

1. To develop by precept and example a more intelligent, aggressive and serviceable citizenship.
2. To provide a practical means of forming enduring friendships, and of rendering altruistic service, and of building better communities.
3. To foster International Fellowship by establishing contacts with youth in other lands.

These ideals are high ones, and indeed have played a major part in keeping the club to its original purpose.

Today we live in a community that is richer and better because of the service and the example of men who, through the avenue of Apex, have given of their time, unselfishly, for the service of mankind.

Service such as that which Apex renders cannot always be measured in dollars and cents, for it is manifested as a quality of life, and an attainment by the community of new and better standards. It would be true to say that Apexians, by their service, provide the community with an example of brotherly love.

I commend the motion to the House.

**THE HON. R. G. PIKE** (North Metropolitan) [5.15 p.m.]: I second the motion.

**THE HON. D. K. DANS** (South Metropolitan—Leader of the Opposition) [5.16 p.m.]: I have much pleasure in supporting the motion moved by the Hon. Peter Wells. I am not sure whether this is the right arena in which to move this type of motion, because it could become a never-ending process. However, I know Mr Wells has moved this motion with the best of intentions and the utmost sincerity.

Recently, in company with the Minister for Local Government, I had the privilege to attend a function held in honour of the 50th jubilee of the Apex clubs. At that dinner I recorded my appreciation for the work carried out not only by Apex clubs, but also by all service clubs which operate in this State and in Australia generally. That was the appropriate forum in which to honour Apex.

The community at large does not fully appreciate the role played and the contributions made by service clubs. To some extent, the clubs are a little deficient in that they do not publicise the good work in which they are involved, but perhaps this is due to lack of funds. As the economic situation becomes a little tighter, there will be a greater need for the work performed not only by Apexians, but also by members of other similar clubs which are dedicated to helping the community.

It gives me great pleasure on behalf of the Opposition to support the motion moved by Mr Wells.

**THE HON. I. G. MEDCALF** (Metropolitan—Leader of the House) [5.18 p.m.]: The Government is most happy to be associated with the motion moved by the Hon. Peter Wells. It is a cause for congratulations to Apex that it has, after a very humble beginning on the part of three young men about whom we have heard already tonight—they founded Apex in Geelong 50 years ago—carried out its good work for half a century.

On 23 January last I was fortunate to attend a function which was held to mark the opening of the jubilee year of Apex in Western Australia. Similar functions were held throughout Australia and I attended the one held in Perth. On that occasion comments were made about the work of Apex. I listened to those remarks and I was familiar with the work of Apex as a result of the study I had carried out prior to this launching ceremony.

I have also a copy of the book *Apex—The First 25 Years* and it is very interesting. It was written after Apex had been in operation for only 25

years, but it provides a fascinating account of its beginnings. The copy I have in my hand was obtained from the Parliamentary Library and I commend the reading of this book to all members.

I am well aware of the many good works performed by Apexians and I realise that, after reaching the age of 40, men must leave the organisation. It provides an excellent opportunity for capturing the enthusiasm and energy of young men in the community up to the age of 40 years. Most Apexians are busy men and they devote at least four hours a month to various types of voluntary work.

Few people would be aware that, in my district, the Apexians repaired the broken picket fences around pensioners' houses. This was most helpful, because elderly pensioners are unable to carry out some tasks which can be performed easily by younger people. This service was provided 25 or 30 years ago and, although I was not an elderly pensioner, my brother-in-law, who was an Apexian, mended my fence also. I was very touched by that gesture and I could see the excellent work they were performing for elderly people.

Apex is a fine organisation and I congratulate it on its good work over the years. I am sure all members would like to congratulate the organisation on the advent of its jubilee. We wish all Apexians well and express the hope that they will go on to greater things in the future.

I support the motion.

**THE HON. TOM KNIGHT** (South) [5.22 p.m.]: I rise to support the motion moved by the Hon. Peter Wells and to congratulate Apex on its attaining 50 years of service to the community.

I am a life member of the Albany Apex Club which I believe is a great honour, because as has been mentioned already, Apexians must leave the club after they have turned 40. Therefore, I point out to members that they still have a member of Apex in the House, even though he is not a practising one.

It should be pointed out also that Apexians who have passed the age of 40 have formed an older members' Apex club, because they wished to continue their contribution to the community. That club is known as OASIS which stands for "Old Apexians Still In Service". I believe there is an active OASIS club in Perth and there are others in existence throughout Australia. Rather than join another service club, these particular gentlemen who have strong ties to Apex, have formed what they call the "Old Apexians" through OASIS. Several clubs have been formed over the years by members who have had to move

out of Apex because of the age bar. I was a member of one of these clubs which was formed in 1974, the year in which I officially left Apex. It was called the Club of 74.

Apex has contributed a great deal to the community. I will not go into its activities in great detail, because the Hon. Peter Wells has done so already. However, I should like to refer members to the ideals of the Association of Apex Clubs which read as follows—

To make the ideal of service the basis of all enterprise.

To develop by example a more intelligent and aggressive citizenship.

To provide a means of forming enduring friendships, rendering altruistic service, and building better communities.

To promote international understanding and friendship.

I believe that, during the time I was a member of Apex, international friendship was created. The Hon. Peter Wells pointed out that Apex clubs extend throughout the southern hemisphere, including Japan and other countries north of Western Australia. The friendship created by Apex has been of great benefit to the Australian community and the association has been of benefit to all countries.

Apex is also a member of the World Organisation of Young Men's Service Clubs. Each year the Apex clubs in Australia send delegates to attend a meeting held by this organisation in either America or Europe. Other associations which attend the meeting include the International Kinsmen Club and the Active 20-30 of America and Round Table of England and South Africa. All these organisations have as their aim the desire to keep young people working in the community.

Albany has an Apex youth centre. The collection of the money for the construction of this centre and the actual building of it were carried out by Apexians at Albany. The Apex drive, an Albany tourist attraction to the top of Mt. Clarence, constructed and financed by Apexians, was organised by Apex and assisted by the total community. There is also an Apex hockey field in Albany. I was the president of the youth centre building committee and, over a period of seven years, Apex was responsible for the construction of this three-storied building. When one bears in mind that a great deal of the work was carried out at weekends, one realises what an excellent facility has been provided by these young men who have given their service to

the community and the youth of the Albany region.

The Apex club in Albany has contributed to a large extent also to the acquisition of medical equipment for the hospital and, for many years, it financed the air ambulance service between Albany and Perth. The club supplies a great deal of equipment to the hospital and to the St John Ambulance Association. It is also involved in a number of other community activities: in all it is a great asset to the town.

The Leader of the House and the Leader of the Opposition have set out clearly the high standing of Apex in the community and, as a life member of Apex, I should like to record my appreciation for the good work it has done and also my congratulations to the Association of Apex Clubs on their anniversary.

Question put and passed.

## LAW REPORTING BILL

### *Second Reading*

Debate resumed from 25 March.

**THE HON. J. M. BERINSON** (North-East Metropolitan) [5.26 p.m.]: The Opposition supports this Bill, although I am bound to say its decision to do so would have been easier if the Bill or the Attorney General's speech had indicated more clearly how its provisions are intended to be applied in practice. The Opposition believes also that the form of the Bill is excessively negative and that it is obscure in important respects. Attention will be drawn to these matters both in the present debate and at the Committee stage.

As I understand the Bill, it has three main objectives. In the first place it seeks to put beyond doubt the copyright of the State in the written judgments of its courts. Secondly, it empowers the Attorney General to authorise printed reports of those judgments. Thirdly, it establishes a law reporting advisory board to advise the Attorney General in the exercise of his relevant powers and duties.

The argument for Crown copyright is not contentious, although its background involves some interesting history. As the Attorney General says, the Western Australian Government has always asserted that the copyright in written judgments belongs to the Crown in right of the State. That appears to be a reasonable enough assertion and certainly it is one which has been made regularly by other similar Governments. Somewhat surprisingly, however, there is very little law on this subject, so little in fact that a former Chief

Justice, the late Sir Albert Wolff, eventually said there was none.

Since the law, like nature, abhors a vacuum, Sir Albert, as I understand it, then solved the problem thereby created by claiming the copyright for himself. He then authorised the Law Society to act on his behalf in arranging for the printing of Supreme Court reports: the council in turn set up its Council of Law Reporting; and, assisted by what one might refer to as the benign neglect of successive State Governments, the *Western Australian Reports* were printed happily ever after.

Now we are told by the Attorney General that the *Western Australian Reports* will continue to be printed in exactly the same way, except that they will be printed legally.

Given copyright in the Government, the more substantive question arises as to its intended use. In this respect it would be helpful if the Government would indicate what benefits by way of more extensive, accurate, or prompt reporting it has in mind. At the moment we have the *Western Australian Reports* which contain reports of Supreme Court proceedings only. They have done so for many years and the Attorney General indicates that no change in present arrangements is contemplated. We have also seen the first part of the first volume of the *State Reports of Western Australia*. This series has been established to provide reports of decisions of the District Court, and of the Family Court in its non-Federal jurisdiction. The recent initiative to establish this series was welcome, but the Attorney General has made no comment on his likely attitude to its continuance.

This is in marked contrast to his comments on the WAR and some statement by him in respect of the new series would appear to be called for. In the same context one would have expected—and I now request from the Attorney General—an indication of his intentions in respect of other series which have traditionally reported Western Australian cases.

The Federal reports and the CCH Family Law Service, for example, report decisions of the State Family Court exercising its Federal jurisdiction. Other specialist series have done the same in areas such as taxation. The *Commonwealth Law Reports*, the *Australian Law Journal Reports*, and the *Australian Digest*, to mention some others, have also regularly reported decisions in this State.

So far as I am aware, all these series are respected for the services they have provided, and there is no apparent reason to interfere with them.

If the Government does not intend to interfere with them, it should say so in the same way it has indicated its intentions with the WAR. Conversely, if there is to be some interference with existing publishing services, the Government should also clearly say so, and why.

The inclusion of the Workers' Compensation Board in the Act is especially welcome and recognises the serious detriment to that jurisdiction and its practitioners from the unavailability of collated judgments. The move would be even more welcome if the Attorney General could advise us of any arrangements, or prospects of satisfactory arrangements, for the publication of an appropriate workers' compensation series. Certainly the least that could be said in this respect is that the availability of some such service is long overdue.

Before leaving this aspect of the Bill, I would commend to the Attorney General a further widening of the definition of the word "court" so as to include, at least, the Industrial Appeal Court. This court is constituted by three Supreme Court judges and is the final appellate body on industrial arbitration law, and it functions in a vital and sensitive area. One has only to note the proportion of industrial law cases before the High Court, as reported in the CLR, to appreciate that. True enough the decisions of the Industrial Appeal Court are published in the *Western Australian Industrial Gazette*, but this is a cumbersome and fairly hopeless alternative to a regular law report series. I put to the Attorney that proposal for a simple expansion of the Act, as presently drafted, and I would appreciate his comments on it.

I come now to the Bill itself, and I refer in the first place to the definition of the term "law report". This definition is expressed in the negative and this, I suggest, is a most undesirable form. The definition reads as follows—

"law report" does not include a report of a judicial decision of a court in the State published in a newspaper or other news media or in a professional or like journal if such report is not or does not purport to be part of a series of law reports.

Having read that definition we can be reasonably sure as to what "law report" does not include, but still are left with no clear idea as to what it does include. By inference, however, it would appear that we are meant to understand that the term "law report" means "a report of a judicial decision of a court in the State, which is, or purports to be, part of a series of law reports". Reducing this to its essentials leaves us with the

proposition that a law report is part of a series of law reports. This is purely and simply tautologous.

As if that were not bad enough, the definition involves many other obscurities. What precisely is meant by the statement that "law report" refers in some way to a report of a judicial decision of a court?

In his second reading speech the Attorney referred consistently to the claim of copyright in written judgments—"written judgments" being his words and I stress them because it appears to me that the term "judicial decisions" connotes something different and much wider than a judge's "written judgments". Textbooks are full of reports of judicial decisions though not of complete written judgments. Which, precisely, is intended? What, precisely, is meant? And whatever is meant, why cannot the Bill be amended to say so clearly?

I draw attention in the same definition to the reference to courts in the State, emphasising the word "in". The Federal Court is a court which sits in this State and so does the High Court from time to time. It is hardly likely that we would now be claiming copyright over courts such as these which are not within State jurisdiction and I also suggest to the Attorney General that the phrase "court in the State", wherever appearing, would better be expressed as "courts of the State".

I refer finally and briefly to the proposed law reporting advisory board. It may well be that I am oversensitive to the creation of new statutory organisations since our recent consideration of the numbers of such bodies which we already have. Nevertheless, I still wonder whether the functions of the proposed board might not be performed on a less formal, and less costly, basis. The proposed board is to have one judge of the Supreme Court; one judge of the District Court, Family Court, or Workers' Compensation Board; three legal practitioners nominated by the Law Society; and one legal practitioner nominated by the Attorney General—in total then, two judges and four legal practitioners.

This is no different in principle and very little different in detail, from the existing Council of Law Reporting as constituted by the Law Society. This has one judge and four legal practitioners, though one of the latter is not in active practice, but represents the Law School. If anything, the inclusion in the council of an academic is preferable to the board's proposed structure which has no such requirement.

At least equally important is the consideration that the services of council members are voluntary



whereas board services will presumably be paid. If I am wrong in this I would be happy to be corrected. If not, I would ask the Attorney General to advise the House of the estimated annual costs of the board, including the cost of supporting staff and services. The tradition of voluntary work by the profession in this area is a proper and desirable one. It would be a shame, in my opinion, to disturb that in the absence of some compelling reason of which we have so far had no indication.

It will be apparent from these comments that the Opposition's support for the Bill is in recognition of objectives which to some extent we take on trust, and subject to reservations which we ask the Attorney General to consider seriously, and in the positive spirit in which they are advanced. The Bill obviously could be improved by relatively minor amendments and I suggest to the Attorney General that he allows himself time before the Committee stage to consider that possibility.

**THE HON. H. W. OLNEY** (South Metropolitan) [5.40 p.m.]: As a consumer of law reports I would like to make a few comments on the Bill. I have, in fact, been reading a law report while listening to the Hon. Joe Berinson and during the previous debate. I was able to hear enough of what my colleague said to be interested in speaking very briefly, because like him I have had a particular interest in workers' compensation cases in this State over the years. In fact, since 1948, the Workers' Compensation Act has included a provision that decisions of the board are to be made available to all authorised insurers, but this practice ceased many years ago and I think the last published workers' compensation decision is something like 17 years old at the moment. However, my colleague, the Hon. Joe Berinson, would be pleased to know that the Bill introduced in another place on 16 April contains a provision that requires a quarterly publication of all written and extempore decisions of the Workers' Compensation Board to be published by authority of the board. So it would seem that the role of the law reporting council, or whatever it is to be called, will be pre-empted by that new legislation. The real reason I rose was to comment on the importance of law reports and law reporting. Under our system of law and of justice we cannot find all the answers by looking at the Statutes of Parliament and regulations and delegated legislation made under the Statutes. There is a vast body of law which we call common law and also a vast body of law which is a gloss on the Statute law; that is, the interpretation of the Statute law which we cannot find in the Statute

book and we have to go to the law which we cannot find in the Statute book. For this we have to go to the law reports which, under our common law system, have been published for 700 to 800 years or maybe even more. It is all very well to have these judgments published, but for one to be able to find what one wants when one wants it is another proposition altogether.

Let me give an example. I refer to the recently published bound volume of the 1979-80 *Western Australian Reports* which arrived on my table last week. The Parliamentary Library has not yet received its copy or I would have brought it with me. However, having an interest in workers' compensation, as some members know I have—and we will probably hear more about it before this session is concluded—I always look to the index of a new volume when it arrives to ascertain whether it contains any particular cases which ought to require special study. We get loose parts on a weekly or monthly basis—later these are bound—but these parts do not have a consolidated index. When I perused the 1979-80 law reports to ascertain what was included under workers' compensation, I found no reference to any new cases reported in 1980. I thought this was odd because I knew that a number of cases in which I had a special interest had been reported in 1980. Consequently I thumbed through the pages and found three important cases.

The reason I am relating this incident is to indicate that unless the law reporting is done efficiently and in a manner to enable the consumer—whether he be a legal practitioner or a member of the public—to gain access to the reports in an orderly fashion, then the process of law reporting is useless.

I hope—although it is perhaps a vain hope in view of what has been said in this debate and in the answer the Attorney General gave me a couple of weeks ago—that the introduction of this Law Reporting Bill and the organisation it seeks to set up will, in some way, impose a quality control upon the publisher of the WAR.

As I understand the situation, the WAR has been published, as a series, for 21 years on the sayso of the Law Society and on the approval of Sir Albert Wolff and that practice has continued without any contractual arrangement, but with the approval of the Attorney General.

I hope something will be done to ensure that a high standard of law reporting is observed, and particularly in the indexing, which is the crux of any professional textbook. The indexing must be done in a professional manner as must be the

headnotes, which are the summaries which appear before the judgment is printed. Some of our law reporting leaves a lot to be desired in that in the headnote one can find snippets of comments made by three or five judges on a particular subject matter, without coming to grips with the actual decision of the court. I support the Bill.

Debate adjourned, on motion by the Hon. Margaret McAleer.

## JURIES AMENDMENT BILL

### *Second Reading*

Debate resumed from 1 April.

**THE HON. J. M. BERINSON** (North-East Metropolitan) [5.47 p.m.]: The Opposition supports this Bill. As the Attorney General indicated in his second reading speech, it is a measure which applies to procedural questions and not to any principles involved in the operation of the jury system. It seems to hold the prospect of greater economy, from the State's point of view, and less frustration for those persons who are called for jury service.

On that basis, the Opposition indicates its support of the measure.

**THE HON. P. G. PENDAL** (South-East Metropolitan) [5.48 p.m.]: I rise to support the Bill and in particular to raise with the Attorney General a matter which should receive more attention in the rewriting of the Juries Act.

The major change regarding the exemptions seems to be that the claim for exemption will now be made at a different point in the proceedings. At present, anyone who is on the draft jury roll can claim exemption even though he may never be called upon to do jury service; that means that in the final analysis there is a great deal of time spent by the staff of the Sheriff's Office in investigating the claims for people who will never be called upon to do jury service.

I understand the new procedure will cut substantially the paperwork done by the Sheriff and his staff while at the same time, it will still allow people to lodge a claim for exemption. So, to that extent the opportunity for a citizen to claim an exemption has not been altered at all.

However, I make the suggestion to the Attorney General that the system still needs some refinement. This is required to widen, in some way, the exemption processes without advantaging people who merely wish to evade what actually amounts to a civic duty.

A list of occupations which are automatically exempted from jury service is attached to the original Act under the second schedule. I suggest

that the list discriminates against one important section of the community.

The occupations included in the automatic exemption list are those of dentists, legal practitioners, members of Parliament, the academic staff and Secretary of Murdoch University, pharmaceutical chemists, school masters, school teachers, shire clerks, and town clerks. There is less reason for the exemption of many of those people than there is for another category, such as in small businessmen.

It seems to me to be a little old-fashioned or, at the very worst, a measure of discrimination against the small business community which makes up a large part of the employer section of the State. It has been suggested that people in occupations such as those of dentists, academics, and shire or town clerks, can automatically gain exemption whereas people involved in small businesses have to seek an exemption, and there is no guarantee that it will be granted.

Perhaps someone can explain to me the reason that dentists, academics, and others may gain automatic exemption because they have clients to look after, but that other people, such as small businessmen who also have clients to look after cannot.

**The Hon. J. M. Berinson:** The ordinary client of a business would not face the potential suffering as would a patient of a dentist.

**The Hon. P. G. Pendal:** There is some validity in that suggestion, but it does not alter the fact that when a dentist decides to go on his annual leave he makes some arrangements for a locum to look after his patients. It could be said that if the staff at Murdoch University could not obtain automatic exemption many students would suffer because they would not be able to attend lectures or tutorials. I am attempting to illustrate the fact that there could be some disruption caused if a dentist had to do jury service, as would be the case if the staff at Murdoch University had to do jury service. Presumably, on that basis the same could be said of school masters and school teachers. There would be some disruption caused if shire or town clerks had to do jury service also and therefore, the law recognises that fact and grants them automatic exemption. However, surely small businesses should come under the same category because in many cases the business is run by a few people and therefore the business is placed at more of a risk and is more capable of being disrupted than, say, the students of a university or the patients of a dentist, or even the ratepayers in a particular municipality.

In order to illustrate my point I wish to quote an example of a small business. Some time ago, a constituent of mine wrote to me because his name appeared on the draft jury roll. He is an employer in a family business which employs 15 people. The business is a civil engineering and construction firm which undertakes a particular type of de-watering which involves removing water from construction sites. It is apparently quite a specialised occupation.

This constituent is someone who has not attempted to evade his civic duties, as was pointed out to me when the activities in which he had been involved had been named. When he sought exemption from the draft jury roll he was refused by the Sheriff. I must say the Sheriff did act with the utmost courtesy when dealing with the matter and wrote to me as follows—

If Mr So-and-so has received a summons to attend as a juror he may make an application to be excused. If an application is

made it will be dealt with on its merits, when received.

My suggestion is that there is some cause for small business people to be included in the schedule because of the disruption caused to their businesses if they must attend jury service. I suggest that there are people in that category who are far more entitled to automatic exemption than some of the people who appear on the list at the moment.

Perhaps, when the Attorney General decides to make changes to this legislation he may consider the point I have made because the present provision disadvantages many people in the community.

Debate adjourned, on motion by the Hon. Margaret McAleer.

*House adjourned at 5.58 p.m.*

## QUESTIONS ON NOTICE

### RACING: HORSE

#### Racecourse Development Trust

186. The Hon. TOM KNIGHT, to the Minister representing the Chief Secretary:

Could the Minister advise—

- (1) What amount of money has been spent by the Racecourse Development Trust since its establishment?
- (2) How much has been allocated to each racing organisation eligible to receive assistance from the trust?
- (3) How much was available for allocation for the financial year 1980-81?
- (4) How much is still available for allocation?

The Hon. G. E. MASTERS replied:

- (1) I am advised by the Chief Secretary that \$1 299 591.26 has been spent by the Racecourse Development Trust since its establishment.

		\$ c
(2) Kimberley Goldfields Amateur Jockey Club .....	1 000.00	
Kellerberrin Trotting Club..	2 662.04	
Pinjarra Trotting Club .....	45 000.00	
York Jockey Club .....	121 946.00	
Mingenew-Yandanooka Amateur Turf Club.....	3 763.00	
Geraldton Turf Club.....	57 198.00	
Pinjarra Race Club.....	97 500.00	
Albany Racing Club.....	56 722.00	
Merredin Trotting Club .....	30 147.00	
Narrogin Race Club.....	6 442.00	
Northam Race Club.....	86 787.00	
Beverley Race Club.....	33 620.00	
Albany Trotting Club.....	33 921.00	
Esperance Bay Turf Club....	40 000.00	
Bunbury Trotting Club.....	90 000.00	
Busselton Trotting Club .....	17 599.00	
Kalgoorlie Boulder Racing Club.....	67 183.00	
Golden Mile Trotting Club .	53 577.00	
Katanning and Districts Trotting Club.....	9 391.00	
Bunbury Race Club.....	75 277.00	
Katanning Race Club.....	14 448.00	
Pingrup Race Club .....	5 557.86	
Kojonup Polo and Polocrosse Club.....	2 557.00	
Nyabing Race Club.....	4 500.00	
Toodyay Race Club.....	52 652.00	

Mt. Barker Amateur Race Club.....	8 758.00
Cunderdin Trotting Club.....	65 442.00
Williams Trotting Club .....	7 520.00
Wagin Trotting Club.....	17 378.00
Marble Bar Amateur Race Club.....	2 500.00
Broome Turf Club .....	5 000.00
Wiluna Race Club.....	1 000.00
Kambalda Trotting Club....	2 429.00
Carnarvon Race Club.....	12 500.00
Harvey and Districts Trotting Club.....	76 000.00
Leonora Racing Club .....	2 000.00
Wyndham Turf Club.....	3 500.00
Northam Trotting Club.....	60 884.00
Mt. Magnet Race Club .....	1 000.00
Port Hedland Amateur Race Club .....	2 000.00
York Trotting Club .....	40 737.00
Moora Race Club .....	6 669.00
Collie Trotting Club.....	8 004.00
Exmouth Race Club .....	3 500.00
Wyalkatchem and District Trotting Club.....	5 147.00
Ashburton Race Club.....	3 000.00
Bridgetown Trotting Club...	6 482.00
Tom Price Turf Club.....	1 000.00
Narrogin Trotting Club.....	7 806.00
Winning Picnic Race Club..	250.00
Trayning and Districts Trotting Club.....	147.00
Walkaway Amateur Race Club.....	515.00
Northampton Race Club....	228.00
Dongara-Irwin Race Club...	515.00
Coolgardie Racing Club .....	515.00

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\$1 361 875.90

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- (3) \$256 569.36 was available for allocation for the financial year 1980-81.
- (4) \$54 640.50 is still available for allocation.

### TRAFFIC: MOTOR VEHICLES

#### Roadworthiness

213. The Hon. W. M. Piesse (for the Hon. H. W. GAYFER), to the Minister representing the Minister for Police and Traffic:

With reference to the Minister's answer to question 211 of 15 April 1981, what

is meant by "licensed" under the Bulk licensing scheme, and where is this section located in the Road Traffic Act?

The Hon. G. E. MASTERS replied:

The Minister for Police and Traffic advises that the Road Traffic Authority is obliged under section 23 of the Road Traffic Act to satisfy itself that before a vehicle is licensed it meets the prescribed standards of the vehicle standards regulations 1977.

This is achieved by—

- (a) vehicles being presented to a Road Traffic Authority examination centre or authorised testing centre; or
- (b) through the bulk licensing scheme.

Under the bulk licensing scheme, manufacturers provide prototype vehicles, together with specification details, to the Road Traffic Authority for assessment. Where approved, a specification sheet is prepared and any authorised person may then certify that a particular vehicle meets this specification and conforms with the vehicle standards regulations 1977.

Where such a vehicle is approved, any person authorised by the authority under the bulk licensing scheme may examine and certify that a particular new vehicle, meeting these specifications, conforms with the vehicle standards regulations 1977.

Registration of the vehicle may then take place.

Any vehicle that deviates from the manufacturer's specification cannot be licensed under the bulk licensing scheme.

## QUESTIONS WITHOUT NOTICE

### DE FACTO RELATIONSHIPS

#### *Attitude of Government*

77. The Hon. J. M. BERINSON, to the Attorney General:

- (1) Has he considered the recent statement by the Chairman of Judges of the

Western Australian Family Court that there are serious gaps in the jurisdiction of that court in respect of *de facto* relationships? He was referring to his inability to grant a non-molestation order against a former *de facto* spouse of the applicant before him.

- (2) Does the Government accept that a serious gap is demonstrated by the case in question?
- (3) If so, what, if any, action is contemplated?
- (4) In general, does the Government have an attitude in regard to the increasing calls for some equation of *de facto* to legal marriage rights?
- (5) If the Government has developed an attitude to this matter, what is it?
- (6) If not, and recognising that questions of marriage and divorce have been dealt with frequently on a non-party basis, will the Attorney further consider the appointment of a Select Committee of this House to consider and report on this very important and difficult subject?

The Hon. I. G. MEDCALF replied:

- (1) to (6) Already I have indicated publicly in answer to a question from the media that I will consider the judgment of Mr Justice Barblett which was given wide publicity as a result of a Press conference he called over the case of the *de facto* woman who sought a non-molestation order against her *de facto* husband and was refused it due to the lack of the Family Court's having any jurisdiction.

I indicated I would study the comments of Mr Justice Barblett as soon as I obtained a transcript of the full judgment. I also indicated I would inquire into whether the Family Law Council had made any pronouncement on this subject. I have asked for that information to be supplied. It has not as yet come to hand in the form in which I requested it, so I am not able to indicate exactly what my view will be on that. However, the more general question is one of continuing concern to anyone interested in the social relations of people; in particular, the many people who do not go through a form of marriage and who may be adversely

affected by a lack of jurisdiction in the Family Court.

Whether a lack of jurisdiction exists is a question I must have answered. I am aware the Western Australian Family Court does not have any jurisdiction in such matters, but it may well be that another court can make orders in relation to such matters. I have made certain inquiries in relation to the particular case as to what happened.

I have been informed that the solicitor for the woman concerned indicated that the woman does not wish to proceed with the matter. For what reason, I do not know, but she does not propose to proceed with it. The Crown Law Department obtained that information from the woman's solicitor.

The general matter of such jurisdiction must be approached with some caution. I do not know whether any jurisdiction in Australia has inquired into the position of *de facto* husbands and wives with married persons. It is a matter which is fraught with many social consequences, not necessarily only those relating to molestation of a wife by a husband or questions of their individual relationships. The matter is fraught with possible prospective consequences in relation to the law of marriage, recognition of marriage, and the law of property and wills, and it may even extend into the matter of juvenile delinquency.

There are many writings on this subject, and before being able to give the member any view of the Government's attitude I must obtain more information. Until I have that information I am not prepared to commit myself in respect of the request he made that the Government should consider the appointment of a Select Committee.

## DE FACTO RELATIONSHIPS

### *Attitude of Government*

78. The Hon. PETER DOWDING, to the Attorney General:

I would like to ask a question following the Attorney General's response to the Hon. Joe Berinson. Would he give

consideration to adding onto the custody and maintenance power in respect of children of *de facto* relationships, the power to make non-molestation orders and maintenance orders for *de facto* wives? I do not mean this addition in terms of principal relief on its own, but in regard to custody and access orders applicable to illegitimate children. This would not merely be breaking new ground.

The Hon. I. G. MEDCALF replied:

Yes, I think that that aspect will be considered in connection with the inquiry I am having made.

## MINING ACT 1978

### *Information*

79. The Hon. P. H. WELLS, to the Minister representing the Minister for Mines:

In view of the announcement by the Minister that the proposed new mining regulations could be tabled in the Parliament during this session—

- (1) What plans are being made by the Department of Mines and/or the Minister to ensure that there is adequate illustrated sample-type information available for prospectors, mining and other interested personnel, on the new requirements of the 1978 Mining Act and the proposed new regulations?
- (2) In what form is the Department of Mines planning to make available to the public, information about the new Mining Act and regulations, and what distribution will such information have?
- (3) What plans are being made to have seminars or day-sessions on the new Mining Act and regulations, to enable those interested in obtaining practical advice on how to handle any new requirements, to do so?
- (4) Do any such plans for seminars or day-sessions, include areas outside the metropolitan area?
- (5) To date, what areas and towns are included in such planning?

- (6) Will the Minister ensure that any proposed sessions are widely publicised by letter and advertising in both State and local newspapers where appropriate?
- (7) When does the Minister expect the proposed new mining regulations to be tabled in Parliament?
- (8) When will the new Mining Act be promulgated?

- (3) A mining registrars' conference is proposed, and other seminars will be held as necessary, in order that prospectors, industry representatives, members of Parliament, and other interested parties will be fully aware of the new Act and its regulations.
- (4) and (5) These will be held as required, and the matter will be considered further to ensure maximum coverage.

The Hon. I. G. MEDCALF replied:

- (1) Preparation of such material is already in hand.
- (2) By the Act and regulations, general information brochures, and advice which will be readily available in Perth and at each mining registrar's office in advance of the commencing date.

- (6) Yes.
- (7) When the preparation of the regulations and procedures are completed.
- (8) As soon as practicable after the regulations have been tabled.

