

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
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GENERAL COMMITTEES

Public Bill Committee

CHILD SUPPORT (ENFORCEMENT) BILL

Wednesday 1 March 2023

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CLAUSES 1 to 6 agreed to.
Bill to be reported, without amendment.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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Sunday 5 March 2023

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The Committee consisted of the following Members:

Chair: HANNAH BARDELL

Abrahams, Debbie (*Oldham East and Saddleworth*)
(Lab)

Bailey, Shaun (*West Bromwich West*) (Con)

† Baillie, Siobhan (*Stroud*) (Con)

† Davies, Mims (*Parliamentary Under-Secretary of
State for Work and Pensions*)

† Davies-Jones, Alex (*Pontypridd*) (Lab)

† Dowd, Peter (*Bootle*) (Lab)

Drummond, Mrs Flick (*Meon Valley*) (Con)

Farris, Laura (*Newbury*) (Con)

† Ferrier, Margaret (*Rutherglen and Hamilton West*)
(Ind)

† Gideon, Jo (*Stoke-on-Trent Central*) (Con)

† Hunt, Tom (*Ipswich*) (Con)

Jenkinson, Mark (*Workington*) (Con)

† Logan, Mark (*Bolton North East*) (Con)

Morden, Jessica (*Newport East*) (Lab)

† Richardson, Angela (*Guildford*) (Con)

† Siddiq, Tulip (*Hampstead and Kilburn*) (Lab)

† Stone, Jamie (*Caithness, Sutherland and Easter
Ross*) (LD)

Anne-Marie Griffiths, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Wednesday 1 March 2023

[HANNAH BARDELL *in the Chair*]

Child Support (Enforcement) Bill

9.25 am

The Chair: Before we begin, I remind colleagues to switch electronic devices to silent, please. My selection and grouping for today's sitting is available online and in the room. No amendments have been tabled, and we will have a single debate on all the clauses in the Bill.

Clause 1

INTERPRETATION

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider clauses 2 to 6 stand part.

Siobhan Baillie (Stroud) (Con): It is an honour to serve under your chairmanship, Ms Bardell. I am grateful to you and to all the Committee members for joining me to look at the Bill in more detail.

This Bill is dry and technical, but it is important to say that child maintenance has a massive impact on the families who are reliant on it. All of us as constituency MPs will have cases coming across our desks and, as a family law solicitor, I know that the issues go far beyond ensuring that child maintenance gets to children and helping in situations of poverty. They can also sometimes affect whether children see their parents, because issues with child maintenance can have an impact on prolonging the conflict between parents and on other difficulties.

I am thankful to the Department, which is working so hard on child maintenance and on the Child Maintenance Service, and to my hon. Friend the Member for East Surrey (Claire Coutinho) who sponsored the Bill before she was made up to be a Minister. It is incumbent on all of us in this place to fix any problems that we see.

The Bill will enable a more efficient process to enforce unpaid child maintenance. It has only six clauses, but I am sure all hon. Members will recognise the Bill's importance, as it will help to get much-needed money to children more quickly. Before going into more detail, however, I will recap briefly how the CMS works, just in case any hon. Members present whom I have pulled in to help in Committee are unaware.

The purpose of the CMS is to facilitate the payment of child maintenance between separated parents who are unable to reach their own agreement following a separation. That is an incredibly challenging job, done in difficult circumstances. Once parents are in the CMS system, it manages child maintenance cases through one of two service types: direct pay or collect and pay.

For direct pay, the CMS provides a calculation and a payment schedule, but payments are arranged privately between the two parents. That is by far the most favourable

way to proceed. Where necessary, for collect and pay, the CMS calculates how much child maintenance should be paid, collects the money from the paying parent, and pays it to the receiving parent. Cases in collect and pay tend to involve parents where a more collaborative arrangement has either failed or not been possible to achieve, or there are high levels of conflict. Paying parents on collect and pay are therefore considered to be less likely to meet their payment responsibilities.

The difference child maintenance payments make to children's lives is critical. I defer to charities such as Gingerbread, which does so much for single parents, mothers in particular. The Child Maintenance Service takes action to tackle payment breakdowns at the earliest opportunity, to re-establish compliance and to collect unpaid amounts that have accrued. Where compliance is not achieved and the parent is employed, the CMS will attempt to deduct the maintenance, including any arrears where appropriate, directly from their earnings. Employers are obliged by law to co-operate with such action.

Enforcement powers also allow for deductions to be taken directly from bank accounts, including joint and business accounts, either as a lump sum or a regular amount. That is a useful power where the parent is self-employed and deducting from their earnings is not possible. All the time, we still meet parents who do not know that the system is available or do not know its reach—that when their ex is self-employed, they can still have help.

Where such powers prove to be inappropriate or ineffective, under current legislation the Child Maintenance Service must apply to the magistrates or sheriff courts to obtain a liability order before the use of other enforcement powers, such as instructing enforcement agents or sheriff officers, or even more stringent court-based enforcement actions such as forcing the sale of a property, disqualification from driving or holding a UK passport, or commitment to prison. The Bill will amend uncommenced primary legislation to enable the DWP to take further enforcement action without the need to apply to the magistrates or sheriff courts, instead allowing the Secretary of State to make an administrative liability order.

This power, once enacted, will allow enforcement measures to be used more quickly against parents who have failed to meet their obligation. At the moment, to even get a liability order is taking about 20 weeks, and we all know that the courts are under increasing pressure, particularly post covid, so we will try to remove that step.

Let me turn to the specifics of the Bill. Clause 1 gives an interpretation of the primary legislation being amended by the Bill and defines the Child Support Act 1991 as “the 1991 Act” and the Child Maintenance and Other Payments Act 2008 as “the 2008 Act”. Clause 2 makes provision for the Secretary of State to make a liability order where the paying parent has failed to pay an amount of child maintenance and a deduction from earnings order is either inappropriate or has been ineffective. The clause provides an assurance that administrative enforcement measures will be appropriately considered before more stringent measures are taken.

Clause 3 expands the power to make administrative liability orders by setting out in regulations provision for the variation of a liability order—for example, where

the amount of arrears upon which the liability order is based is subsequently amended as more information about the paying parent's income is obtained. That works both ways. Sometimes the responding and paying parent needs to say, "I'm not earning as much as you think I am. I need to make a change." Equally, the other parent may say, "Actually, he or she has more cash than they're claiming", so the clause is important.

Clause 4 gives the Secretary of State the power to set out in regulations provisions that relate to a parent's right of appeal against a liability order. Those provisions will include the paying parent's right of appeal to a court, the period within which the right of appeal may be exercised, the powers of the court in respect of those appeals, and for a liability order not to come into force in specified circumstances.

As with liability orders issued under current legislative provisions, in the event that a paying parent does appeal, the court will not be able to question the child maintenance calculation itself. Appeals about the maintenance calculation are dealt with via the appeals tribunal. A paying parent can ask the CMS to reconsider any calculation within 30 days of the calculation decision being made, through the mandatory reconsideration process. They can also report a change of circumstances that could lead to their calculation being amended at any time. It is therefore right for the role of the court when considering a liability order to be, as now, to satisfy itself that the debt is properly owed, and owed by the individual named in the order.

The provisions in clause 4 will prevent court time from being used to consider day-to-day CMS business that can be completed operationally—again, speeding things up—and it aims to strike a balance between giving a paying parent a reasonable window to appeal and the CMS moving swiftly to enforcement measures. The provisions will therefore not place any additional or unreasonable constraints on a parent's ability to seek an appeal. I have acted for a number of fathers who came to me in a complete pickle, particularly in the old Child Support Agency days, because the calculations were wrong or allegations were made about their income. It is very important that a paying parent has the right to appeal. My dad had quite a lot to say about his own child maintenance payments when we were growing up—don't get him started on that!

Clause 5 sets out minor and consequential amendments. Finally, clause 6 sets out standard but crucial information covering the extent, commencement and short title of the Bill, which will bring it into force.

I want to say a few words about the devolved Administrations, as it is important that we think through these issues. Primary child maintenance legislation is a reserved matter in Great Britain, but it is devolved in Northern Ireland. Northern Ireland has traditionally maintained parity with Great Britain by mirroring our child maintenance legislation. In respect of administrative liability orders, Northern Ireland has similar uncommenced provisions to those in Great Britain that it plans to commence, thereby enabling it to use and enforce administrative liability orders, so we are expecting Northern Ireland to get there. However, with the Northern Ireland Assembly suspended, it is not possible for Northern Ireland to match the changes that we are making through the Bill today, but it intends to do so as soon as it is able.

In Scotland, child maintenance is reserved but the judicial system is devolved. As such, the Scottish Government are engaged on the impact of the Bill in Scotland and exactly how its provisions will work in the Scottish court system.

The Bill is of great importance to ensuring that the Child Maintenance Service can make the necessary improvements to enforcement processes and get money to children more quickly. We are fortunate to have cross-party support, and I am grateful to the Government for backing the Bill and seeing the value in making these changes. We must ensure that when someone asks for help through CMS, they get help quickly and in a way that makes them feel supported. We must also ensure that parents who are messing about know that there will be sanctions and action against them, thereby providing a deterrent to other parents. I am grateful to the Minister and will be happy to hear from her today.

Tulip Siddiq (Hampstead and Kilburn) (Lab): It is a pleasure to serve under your chairmanship, Ms Bardell. Let me start by congratulating the hon. Member for Stroud on securing cross-party support for this important Bill. Members may want to know that this is not the first time that she has campaigned on this topic; she campaigned on related issues even when she was a local councillor in my patch. I did not vote for her, but I recognise that she was a very good councillor and she has a long history of campaigning on issues relating to support for children.

Last year's report by the Public Accounts Committee concluded that in the 10 years since the Child Support Agency was replaced by the Child Maintenance Service, there had been no improvement in the system for parents, children and families. The Committee's shocking report found that around half of children in separated families—1.8 million children—receive no support at all from their non-resident parent, and that enforcement is just too slow to be effective, as the hon. Member outlined. That is a serious failing in the child support system, and we all know that it is often mothers who pay the price.

A mother in my constituency of Hampstead and Kilburn wrote to me to explain that her child's father had not paid child support for three years. She had contacted the Child Maintenance Service on numerous occasions, but for three years there was simply no progression in her case at all. Eventually, she came to see me. Members across the Committee will know that our constituents come to see us in our surgeries as the last resort, having gone through everything else. I applied significant pressure as her MP and, in the end, the Child Maintenance Service launched an investigation. But it should not have come to that; it should not have been so difficult for my constituent in the first place.

Sadly, as I am sure Members across the Committee will know, that experience is far from uncommon. It has probably happened to everyone's constituents at some point. Mothers and children across the country are missing out on the payments that they so desperately need to get by.

The implications for child poverty are particularly concerning. The Nuffield Foundation—a social mobility charity—estimates that as many as one in five single parents on benefits are lifted out of poverty by receiving child maintenance payments. That is to say nothing about the severe impact that non-payment of child

[Tulip Siddiq]

maintenance can have on the mental health of children and families. That is why the Bill is so important to me and people across this country. It is completely right that absent parents honour their full child maintenance payments. When they fail to do so, there must be adequate enforcement to force them to pay, so that people's lives are made easier.

Before I conclude, I have one question for the Minister. Enforcement action was significantly affected by the national lockdowns. Child Maintenance Service staff were redeployed to manage the surge in universal credit claims, and the courts were closed. But the number of enforcement agency referrals now in process is still less than half the figure before the pandemic. Can the Minister give me some information about what the Government are doing to address the backlog?

I fully support the Bill. I hope that it is successful and that it forms part of a wider strategy to ensure that the child maintenance system is fit for the 21st century.

Margaret Ferrier (Rutherglen and Hamilton West) (Ind): I sincerely thank the hon. Member for Stroud for bringing forward the Bill. As she has explained, the territorial extent and application applies to England, Wales and Scotland, as it is a reserved issue.

I would like to briefly express my wholehearted support for the Bill. Most of us will have seen, through our casework, just how frustrating CMS cases can be, particularly when the paying parent does not uphold their financial responsibilities. I am dealing with a number of such cases at the moment.

I put on record my thanks to the hon. Member for Caithness, Sutherland and Easter Ross for setting up the child maintenance services all-party parliamentary group, of which I am a Member. We will continue to have meetings of that APPG, and hopefully push our casework forwards.

The changes that this Bill will make to enable the CMS to take stronger action in serious cases are very necessary. Many parents, survivors of domestic or economic abuse, have been telling us for far too long that the system is weaponised by their ex-partners to continue to perpetrate abuse. It is not acceptable that it is so easy for abusers to deliberately delay or frustrate payments.

Ultimately, the most important thing is that any changes benefit the children at the heart of what can often be very difficult and emotionally charged situations. I put on record again that I believe that this Bill has the potential to do that, so I congratulate the hon. Member for Stroud.

The Parliamentary Under-Secretary of State for Work and Pensions (Mims Davies): That was very swift; I thank the hon. Member for Rutherglen and Hamilton West. It is a great pleasure to serve under your chairmanship, Ms Bardell. I thank hon. Members for joining us this morning, and thank my hon. Friend the Member for Stroud, who has made a brilliant contribution and covered the importance of this Bill in great detail.

As highlighted by my hon. Friend and the hon. Member for Hampstead and Kilburn, the Bill is vital for securing money for children more quickly from those parents who fail or simply refuse to give support

to their own youngsters. Child maintenance payments, as we have heard, can play an effective role in helping to lift children out of poverty, and can help to enhance the life outcomes of children in separated families.

I take this opportunity to say a few words about what the CMS is doing more widely to improve its service—as we have heard from the hon. Member for Hampstead and Kilburn—and ensure that it is supporting our youngsters and protecting the most vulnerable citizens. I would like to reiterate the work that we are doing, and hopefully give some comfort in that regard, because I know and understand that this is a matter of concern for many of us who, as constituency MPs, receive complaints and concerns from constituents who perhaps feel that they have not received the level of support or service they believe they should from the CMS.

As Members will know, until recently the day-to-day policy of the Child Maintenance Service sat with my noble Friend in the other place, Baroness Stedman-Scott. The Baroness was truly strident in her desire for the CMS to be at its best and worked to that end, and I know that that view is shared greatly by my noble Friend Viscount Younger of Leckie, who has taken over overall ministerial responsibility for policy on CMS, and I am working strongly with him.

Peter Dowd (Bootle) (Lab): I congratulate the hon. Member for Stroud on bringing this important Bill before us. I think the Minister will know that, since the agency was set up 11 years ago, almost £500 million has not been paid. That is 80% of the total accruals in deficit, in effect. Will she bring forward in due course facts, statistics and information to show how this Bill may be reducing that figure as time goes by? It is important that we monitor that this Bill, brought by the hon. Lady, is giving us information and showing that action has been taken and that young children, and mainly women, will benefit from it.

Mims Davies: I thank the hon. Gentleman for that challenge and for making that important point. I was about to say that I am working strongly on the policy and its focus on supporting lone parents. I am happy to write to Members and share what we believe the outcomes will be. We will be looking strongly at this. The hon. Gentleman will be aware that other Bills are in progress, and we are certainly seeking to increase and strengthen the impact of the CMS. We know how much it lifts youngsters out of poverty and, as we have heard this morning, it matters greatly to families. That is an important challenge, which I am happy to take up.

9.45 am

Turning to wider matters, as my hon. Friend the Member for Stroud has said, some parents will struggle to afford to pay. It is a concern, however, that other parents willingly choose not to pay what they owe, and therefore do not financially support their children. To be frank, that is unacceptable. I am pleased to report, though—and I hope that this will be of comfort to the hon. Member for Bootle—that 64% of paying parents using the collect and pay service paid some of their scheduled child maintenance in the quarter ending September 2022. That is a significant increase from the 60% in the quarter ending March 2018, which means that many more children are now better supported by

getting the money they need. My hon. Friend the Member for Stroud spoke about the importance of having confidence in the system, and those things really do matter.

Over the past 12 months, the CMS has arranged over £1 billion in child maintenance payments. It is truly committed to delivering a great service to support the highest standards. It is working really hard to transform people's experience by becoming a more customer-focused, digital organisation, and making a number of improvements to processes. That matters because customers can now apply online. The majority of applications are now made digitally, making it even easier for parents to access support for their children. The upgraded online account, My Child Maintenance Case, allows customers to access and maintain data for themselves. An increasing number of changes of circumstances can also be reported online, and automation means it is much easier for most parents to manage their arrangement and, above all, support their youngsters together.

The CMS has also made key changes, introducing a new service called "Get help arranging child maintenance". This digital service is available 24/7, making it more accessible for customers deciding what type of arrangement is most suitable for them. These improvements deliver a more modern and efficient service for the majority of customers. I will be working with colleagues to ensure that caseworkers in our constituencies see fewer of these complex problems as a result of this intervention. I genuinely hope that that will be the case. Those parents using the CMS are in a more complex situation, but we need to ensure that the process supports youngsters and unpicks that complex process.

On collections, the CMS has brought forward the point at which deductions from bank accounts can be made. It is now making better use of deductions from earnings orders so that they can be set up much more quickly. The improvements have reduced the time required to process those payments, which ultimately means that the money gets to the youngsters quicker. That means more money, quicker and faster, which is what this is all about.

Finally, Members may also be keen to understand the excellent work being done by my hon. Friend the Member for Hastings and Rye (Sally-Ann Hart) alongside that of the Department for Work and Pensions. She is ensuring that the service works for anybody who has suffered any form of domestic abuse and that they will feel safer and more assured that their case will be handled sensitively and efficiently. Many Members have expressed strong views regarding her Child Support Collection (Domestic Abuse) Bill, in particular on the issue of collection charges, and I understand their concerns. The hon. Member for Caithness, Sutherland and Easter Ross recently raised this with me in the Chamber. The changes introduced in the 2012 scheme, which included charging, have led to a substantial increase in family-based arrangements, which we know are better for children. However, we recognise that many parents whom the Child Support Collection (Domestic Abuse) Bill aims to support could be among the most vulnerable, so we need to make sure that it works for them.

Given all these circumstances, alongside development of the secondary legislation for the Child Support Collection (Domestic Abuse) Bill, we will look at the charging structure for the use of the collect and pay service and how this will interact with the proposed changes for

victims of domestic abuse in these cases. That Bill has its Report and Third Reading on Friday, and I invite my hon. Friends to join me then so that we can discuss the Bill in more depth, because it links to the Bill we are considering today.

Let me turn to the detail of the Child Support (Enforcement) Bill and respond to some of the questions raised. The Bill will deliver further improvements to the enforcement process. My hon. Friend the Member for Stroud set out clearly the clauses, but I will quickly recap the details. Clause 1 simply provides an interpretation of the relevant primary legislation. The substance of the Bill is contained in clauses 2 to 4, along with provisions to make regulations, which will ensure that the powers are used appropriately and provide parents with the opportunity to challenge the decision if they think it is wrong. That is important.

Clause 2 amends existing powers that, once commenced, will allow the Secretary of State to make an administrative liability order where the paying parent has failed to pay an amount of child maintenance. However, they will only be able to do that where a deduction from earnings order is either inappropriate or has been ineffective. This will prevent unnecessary overuse of the power in cases where there are more suitable alternatives.

Clause 3 expands the power by allowing the liability order to be varied if, for example, the amount of arrears upon which the liability order is based is subsequently found to have been incorrect, when investigations reveal further details about a paying parent's finances.

Clause 4 gives the power to make provisions that relate to a parent's right of appeal against a liability order. Those provisions will include the paying parent's right of appeal to a court, the period within which the right of appeal may be exercised, the powers of the court in respect of those appeals, and for a liability order not to come into force in specified circumstances.

I would like to say a little more about clause 4, aspects of which were highlighted on Second Reading by the hon. Member for Reading East (Matt Rodda). I know that Baroness Stedman-Scott wrote to him on this point, but it would be helpful to reiterate this. The appeal provisions sought through the Bill will be reflective of powers already in use for other child maintenance enforcement measures, such as those that allow for deductions of child maintenance directly from a parent's bank account. Clause 4 also reflects current provisions for liability orders by preventing the court from questioning the maintenance calculation. Where a parent disagrees with the calculation, they can ask the CMS to reconsider it through the mandatory reconsideration process or report a change of circumstances that could lead to a new calculation. It is right for the current role of the court when considering a liability order to continue to be solely satisfied itself that the debt is properly owed, and owed by the parent in question.

Finally, clauses 5 and 6 relate to some minor consequential amendments, as well as to the extent, commencement and short title of the Bill.

Let me address a couple of the points made in the debate. The hon. Member for Hampstead and Kilburn spoke about the importance of enforcement and highlighted the impact on families of the financial support. I absolutely agree with her. In 2021-22, we made more referrals to enforcement agents than we had in any other year, and

the number of liability orders applied for each year is now back to pre-pandemic levels. I hope that answers one of the hon. Lady's questions.

On the point about enforcement powers not being affective and why they do not work, it is important to understand that decisions are made on a case-by-case basis. We take into account the welfare of all parties and the value for money of our interventions. The Child Maintenance Service works strongly with other Government Departments to improve the use of enforcement powers and to explore the possibility of introducing new powers for cases in which people are being wanton.

On the point about parents making their own private, family-based arrangements where possible, perhaps without the need for state intervention or involvement, as we heard from my hon. Friend the Member for Stroud, that tends to be very important, but the CMS has seen an increase in the number of statutory arrangements since September 2021. The new online service can help people to head that off before they get into a more problematic situation. All parents can look at the new "Get help arranging child maintenance" service before they apply to the CMS. Some parents will decide that such an arrangement is not appropriate for them, but the CMS remains available to support separated families if they choose to apply and that is the right route for them. It is not a one-size-fits-all, which I recognise as a lone parent myself.

I thank Gingerbread for its submission. As I said, I am a lone parent too, and I am grateful for Gingerbread's insight and work on this issue. We acknowledge Gingerbread's briefing that highlighted various matters for the Committee and welcome its support for the Bill. The additional suggestions and points raised will be looked at in due course. As I say, there is a similar private Member's Bill with a big focus on the CMS; I hope that reassures Members that this is absolutely a work in progress when it comes to enforcement strategy and, ultimately, making sure that the service works for youngsters.

I hope that the improvements across all areas of the CMS service that I have talked about today will help to reassure Members from all parties that the CMS is fit for purpose and delivers a modern, efficient and reliable service in which parents should have confidence. As my hon. Friend the Member for Stroud said, we need to make sure that people do not dismiss it and look to learn more about how youngsters can be properly supported. The Bill will play an important part in improving the situation and getting money to more children to enhance their life outcomes if they are in separated families. I commend the Bill to the Committee and commend my hon. Friend again for her work on it.

Siobhan Baillie: I thank the Minister for her remarks and support, and I thank all Members present, particularly those I grabbed in various different places in the Palace to ask to serve on the Committee. I also thank the DWP officials and parliamentary officials for their guidance and support, and I thank you, Ms Bardell, for your excellent chairmanship.

The hon. Members for Hampstead and Kilburn and for Bootle were right to express concerns about the record and arrears, as highlighted in the National Audit Office report and by the Public Accounts Committee. I serve on the Work and Pensions Committee and we are investigating child maintenance. The Department and the Minister know that I am incredibly concerned about that because of the impact on families and children but, having met the officials, I know that a lot of work is going on. The DWP is given a hard time, but it is one Department—one arm of the state—that has such a direct impact on children and families.

I thank the hon. Member for Rutherglen and Hamilton West and the hon. Member for Caithness, Sutherland and Easter Ross, who does an incredible job with the APPG.

Yesterday, I was talking to an academic—an incredibly eloquent young woman—about family breakdown and the impact on women, and the impact of family breakdown as a feminist issue, which we do not often hear about. She said there has never been such a good time in history to be a deadbeat dad. I winced at that, because I know hundreds of fantastic dads and that there are millions of fantastic dads all over the country. But unfortunately, we discover in this work that the paying parents and the non-paying parents are invariably fathers, and if we scratch off a lot of that, a lot of absentee parents are fathers. We should not be shy about having these conversations and recognising what the Child Maintenance Service can do and the effect of improvements such as those in the Bill on family stability and children, and on their own relationships when they grow up, and on and on. We should not be shy about accepting that there is a wider benefit to change of this type.

I thank everybody who has been involved and all Committee members for coming in and sitting through our proceedings; I know how busy they are.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clauses 2 to 6 ordered to stand part of the Bill.

Bill to be reported, without amendment.

10.1 am

Committee rose.