

## LEGISLATIVE COUNCIL

Wednesday 20 September 1978

The **PRESIDENT (Hon. A. M. Whyte)** took the Chair at 2.15 p.m. and read prayers.

## PETITION: MARIJUANA

The **Hon. J. C. BURDETT** presented a petition signed by 20 residents of South Australia alleging that the smoking of marijuana is harmful to society and tends to lead to the use of more harmful drugs, and praying that the Council will reject any Bill seeking to legalise the smoking of marijuana.

Petition received and read.

## QUESTIONS

## EMISSION CONTROLS

The **Hon. M. B. DAWKINS**: I seek leave to make a short statement before asking the Minister of Health, as Leader of the Government in the Council, a question regarding emission controls.

Leave granted.

The **Hon. M. B. DAWKINS**: I see from reading this morning's press that the service station industry has reported that all vehicles purchased by a major Public Service department went straight into its workshops, where emission control devices were rendered ineffective. This is, I understand, contrary to the laws of the State. I ask the Minister whether it is a fact that at least one Public Service department is avoiding emission control laws by having alterations made to its vehicles, and whether he believes, as I do, that this is contrary to the laws of the State. Will the Minister also say whether this involves only one department, or whether more departments are involved, and, if the report is correct, what action is being taken by the Government regarding the matter?

The **Hon. D. H. L. BANFIELD**: The honourable member did not say which department was involved. I am not aware of anything being done in this respect. However, I will have inquiries made and bring back a report.

## TEETH

The **Hon. F. T. BLEVINS**: I seek leave to make a brief statement before asking the Minister of Health a question regarding teeth.

Leave granted.

The **Hon. F. T. BLEVINS**: A brief report headed "Imported dentures huge rip-off" in the *News* of 24 August states:

Dentists are making huge profits by fitting patients with cheap false teeth and crowns from Asia, according to Victorian Opposition labor and industry spokesman, Mr. Simmonds. He said the dentists were sending impressions for false teeth and crowns to Hong Kong and Singapore rather than giving the work to local laboratories. The claim was supported by Mr. Ron Barnes, of the Dental Technicians' Association of Victoria, who said dentists were making more than 400 per cent profit on cheap imported equipment and forcing the local industry into recession. Mr. Simmonds said porcelain crowns, which cost dentists \$57 in Asia, were being fitted in Melbourne for up to \$300 each. The Repatriation

Department also was paying between \$220 and \$240 for the crowns.

As a result the livelihood of 600 dental technicians were being threatened by the "offshore oral operation". "Laboratories here are moribund so there is no chance for the 122 advanced apprentices to get full positions," Mr. Simmonds said, "and there is practically no future for the 170 apprentices doing the technical institute course as there are 80 for each vacancy." The State Government should ask the Federal Government to put a heavy "exit tax" on impressions being sent to Asian laboratories by Australian dentists.

I think the Council would agree that that is a rather alarming report and if that position applies in Victoria perhaps we should examine the situation in South Australia. Can the Minister have the position investigated in this State, regarding sending dental impressions overseas, to see whether South Australians are being ripped off in this manner? If, after investigation, the position in South Australia is found to be similar to the Victorian situation, will the Minister take the necessary steps to see that people are not being ripped off in this State when buying dentures?

The **Hon. D. H. L. BANFIELD**: I am concerned to hear the report. I have not been made aware of anything like this happening in South Australia, although I am not suggesting it is not happening. I will have investigations made and bring down a report.

## OTTOWAY FOUNDRY

The **Hon. D. H. LAIDLAW**: I seek leave to make a short statement before asking a question of the Minister of Health, representing the Minister of Works, about continuing losses at the Government foundry at Ottoway.

Leave granted.

The **Hon. D. H. LAIDLAW**: The Premier in his Budget speech said that, because of decline of activity in the Ottoway foundry of the Engineering and Water Supply Department, it was necessary to provide \$450 000 to cover the operating deficit for the past year. Since the Ottoway foundry is unable to operate at a level sufficient to cover its costs, the Government has provided a further \$300 000 in the present year.

The Ottoway foundry comes within the responsibility of the Minister of Works. I point out that in July of this year the same Minister said, in a letter to the President of the Australian Federation of Construction Contractors:

There can be no argument that the under-utilization of Government workshop facilities would be an unnecessary cost to the public.

The question of rebuilding an iron foundry with an annual capacity of 2 500 tonnes for the Engineering and Water Supply Department at Ottoway was raised first during the Walsh Ministry. It was decided upon by the Hall Government, and was built in 1970 at the start of the Dunstan Administration.

Employers, and the foundry industry in particular, protested repeatedly that this project was quite unnecessary because there was at that time surplus capacity of about 6 000 tons a year in foundries in the private sector in the Adelaide area. These foundries were selling already to statutory authorities in New South Wales and Victoria the types of castings which the Ottoway foundry was planned to produce. I speak with knowledge because I was involved in the discussions.

The Engineering and Water Supply Department built its new foundry and merely added to the surplus capacity in the Adelaide area. It is now clear that the repeated protests by employers to successive Governments were

well justified. At the end of 1976 John Shearer closed its steel foundry; in July of this year Perry Engineering closed its iron and steel foundry, both situated at Kilkenny; Tubemakers has announced that it will close in the near future its malleable iron foundry at Kilburn. The three between them employed several hundred men.

Meanwhile the Government lost \$450 000 last year on its Ottoway foundry and is budgeting for a further \$300 000 loss in this financial year, owing to over-capacity and losses incurred as a result.

My question is in three parts, as follows:

1. What tonnage of good castings was produced by the Ottoway foundry in 1977-78?

2. How many persons were employed at the Ottoway foundry on 30 June 1977, and how many are employed at the present time?

3. Since the Minister of Works has stated in writing that the under-utilization of Government workshop facilities is an unnecessary cost to the public, what steps is he taking to reduce the loss at the Ottoway foundry which, if as forecast, will cost the taxpayer \$750 000 over this two-year period?

**The Hon. D. H. L. BANFIELD:** I will have inquiries made and bring down a report for the honourable member.

#### DEPARTMENTAL TELEPHONES

**The Hon. J. R. CORNWALL:** I seek leave to make a short statement before asking a question of the Minister of Agriculture concerning departmental telephones.

Leave granted.

**The Hon. J. R. CORNWALL:** In the House of Assembly yesterday, in reply to a Question on Notice from the member for Mitcham, the Premier outlined in some detail the number of departmental officers with home telephones partly or wholly paid for by the relevant departments. The member for Mitcham has gone on public record since that time saying that he considered the number to be unreasonably high and that he will be asking further questions. At the head of this list was the Agriculture and Fisheries Department with 193 telephones partly or wholly paid for by that department. Will the Minister inform the Council whether such a high number is justified and, if so, on what grounds?

**The Hon. B. A. CHATTERTON:** The member for Mitcham has little idea of how agriculture operates in this State. It certainly does not operate on a strictly nine-to-five basis and it is very necessary for advisers in my department to be able to telephone farmers and give any advice that may have been requested.

**The Hon. R. C. DeGaris:** Most of the work is done after hours.

**The Hon. B. A. CHATTERTON:** A great deal of the work is done after hours, and the situation in which these people have those expenses covered by the Government is quite justified; it is very much part of the work that they are employed to do. Otherwise these advisers would not be as effective as they are. An example which strengthens this case is the T.B. and brucellosis campaign: it would be virtually impossible for officers to organise cattle to be tested, if they were not able to telephone farmers after hours, because it is not possible to contact farmers during normal office hours in order to arrange for cattle to be yarded, and so on. There are many examples similar to this which fully justify the expenditure incurred by the Government in subsidising these home telephones.

#### LYRUP VILLAGE ASSOCIATION RULES

Order of the Day, Private Business, No. 3: the Hon. C. J. Sumner to move:

That the rules of the Lyrup Village Association made under the Crown Lands Act, 1929-1978, and laid on the table of this Council on 13 July 1978 be disallowed.

**The Hon. C. J. SUMNER:** As the Joint Committee on Subordinate Legislation has decided to take no further action to disallow the rules of the Lyrup Village Association, as shown in the minutes tabled yesterday, I move:

That this Order of the Day be read and discharged.

Order of the Day read and discharged.

#### SWIMMING POOL REGULATIONS

Order of the Day, Private Business, No. 4: the Hon. C. J. Sumner to move:

That the regulations made on 8 June 1978 under the Health Act, 1935-1976, in respect of swimming pools and laid on the table of this Council on 13 July 1978 be disallowed.

**The Hon. C. J. SUMNER:** As the Joint Committee on Subordinate Legislation has decided to take no further action to disallow the regulations under the Health Act in respect of swimming pools, as shown in the minutes tabled yesterday, I move:

That this Order of the Day be read and discharged.

Order of the Day read and discharged.

#### NOISE CONTROL REGULATIONS

Order of the Day, Private Business, No. 8: the Hon. C. J. Sumner to move:

That the regulation made on 6 July 1978 under the Noise Control Act, 1976-1977, in respect of noise control (hearing conservation) and laid on the table of this Council on 13 July 1978 be disallowed.

**The Hon. C. J. SUMNER:** As the Joint Committee on Subordinate Legislation has decided to take no further action to disallow these regulations, as shown in the minutes tabled yesterday, I move:

That this Order of the Day be read and discharged.

Order of the Day read and discharged.

#### LYRUP VILLAGE ASSOCIATION RULES

Order of the Day, Private Business, No. 12: the Hon. M. B. Dawkins to move:

That the rules of the Lyrup Village Association made under the Crown Lands Act, 1929-1978, and laid on the table of this Council on 13 July 1978 be disallowed.

**The Hon. M. B. DAWKINS** moved:

That this Order of the day be read and discharged.

Order of the Day read and discharged.

#### DISTINGUISHED VISITORS

**The PRESIDENT:** I notice in the Gallery distinguished visitors in the persons of Datuk Sim Kheng Hong, Deputy Chief Minister and Minister for Finance and Development in the State of Sarawak; and Senator Law Hieng Ding, Parliamentary Secretary of the Ministry of Science, Technology and Environment in the Federal Government of Malaysia. I believe it would be the wish of all members that our visitors be invited to take seats on the floor of the

Council. I ask the Minister of Health and the Leader of the Opposition to escort our distinguished visitors to seats on the floor of the Council and to introduce them.

The distinguished visitors were escorted by the Hon. D. H. L. Banfield and the Hon. R. C. DeGaris to a seat on the floor of the Council.

#### LOCAL GOVERNMENT ACT AMENDMENT BILL

(Second reading debate adjourned on 23 August. Page 671.)

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

#### PART-TIME EMPLOYEE REGULATIONS

Order of the Day, Private Business, No. 15: The Hon. R. C. DeGaris to move:

That the regulations made on 29 June 1978 under the Superannuation Act, 1974-1978, in respect of part-time employees, and laid on the table of this Council on 13 July 1978 be disallowed.

**The Hon. R. C. DeGARIS (Leader of the Opposition)** moved:

That this Order of the Day be read and discharged.  
Order of the Day read and discharged.

#### ELECTORAL ACT AMENDMENT BILL

Read a third time and passed.

#### EVIDENCE ACT AMENDMENT BILL

Second reading.

**The Hon. D. H. L. BANFIELD (Minister of Health):** I move:

*That this Bill be now read a second time.*

Its purpose is to ensure that witnesses who appear before the Parliamentary Select Committee into Prostitution can be guaranteed immunity from prosecution in respect of offences that may be disclosed by evidence given, or submissions made to the Select Committee. The Bill thus seeks to ensure that the Select Committee will have available to it evidence from the widest possible range of sources. The proposed amendment is in this respect similar to a recent amendment to the Narcotic and Psychotropic Drugs Act relating to the Royal Commission into the Non-Medical Use of Drugs. The present Bill contains a further provision protecting the identity of witnesses to the Select Committee from publication. This is likewise designed to ensure that potential witnesses will not be deterred by the risk of publicity from appearing to give evidence, or make submissions, to the Select Committee.

Clause 1 is formal; clause 2 enacts new section 67b in the principal Act. The new section prevents the prosecution of a witness for an offence disclosed in evidence to the Select Committee unless the Attorney-General authorises the prosecution. Such an authorisation will not be given unless it appears that a witness has deliberately set out to gain the benefit of the exemption. New subsection (3) makes it an offence for a person to publish without the authority of the Select Committee evidence tending to identify witnesses appearing before the Select Committee.

**The Hon. J. C. BURDETT** secured the adjournment of the debate.

#### CONSTITUTION ACT AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 19 September. Page 950.)

**The Hon. M. B. DAWKINS:** I rise briefly to discuss this Bill, which I cannot support, as I believe that the increase in the Ministry is not justified at present, particularly in view of the situation of financial stringency in which we find ourselves. If one looks at the number of Ministries that have been effected in this State over the past 10 years, one sees that from the end of October 1965 until October 1975 this State's Ministry increased from eight to 12 members. In that time, the population of this State increased by about 25 per cent. Despite this, the Ministry has increased by 50 per cent in that period.

Much has been said, in an attempt to justify this increase, about South Australia's having the smallest Ministry on the mainland. Of course, that is true. I well remember, when I was in Tasmania in 1965, two of my friends from Western Australia being recalled to Perth in order to be sworn in as Ministers, which action increased the Ministry in that State from 10 to 12 members. At that time, South Australia had only eight Ministers.

Honourable members should realise that that situation, of South Australia's having the least number of Ministers of any mainland State, has obtained since 1927, when the Ministries for the various States were comprised as follows: New South Wales, 12 members; Queensland, 10; South Australia, six; and Tasmania, four. In that year, Western Australia increased its Ministry to eight members, and Victoria also had at that time a Ministry comprising only eight members. That situation obtained for some time, and South Australia had the least number of Ministers of any mainland State.

In 1947, the Tasmanian State Government increased the size of its Ministry from five to nine members, three of whom were Assistant Ministers. In that year, the Tasmanian Cabinet consisted of six Ministers and three Assistant Ministers, whereas South Australia's Cabinet consisted of six Ministers. In 1953, South Australia increased its Ministry to eight Ministers, and in 1964 South Australia still had eight Ministers. In the early part of 1964 Tasmania increased its fully effective Ministry to nine members. So, from early 1964 until late 1965 South Australia had not only the smallest Ministry on the mainland but also the smallest Ministry throughout the whole of Australia.

I want to refresh honourable members' memories regarding why that situation obtained at that time. I think it was the Hon. Miss Levy who referred to the Government's right (which I do not contest) to increase the size of the Ministry, and who said that the Government should have the right to increase its Ministry from 12 members to 13 members. I point out that in 1963 the then Government tried to increase the Ministry from eight members to nine members. Who opposed that move? The Australian Labor Party, aided by the Hon. Tom Stott, made sure that this State's Ministry was not increased from eight members to nine members at that time. So, those people who are using the argument that South Australia has the smallest Ministry on the mainland and even, for a short time, the smallest Ministry in the whole of the Commonwealth have taken a long time to find out that this is a valid reason for an increase in the size of the Ministry, if in fact it is.

I am not sure that a bigger Ministry means more efficiency. Over the years, the South Australian Ministry (I am not referring to a particular Government) has probably been more efficient because it has been fairly small.

**The Hon. C. J. Sumner:** Do you think that applies to shadow Ministries as well?

**The Hon. M. B. DAWKINS:** They are in a different category, as the honourable member may find out one day. As you, Mr. Acting President, well know, shadow Ministers have much extra work and travelling to do and much extra time to put in. However, they get no extra pay or secretarial assistance over and above that which they would get as back-benchers. The situation is therefore vastly different in relation to shadow Ministries compared to the Ministry itself, the members of which are given the appropriate assistance.

Therefore, the use of the argument about South Australia's having the smallest Ministry to justify an increase in the size therefore is, to say the least, somewhat belated. I find myself unable at this time, as much as it may be necessary in future, to support the Bill.

**The Hon. C. M. HILL:** All the relevant points have been canvassed in this debate so far, and, wanting to avoid repetition, I will be brief. The Government has no justification at this time, from the point of view of cost and work load, for trying to achieve this change.

However, this is an administrative decision to be taken by the Government, and I have serious doubts that it is the Council's role to interfere with such an administrative decision. I have already weighed up the points for and against the Bill and, realising that the increase sought is most certainly reasonable in number (in that it is an increase from 12 members to 13 members), which will still result in South Australia's having the smallest Cabinet of any mainland State, I do not oppose the Bill.

I wish to reply to some of the points raised by the Hon. Mr. Sumner, who tended last week to jump up and down and use, as the basis of his whole argument, the fact that Her Majesty's Opposition had a shadow Cabinet of 13 members in this Parliament.

According to the Hon. Mr. Sumner, it was quite illogical for the Opposition even to dream of opposing an increase in the Ministry from 12 to 13. The hard fact of life is that shadow Cabinets can comprise any number of shadow Ministers. There is no direct connection necessarily between the portfolios in the Cabinet and those in the shadow Cabinet, nor is there any direct connection as regards the numbers of people. The Opposition can have any number in its shadow Cabinet, particularly in relation to the situation applying now. As I tried to point out last week, the current plan of the Opposition in regard to 13 Ministers is innovative and unique.

The Labor Party showed that it had forgotten about the Northern areas through its redistribution of electoral boundaries. Members opposite proved to the people in the Northern areas of this State that the Government was not concerned about their welfare at all, whereas the Liberal Party considers that it is imperative that those people should be represented at Ministerial level. So, the present plan is that a shadow Minister will act in the capacity of shadow Minister for Northern affairs. The people who are now in a difficult plight as regards representation, because of the vast geographical area of the one electoral district in the North, know that the Liberal Party is concerned with their welfare.

There is nothing wrong with having a Minister for Northern affairs who is based in a Northern part of the State, where he is readily accessible to the people in that region. He could cover much Ministerial activity that would normally be handled by the Minister of Transport, the Minister for the Environment, and so forth. A Minister stationed in the North is an excellent proposal, and it is new. The Labor Party has not even thought of it,

let alone considered it seriously.

It is a serious weakness to use the fact that there are 13 Ministers in the shadow Cabinet to query why the Opposition can oppose an increase from 12 to 13 Ministers. I support the contention that the ultimate cost of this new Ministry will be considerable. No-one can estimate with certainty what the costs after the first 12 months are going to be for this new portfolio.

The Premier has stated that he intends to allocate work in the community development services areas to the new Minister. The work will be taken from the Community Welfare Department, and the community councils for social development will also come under this new umbrella, as well as work concerning library services and the Premier's arts development section. There will also be work related to community arts programmes which, at the moment, is done within the Premier's Department. Further, there will be local community development activity associated with this new portfolio. Regional cultural centre trusts will come under the new Minister, and I would think that other community activity would grow within the new system.

I was rather amused when I heard some reports that only a minimal sum of money will be involved. I think one estimate was \$20 000. I believe that within 12 months a new portfolio of this kind, with the empire that will grow around it, will cost about another \$200 000. I speak from experience, because I know how difficult it is to prevent expansion when new departmental heads are appointed, along with senior officers and other staff. As well, there will be outgoings and costs generally that accompany such a change. This aspect of cost is a serious consideration, to which the Government should have given more credence before it made its final decision.

As one honourable member on this side mentioned, there are many more important reasons for expenditure if the Government has this sort of money to spend, particularly if the Government is looking at ways and means to improve, for example, the unemployment position in this State. If the Government has up to \$200 000 to spend for a new appointment and a new department such as this, it would be much more in the interests of this State if the Government were to spend such funds to overcome the extremely serious unemployment position which now faces South Australia.

Honourable members on both sides cannot dispute the extreme seriousness of this position. Australian Bureau of Statistics figures show that the unemployment position in South Australia is now considerably worse than in any other State. Indeed, those figures show that unemployment in South Australia is running at 7.9 per cent; Queensland and Western Australia, 6.9 per cent; Tasmania, 6.5 per cent; New South Wales, 5.8 per cent; and Victoria, 5.5 per cent. The Australian average is 6.2 per cent.

**The Hon. D. H. L. Banfield:** You complained when the Government was doing something about the unemployed people, and now you have changed your tune.

**The Hon. N. K. Foster:** You called them dole bludgers.

**The Hon. C. M. HILL:** I did not ever do that. My complaint related to the approach that the Government was taking. Financing relief schemes is not really helping the unemployed in this State. An incentive is needed for employers to employ more people. That is supported by Mr. Wran in New South Wales.

**The Hon. D. H. L. Banfield:** Plenty of the projects that were carried out under the unemployment relief scheme have been very much appreciated by the community generally.

**The Hon. C. M. HILL:** Let me remind the Minister that

there were many people in the areas he has talked about who were very critical of the work done and of the projects that were carried out.

**The Hon. N. K. Foster:** I have never seen you working with a pick and a shovel. I might have been able to make a comparison.

**The Hon. C. M. HILL:** You would not know much about it yourself. If the Government can allocate funds for a proposal of this kind, the money would be better spent in overcoming the serious unemployment situation in this State. There could be a redistribution of the workload between existing Ministers.

It is apparent to those who are relatively close to Ministers and their work that, whilst some Ministers are working full-time and to maximum capacity, some could be doing more work. It is strange that a new man is required when this situation obtains. I hope full disclosure will be made by the Premier of the Government's plans to appoint a new Minister and that he will be given work in the manner to which I have referred and which was announced by the Premier. Rumours are about (and I accept some as being reliable) that there will also be other changes. I was told by some of my ethnic friends that the Hon. Mr. Sumner may soon be appointed Minister of Ethnic Affairs.

If this proposal flows from this Bill, Parliament should be informed in more detail of the changes that the Premier or his Party contemplate. The Government cannot justify this increase at this time, but it must run the gauntlet of public scrutiny, because in the minds of the public this is another error of judgment by the Government.

The role of members in this Chamber is dissimilar to that of members in another place, and I have grave doubts whether a House of Review should oppose the Government's administrative action in increasing its Ministry from 12 to 13. These doubts cause me to support the Bill.

**The Hon. K. T. GRIFFIN:** I need not reiterate that the responsibility of members in this Parliament and this Council is to the people of South Australia. Whilst the position in other States and in the Federal sphere may be examined, ultimately we must consider what is best for South Australia. It is apparent that, within the community, there is considerable concern about the appointment of an additional Minister in this State. In ordinary circumstances, we should, generally speaking and provided the arrangements are reasonable, allow the Government to structure the administration of the affairs of the State and conduct the administration of the State within the law of the State in such a way as it deems reasonable. That administration is, of course, subject to questioning by Parliament, and the Government of the day must stand or fall by its own administration, or maladministration, of the affairs of the State. But I suggest that there are circumstances which, at this time and in this instance, would justify the rejection of this proposal.

What will the new Minister require? He will require office accommodation and services to that office (telephones, power, telex, office machines and equipment); there will need to be a secretarial and clerical service; personal staff; a motor vehicle and driver; and all the other trappings of the office of Minister. It has been estimated by the Government that the cost will be about \$60 000, but this sum would hardly meet the cost of three staff members, the Government's contributions to the Superannuation Fund, and the attendant expenses of that staff. This is an unrealistically low estimate of the cost of the new Ministry.

The new department will generate activity which will in

itself require further staff, and this will have a snowballing effect in Government jobs and work created. It will encourage the operation of the wellknown Parkinson's Law in the day-to-day administration of this State. This proposal gives greater opportunity for empire building with its attendant increase in costs. It also gives the Government the opportunity to intrude further into the lives of the people of South Australia and the affairs of not only individuals but also commerce and industry. As a State we are already over-governed and the appointment of a new Minister will accentuate that trend. The appointment of the proposed new Minister must be put into this perspective—a significant increase in the costs of Government at a time when we can ill afford it, and an increasing intrusion into the lives of the citizen. For these reasons, in this context and at this time, I will oppose the Bill.

**The Hon. M. B. CAMERON:** I oppose this Bill. If ever the Government's hypocrisy on the matter of curbing Government spending is exposed, it is now. If the Government proceeds with this Bill, it will make a mockery of its claim that it is reducing or curbing its expenditure. It is little wonder that it does not get much sympathy from the Federal Government, when it proceeds with what can only be described as totally unnecessary further expenditure of taxpayers' funds. For the Government to claim that it is not going to cost anything, or a minimal amount, is utter nonsense. It was made clear by the Deputy Premier that the ceiling on the Public Service applies to numbers and not necessarily to the expenditure on salaries, because he made it plain that a clerk can be replaced by a more highly paid officer.

**The Hon. C. J. Sumner:** You couldn't do that.

**The Hon. M. B. CAMERON:** The Government did it once when it got rid of Mr. Lyons, who was one of the Deputy Premier's staff. It created a new position for him and said that another position would be abolished but not necessarily at the same level. I predict we will see a rush in the dropping away of lowly paid jobs and an increase in the number of highly paid jobs in order to give this Minister the staff that he will require; the cost could be enormous. Where will office accommodation be provided? Will the Government take over another floor of the Gateway Inn? An emblem of the magpie will have to be placed outside the Gateway Inn soon, because there will be no accommodation left for the tourists coming to South Australia. Then, we will have to have a new hotel, because the one that has just been finished will have been taken over, by the Public Service.

**The Hon. C. J. Sumner:** We are taking over the residential accommodation there, are we?

**The Hon. M. B. CAMERON:** You may have to, the way you are going, because this is just one more example of how you will increase the need for office space. You already have two floors there, I understand.

**The Hon. D. H. Laidlaw:** It is expensive rent.

**The Hon. M. B. CAMERON:** Yes, and probably many empty buildings are rented by the Government because it has not been shown to be pure on that, either. This proposal, made in the present economic climate, is ridiculous. Surely there are more worthwhile projects on which this money could be expended. Do not let the Government cry crocodile tears about money it has not received from the Commonwealth Government for certain projects. If it has the funds to waste on this proposal, it must stop criticising the Federal Government for supposedly curbing the funds available to this State. It is absurd, when we have probably the worst economic situation of any State in Australia (I understand this is the

only State with a major deficit), for the Government to proceed willy-nilly and spend taxpayers' money on something that it wants internally. I do not believe the Government when it says that the new Minister is required in order to reduce the work load, because the Government is plagued by Ministers who do little.

**The Hon. N. K. Foster:** Name them.

**The Hon. M. B. CAMERON:** The Chief Secretary is one. That has been said in another place, and I do not believe that he puts in the work effort required of his portfolio. One could go on.

**The Hon. N. K. Foster:** That's only one.

**The Hon. M. B. CAMERON:** Probably, one could name the whole Ministry. I would not like to name Ministers in this Council, because—

**The Hon. C. M. Hill:** It would be embarrassing.

**The Hon. M. B. CAMERON:** Yes, and one does not want to embarrass them. I do not believe in making personal attacks. This proposal is an absurd waste of taxpayers' funds and it shows this Government up. It wants an additional Minister only because it has a person whom it wants to promote, for reasons of its own.

**The Hon. C. M. Hill:** Some of them want to promote him.

**The Hon. M. B. CAMERON:** Yes, and others are sitting in the wings. The Government wishes to start the promotion of a replacement for the Premier, and this person has been nominated already as a potential replacement. I appeal to the Government members and to all other members to reject this proposal, as a symbol of what we regard as opposition to this Government's wasteful expenditure of taxpayers' funds.

**The Hon. N. K. FOSTER:** I support the Bill, and I do not wish to answer all the clap-trap that we have had from the Opposition. If I wanted to do that I could dwell for about 10 minutes on the matter of the latest Minister appointed by the Federal Government and the Prime Minister, Fraser. That new Minister, about 12 minutes after being told that he would be a Minister, said frightful things that were not even the policy of the present Federal Government. I refer to Senator Sheil. He was not sworn in but he was sworn at at considerable length by the Prime Minister. If we follow what has happened in every other State in the Commonwealth over the years, and if members opposite are going to oppose this proposal on the basis that there are sufficient Ministers, the Opposition should oppose the fact that its members are sitting here in a Parliament, because we are over-governed in comparison with other Governments in Western democracies.

**The Hon. C. M. Hill:** Are you speaking in favour of the Bill, or against it?

**The Hon. N. K. FOSTER:** This Legislative Council has no real purpose in this State. Most members opposite will recall that, when the Labor Party assumed government in 1965, there were four Government members, three of whom had to be Ministers. That was the constitutional requirement at that time, but it has been changed since. There was much argument about what ought to have occurred in regard to that position. Also, if there had been a fatality or some unusual occurrence, it might well have been that the Government, because of the Constitution, had to rely on and appoint an Opposition member as a Minister, or make other alterations. In 1965, some major committees were headed by members of the Liberal Party because the tenure of office for those positions was bound up in the Constitution.

**The Hon. R. C. DeGaris:** I am not denying it. What committees are you talking about?

**The Hon. N. K. FOSTER:** You work that out.

Committees were chaired by members other than Government members. Do your own homework. The fellow from the Hills who is now dead and gone, Shannon, was one of them.

**The Hon. R. C. DeGaris:** That position will arise again.

**The Hon. N. K. FOSTER:** It well may.

**The Hon. R. C. DeGaris:** Jack Clark continued in the same way.

**The Hon. N. K. FOSTER:** I am not saying that it was right because Clark and Shannon continued in office. I am saying it in reply to the ridicule that you put up. If there had been a catastrophe or accident in 1965 and two Ministers were knocked off or run over by a motor car, you would have had the situation under the Constitution of the elected Government having to operate with someone other than a member of this Chamber.

**The Hon. R. C. DeGaris:** You're totally wrong.

**The Hon. M. B. Dawkins:** Are you saying that the Constitution requires it?

**The Hon. N. K. FOSTER:** It required that a given number of Ministers be in the Upper House.

**The Hon. M. B. Dawkins:** That statement is quite wrong.

**The Hon. N. K. FOSTER:** No-one can convince me that I am not correct. Some members on this side will not agree with me, but I voice that opinion. However, in support of the increase in the size of the Ministry, I say that not one Government or Parliament in Australia, in order to meet the requirements of modern-day administration, has not had to increase the size of its Ministry. Most Parties in Australia have increased the number of Ministers, particularly Parties in coalition Governments.

It is typical of the Country Party that Senator Sheil was appointed because of pressure by Anthony on the Prime Minister that he should be appointed as a plum that ought to be given to the Country Party for its loyalty to the coalition, even though after the election the Liberal Party had enough members to enable it to govern in its own right. I am pointing out the political pressures that have occurred in some parts of Australia. It is not correct to apply it to South Australia, except perhaps for the election of a Speaker. Everyone knows the political pressure that Governments can exert on a person not closely associated with a political Party to accept the position of Speaker of the Lower House.

A Minister's work load is heavy and exacting today, and there is no doubt that it puts a strain on family and private social life. There is justification for saying that the responsibility of the Ministry in South Australia in 1978 and into the 1980's, as against that involved in the number of Ministers in 1964, has increased.

The Hon. Mr. Hill supports this Bill, but if tomorrow by a quirk of fate he found himself carrying the portfolios he carried as a Minister some years ago, he would not disagree that his work load and responsibilities in those areas would be greater than they had been. The same could be said of anyone else. For that reason, the additional Minister is more than justified. The cost is not as great as some members would think: the only realistic figure that has been mentioned is the Premier, and that is below \$100 000. All the rest, including Mr. Cameron's estimate, are conjecture. The measure should be supported by members of the Opposition, and I support it.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Number of Ministers of the Crown."

**The Hon. R. C. DeGARIS (Leader of the Opposition):** My comment has nothing to do with the Bill, but the Hon.

Mr. Foster said that the Constitution demanded a certain number of Ministers in this Council.

**The Hon. N. K. Foster:** I said "provided".

**The Hon. R. C. DeGARIS:** The Constitution has never contained that provision: it contained a provision for a maximum number of Ministers and that number cannot be exceeded by a certain number in the House of Assembly. There was never a requirement for Ministers to be in the Legislative Council.

Clause passed.

Title passed.

Bill read a third time and passed.

#### EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 953.)

**The Hon. J. C. BURDETT:** I support the second reading of the Bill, which is designed to give immunity to witnesses who give evidence before the House of Assembly Select Committee inquiring into prostitution. It is likely that people involved in the business of prostitution, particularly in massage parlours, will not give evidence unless some immunity is provided. We had a similar situation regarding the Royal Commission on the non-medical use of drugs. It is highly desirable that the Select Committee be fully informed and that all the people prepared to give evidence and who are able to give evidence should do so. It is to the advantage of the inquiry, and therefore to the advantage of proper government of this State, that people should be able to come forward without fear of prosecution. The only risk is that some person who was about to be prosecuted anyway may try to get immunity by coming forward and giving evidence. His evidence may not be very useful, but he would obtain immunity. To overcome this, the Bill provides that the Attorney-General may authorise prosecutions.

The second reading explanation stated that the Attorney-General would give his authorisation only in circumstances such as I have described, namely, when a person sought immunity to give evidence when he was likely to have been prosecuted anyway. I support the principle of the Bill, but I consider that the authority ought to be given only by the Attorney-General. It is clearly a legal matter, within his ambit, and he is the person who ought to give the authorisation, if one is to be given.

Mr. President, you will recall that we recently passed without amendment the Administration of Acts Act Amendment Bill, which provided that where any power is given to a Minister he may delegate it to someone else. No doubt you will recall that I moved an amendment but it was lost on your casting vote. I do not wish to canvass that matter again, as it applies generally regarding other Acts. However, this Bill provides the instance in which authorisation ought to be given by the Attorney-General and by no-one else. In support of this view, I point out that this Bill will, in effect, have a comparatively short life, because the Select Committee presumably will not sit for a long time.

When the Administration of Acts Act Amendment Bill was debated previously, the main argument used against my amendment was that a Minister could be temporarily absent. That is unlikely to happen in this case, as the term of effective operation of the Bill will be relatively short. I indicate that in Committee I intend to move an amendment that will have the effect of confining to the Attorney-General the power to give this authority to prosecute. I support the second reading.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** I, too, support the second reading and the views expressed by the Hon. Mr. Burdett. It is necessary in a Select Committee inquiry such as this that some immunity be given to the people who give evidence. Also, there needs to be a provision that does not allow anyone to come along and give evidence with the intention of avoiding prosecution. I also agree with the Hon. Mr. Burdett's point that, in relation to a Bill such as this, the authorisation should be given only by the person holding the commission of Attorney-General. This power should not be delegated to any other Minister.

I should like to make a suggestion which I consider to be reasonable and which I ask the Government to examine: the Attorney-General should hold the permanent power to grant such immunity without the necessity to introduce a special Bill each time this power is needed. It seems to me that, when any Select Committee is doing its job and collecting evidence, the Attorney-General could be empowered to give such immunity as that provided in the Bill, so that the Attorney could exercise his discretion at, say, the request of a Select Committee charged with the responsibility of collecting evidence. The Government should examine this matter so that, instead of a Bill having to be introduced each time this power is needed, it will be a permanent power held by the Attorney-General.

**The Hon. D. H. L. BANFIELD (Minister of Health):** I thank honourable members for the attention they have paid to the Bill, and undertake to draw the Government's attention to the Leader's suggestion.

Bill read a second time.

In Committee

Clause 1 passed.

Clause 2—"Evidence before the Parliamentary Select Committee of Inquiry into Prostitution."

**The Hon. J. C. BURDETT:** I move:

Page 1, after line 15, insert the following subsection:

(1a) Notwithstanding any law to the contrary no Minister or other person shall have power to give an authorisation under subsection (1) of this section on behalf of or in place of the Attorney-General.

As I explained the purpose of my amendment during the second reading debate, it is not necessary for me to do so again.

**The Hon. D. H. L. BANFIELD (Minister of Health):** Although the Government does not agree that this should happen in relation to all other Bills, as this Bill will have only a short life the Government is willing to support the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

#### DEBTS REPAYMENT BILL

(Restored to Notice Paper on 13 September. Page 846.)

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

**The Hon. D. H. L. BANFIELD (Minister of Health)** moved:

Page 1, lines 18 and 19—Leave out paragraph (a) and insert paragraphs as follows:

(a) a liability—

(i) incurred in the course of carrying on a trade or business;

or

(ii) arising under a guarantee or indemnity given



in respect of a liability incurred in the course of carrying on a trade or business;  
 (ab) a liability (not being a liability that does constitute a debt by virtue of subsection (2) of this section) secured by mortgage over land.

**The Hon. J. C. BURDETT:** Under the existing Bill, debts incurred in the course of carrying on a trade or business are excluded and are not regarded as debts for the purposes of the Bill. In the evidence taken by the Select Committee, it was suggested that the same should apply to guarantees or indemnities so that they, too, are excluded. Paragraph (ab) excludes liabilities secured by mortgage over land.

One of the principal objections to the Bill as it stands is that, generally speaking, it is impossible during the period of subsistence of a scheme for a creditor to exercise his security. Evidence was given that, if a security was rendered useless, those concerned would not be as likely to lend their money.

The amendments recommended by the Select Committee in total overcome this problem by excluding most debts secured over real estate, with a partial exemption in regard to housing loans. There are also specific amendments which refer to debts secured over personal estate. I support the amendment.

Amendment carried.

**The Hon. D. H. L. BANFIELD** moved:

Page 2, after line 17—Insert definition as follows:

"mortgage debt" means a liability secured by mortgage over land that constitutes a debt by virtue of the provisions of subsection (2) of this section.

Amendment carried.

**The Hon. D. H. L. BANFIELD** moved:

Page 2, after line 29—Insert subclause as follows:

(2) Where—

(a) a liability is secured by mortgage over land;  
 (b) the land constitutes the usual place of residence of the mortgagor;

and

(c) the liability is not a liability—  
 (i) incurred in the course of carrying on a trade or business;  
 or  
 (ii) arising under a guarantee or indemnity given in respect of a liability incurred in the course of carrying on a trade or business,

that liability constitutes a debt for the purposes of this Act.

**The Hon. J. C. BURDETT:** This amendment is part of the general scheme which I outlined before. In general, real estate secured debts are excluded by the amendment that was just carried. However, real estate secured debts, for the purpose of housing loans or purchasing the property in question, are to be deemed debts for the purposes of the Bill. Later there are specific provisions in regard to them. I support the amendment.

Amendment carried; clause as amended passed.

Clause 5 passed.

New clause 5a—"Administration of Act."

**The Hon. J. C. BURDETT:** I move:

Page 3, after line 2—Insert new Division and clause 5a as follows:

**DIVISION A1—ADMINISTRATION OF ACT**

5a. (1) This Act shall be administered by the Minister of Consumer Affairs.

(2) The Minister of Consumer Affairs shall not be divested of the administration of this Act by proclamation or any other executive act.

This is not a provision that was agreed to by the Select

Committee, which was divided as regards this matter, but it is a provision that I propose to this present Committee. Those who support it consider that this Bill should be administered by the Minister of Prices and Consumer Affairs. Evidence was given before the Select Committee to the effect that it is intended that the Bill will be administered not by the Public and Consumer Affairs Department but by the Community Welfare Department. Officers of the Community Welfare Department have the duty of looking after the welfare of people. If they administer this legislation, they will probably be concerned solely with the welfare of the debtor as a person. It is likely that, if they have the administration of this legislation, they will overlook the rights of the creditor. Because the principal purpose of the Bill is to ensure the repayment of debts, we consider that it should be administered by the Minister of Prices and Consumer Affairs. It is a consumer problem. When people get into the kind of debt situations that are contemplated by this Bill, it is because the ordinary supplier-consumer relationship has broken down. The consumer has become unable to meet his commitments and, therefore, it is a consumer problem. We have no reason to suppose that the officers of the Public and Consumer Affairs Department would not be sympathetic to the consumer. They have proved that they are, and it is their job to look after the consumer. It seems to me that they are more likely to consider the object of this Bill, as reflected in its title, namely, to see that debts are paid. I do not think there is any reason to think they will be harsh.

**The Hon. R. C. DeGaris:** Was there any evidence given to the Select Committee on this matter?

**The Hon. J. C. BURDETT:** Evidence was given by officers of the Community Welfare Department, and that evidence supported the fact that they were concerned with the welfare of the debtor, not with the payment of the debt. I acknowledge that it is unusual to state in legislation which Minister shall administer it, but, because the matter has specifically arisen in this case and because it is likely to be administered by a Minister whom we consider to be inappropriate, I have moved this amendment. When I say that I consider the Minister to be inappropriate, I do not mean this personally, of course, but I suggest it is not the proper portfolio.

**The Hon. D. H. L. BANFIELD:** I oppose the new clause. It is true to say that the Community Welfare Department is to administer this Bill. This department provides a similar type of assistance for persons in financial difficulties and has the expertise in managing large quantities of transactions involving money to be geared for this role. The Hon. Mr. Burdett has pointed out that this is a debt repayment Bill. Surely community welfare officers would be able to assist the consumer in this regard. If they did not assist him, the debts might not be paid at all. The consumer might then be forced into bankruptcy, and that is not what the Bill is about. It is to prevent the consumer from being declared a bankrupt, with the result that the supplier will benefit as much as anybody as a result of this Bill, if some plan is agreed to whereby that debt can be paid. The Community Welfare Department officers have expertise in this area, and we think the legislation should be administered by that department. As the Hon. Mr. Burdett has pointed out, it is most unusual for Parliament to include in legislation how it is to be administered. I suggest that this legislation is not one of those cases which call for such an unusual step to be taken, and I ask honourable members not to accept the new clause.

**The Hon. R. C. DeGARIS (Leader of the Opposition):** What the Minister has said is correct. It is unusual in an



Act of Parliament that a direction is made as to the administration of a Bill, but it is not unknown. Pages 13 to 35 of the document before us include amendments upon which we agreed as a Select Committee.

The Select Committee has done much work, and agreement was reached in many areas. However, on one or two points vital to the whole concept of the five Bills, agreement was not reached. The view expressed by the Hon. Mr. Burdett is the correct one.

The first area of disagreement is whether the reaching of a decision between a debtor and his creditor or creditors falls within the bounds of community welfare. This role would fall more into the area of the Consumer Affairs Department, which has the role of making judgments between debtors and creditors and between consumers and suppliers.

Opposition members who were on the Select Committee believe that the Act would be better administered and would provide greater justice to all concerned if it was administered by the Consumer Affairs Department. I agree with the Hon. Mr. Burdett when he said that the Community Welfare Department deals largely with supporting people who are in trouble. That department is not looking for absolute justice for a debtor or a creditor. I therefore support the new clause.

**The Hon. C. J. SUMNER:** I find the Opposition's approach somewhat extraordinary, particularly when one considers the attitude that many of them have adopted on the Bill to amend the Constitution Act so as to provide for an additional Minister. Many members opposite said that they believe that the matter of the appointment of an additional Minister should be decided by the Government, as it was a matter coming within the Executive function of Government. The Hon. Mr. Burdett gave us a learned dissertation on the separation of powers, something that he was taught in constitutional law at law school (the separation between the Executive, the Legislature and the Judiciary), and I would not want to disagree with what he said.

The Hon. Mr. Burdett came to the conclusion that he should support the proposition for an extra Minister as it was a matter within the Executive function of Government, and he considered that the Legislature should not interfere. I am unable to see how that situation differs from the Bill now before us. If anything, that situation was perhaps a stronger one for him to argue that the Legislature should interfere, as it was a matter already contained in the Constitution, which is an Act of Parliament. Yet here is a weaker position, and the Hon. Mr. Burdett has forgotten what he told the Chamber on this previous Bill, and he has now decided that the Legislature should interfere with the function of Government in an area that really is very much an administrative area. It is very much up to the Government to decide which department should administer an Act and which Minister should be in charge.

The needs of Government may change, and it may well be that as time passes it will be necessary to shift the position from one department to another or from one Minister to another. Why should the Government be bound by this clause in the Bill? Members opposite are being completely inconsistent in their approach on this matter. On one hand, many of them supported the Constitution Act Amendment Bill to increase the Ministry, on the grounds that they did not think they should, as a Legislature, interfere with Executive Government. They are now saying that they, as a Legislature, should interfere with the Executive administrative arrangements of Government. I therefore oppose the new clause.

**The Hon. J. C. BURDETT:** I was expecting the Hon. Mr. Sumner to say something like that, and I was not disappointed. This is a very different situation from that involving the Constitution Act Amendment Bill. This Chamber agreed to refer this Bill to a Select Committee, and that motion was not opposed. The Committee can refer to the evidence given before the Select Committee, especially that given by Dr. David Kelly who is a Commissioner of the Australian Law Reform Commission and who gave his evidence not in that capacity but in a private capacity. The Australian Law Reform Commission had been considering legislation similar to this Bill on a Federal basis, but more extensive, that is, legislation in relation to the payment of debts by instalments. The evidence given by Dr. Kelly was extremely learned and practical and was of much assistance to the committee. He took what could be termed a fairly radical view in regard to the repayment of debts, but his learning and his mode of expression was such that he made a considerable impression on all members of the committee. It was his opinion that a Bill such as this, when it becomes law, should be administered by the Consumer Affairs Department. He expressed that preference, which is different from the ordinary principle.

As the Hon. Mr. DeGaris said, ordinarily we would agree that the Government chooses whichever Minister it wants to administer a measure, but here we have evidence stating that it should be administered by the Consumer Affairs Department. Evidence was given on behalf of the Government by officers of the Community Welfare Department indicating that they would act to the contrary of that evidence. What appears to be a wise course from the evidence will now be ignored, and the Community Welfare Department will administer the Bill. Ordinarily, the Council would not know when a Bill is passed whether a Government intends to use the right or wrong department: the Council assumes that it will use the right one. That is properly a matter of administration. However, here we have evidence which leads us to suppose that the Government will use the wrong department. In this unusual circumstance and for that reason, I have moved the amendment to put the administration where it should be.

The Committee divided on the new clause:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. Jessie Cooper. No—The Hon. J. E. Dunford.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. To allow this new clause to be considered by the House of Assembly, I give my casting vote for the Ayes.

New clause thus inserted.

Clauses 6 to 8 passed.

Clause 9—"Debt counsellors."

**The Hon. D. H. L. BANFIELD:** I move to insert the following new subclause:

(1a) A person is, subject to this Act, eligible for appointment as a debt counsellor if—

(a) he is an officer or employee—

(i) of the Crown;

or

(ii) of some reputable agency, and intends to practise as a debt counsellor in his capacity as such;

(b) he is a member or officer of a benevolent or charitable organisation that provides, or proposes to provide, debt counselling as a community service, and he intends to practise as a debt counsellor on behalf of that organisation;

or

(c) he carries on a prescribed profession and intends to practise as a debt counsellor in the course of that profession.

This broadens the original clause and enables someone working for a charitable organisation to act as a debt counsellor.

**The CHAIRMAN:** Order! I have asked honourable members to show courtesy to the person speaking but members seem quite content to ignore my request. All they are doing is prolonging the business of the Council, because I intend to call for order and see that persons are seated while another person is speaking.

**The Hon. J. C. BURDETT:** I support the amendment, the main purpose of which is to enable voluntary agencies to be used where the Government sees fit. It seems agencies have not any right, but they can be employed. It seems appropriate to do that. Also, the department may authorise someone who carries out a prescribed profession. Again, they will have no right: it is merely a power. It would be a pity if departmental officers had a monopoly on what will be a professional occupation.

**The Hon. R. C. DeGARIS:** There was total agreement in the Select Committee about this amendment. Many voluntary agencies do an excellent job. For example, church organisations give an excellent service in advising people on budgeting and in debt counselling. The original Bill virtually excluded people in that capacity, and I support the amendment.

Amendment carried; clause as amended passed.

Clause 10—"Immunity from liability."

**The Hon. D. H. L. BANFIELD:** I move:

Page 4—

Line 1—Leave out the heading.

Lines 2 to 4—Leave out this clause.

The Select Committee was unanimous in recommending that this clause be deleted.

**The Hon. J. C. BURDETT:** I support the amendment. It accords with the view I have expressed several times. I introduced a private members Bill to remove immunity in respect of the Commissioner for Prices and Consumer Affairs. When Government agencies act for individuals, they should not be immune to proceedings. Debt counsellors will perform a service and it is possible that they may do damage. I believe that debt counsellors or Government employees should not be immune.

Clause negatived.

Clause 11—"Application for assistance."

**The Hon. D. H. L. BANFIELD:** I move:

Page 4, lines 12 to 15—Leave out subparagraphs (i), (ii),

(iii) and (iv) and insert subparagraph as follows:

(i) the income, property, usual living expenses, debts and other liabilities of the debtor, his spouse (if he is cohabiting with his spouse), and his dependants;

This clause caused much discussion in the Select Committee in relation to the particulars that should be included, including the assets of a spouse, and we finally arrived at this amendment. The assets of the spouse can be included provided he or she is cohabiting.

The amendment only means that the income, property, etc., of the spouse should be included in the application for assistance; there is no suggestion that that can be attached or made the subject of the scheme. A man may be in financial trouble and seek assistance, but the debt counsellor would not know that his wife might be a

millionairess. The amendment ensures that the family situation is known by the debt counsellor, and I ask the Committee to support it.

Amendment carried.

**The Hon. J. C. BURDETT:** I move:

Page 4, line 22—Leave out "fifteen thousand" and insert "seven thousand five hundred".

This amendment was discussed in the committee but not agreed to. It is clear from the second reading explanation that the purpose of these schemes is to enable people in difficulty to repay their debts where the total indebtedness is comparatively small. It was not intended to cover the case where the total indebtedness was, say, \$100 000. In that situation bankruptcy is the answer. The Bill provides that schemes for repayment are for a period of three years, and there must be a maximum sum that the ordinary person in difficulty could repay within that time.

Evidence was given by Mr. Moore from the university who had seen such schemes operating in the United States and Canada. He did not think schemes such as this were successful where the total indebtedness was more than about \$7 000. He said that the typical case was about \$3 000 and that \$15 000 seemed to be too high a limit.

**The Hon. D. H. L. BANFIELD:** A maximum indebtedness of \$15 000 for eligibility to use the scheme is comparable with the figure stated in the Australian Law Reform Commission Report No. 6. The price of a motor vehicle could now well be more than \$7 500, and it may be that a man has not completely paid off that vehicle, and could have other debts. If he can repay about \$100 a week, he should be able to participate in these schemes. There may not be many people wanting to take advantage of this, or who owe a maximum of \$15 000. Some people may be able to get out of the mess within three years. It would be wrong for us to deny them the opportunity to participate in the scheme. I oppose the amendment.

**The Hon. F. T. BLEVINS:** Restricting the amount above which a person can enter into a scheme to \$7 500 is totally unrealistic. The standard price of a Holden motor car is about \$7 000 and most people in debt and requiring this Bill's assistance would be purchasing a motor car. I hope that the Opposition will agree to the original proposal for \$15 000. I cannot remember any evidence given to the Select Committee suggesting that \$7 500 was an appropriate amount. I oppose the amendment.

**The Hon. C. J. SUMNER:** I find opposition to the proposal for a limit of \$15 000 surprising. The Bill states that a person in financial difficulties may go to a debt counsellor for assistance. On the other hand, he may choose bankruptcy. There may be people who owe more than the Opposition's suggested limit of \$7 500, but owe less than \$15 000. They may be considering going bankrupt, but might appreciate the opportunity to obtain advice from a debt counsellor. It is possible that, after obtaining that advice, the debtor may consider that he can pay off his debts within the stated period and avoid bankruptcy. I am sure that Opposition members would agree that that would be to the advantage of the community and creditors. Generally, there probably will not be many people owing more than \$7 500, so why exclude them?

The Hon. Mr. Burdett said that Mr. Moore suggested that the limit ought to be about \$7 000. However, I am not sure that Mr. Moore suggested a figure. Mr. Moore said that schemes usually work overseas for debts under \$7 000. However, he did not say that they would not work for debts over \$7 000. So, why should such debts be excluded?

The Hon. Mr. Burdett has been selective in this matter. He chose Mr. Moore to support his proposition.

Previously, the honourable member selected Mr. Kelly to support his proposition that the Act should be administered by the Public and Consumer Affairs Department. Now, however, he has decided to accept Mr. Moore and reject Mr. Kelly, although the latter participated in the preparation of the Australian Law Reform Commission Report, which suggested that \$15 000 was the appropriate figure.

Mr. Moore's evidence was not directed specifically to the South Australian situation. He merely commented on the success rate of schemes overseas and said that, generally, schemes succeeded if they involved debts of less than \$7 000.

**The Hon. J. C. BURDETT:** The Government has acknowledged that a limit ought to be set, because the Bill provides for a \$15 000 limit. As evidence was given that the limit ought to be about \$7 000, there is good reason for supporting the amendment.

**The Hon. D. H. L. BANFIELD:** I do not think Mr. Moore recommended a limit. Rather, he indicated how schemes had worked overseas. He did not say that a scheme providing for a limit of more than \$7 000 would not work. The Law Reform Commission, which thoroughly examined this matter, obviously believes that a person who owes \$15 000 should not be excluded. Therefore, Mr. Kelly's submission was as important as that of Mr. Moore, who did not say that people owing more than \$7 000 should be excluded.

**The Hon. J. C. BURDETT:** I specifically questioned Mr. Moore about the limit. He said that his experience in Canada indicated that schemes providing for debts of over \$7 000 rarely succeeded.

**The Hon. C. J. SUMNER:** I do not see how the amendment will help the creditor, which I presume the Hon. Mr. Burdett is trying to do. How could it assist a creditor if it forced more people into bankruptcy, because, if people cannot get the assistance of a debt counsellor, that is what will happen? In any event, the creditor will, if he so desires, be able to force someone into bankruptcy. I do not see, therefore, how this is in any way prejudicial to a creditor. Indeed, it may well be beneficial not only to him but also to the community.

**The Hon. F. T. BLEVINS:** The Hon. Mr. Burdett said that the Government had chosen to impose a limit but, if I had any criticism of this clause, it would be that a limit had been set. Some members of the Select Committee asked why we should have any limit at all and, although I did not take up the matter with the Minister, I cannot see why there should be a limit. If someone with a debt of \$50 000 is willing to try to clear that debt within three years rather than being driven to bankruptcy, it will be in the best interests of the creditor, debtor and the community that he be allowed to do so.

**The Hon. C. J. Sumner:** They can renew the scheme after three years, anyway.

**The Hon. F. T. BLEVINS:** That is so. I cannot follow the logic of reducing the limit to \$7 500.

**The Hon. R. C. DeGARIS:** The logic is purely and simply that such a move is practical. If we are to have no limit at all, the scheme will not be able to operate. The Hon. Mr. Burdett's point is important. If any person who appeared before the Select Committee had a real and practical appreciation of legislation of this kind and how it operated, it was Mr. Moore, who said clearly that \$7 000 was a practical limit. The only evidence that the Select Committee received regarding the \$15 000 limit was that from Mr. Kelly and the Government itself. All other persons who gave evidence considered that the \$15 000 limit was too high for legislation of this kind. I therefore support the amendment.

**The Hon. D. H. L. BANFIELD:** It is necessary again to remind all members that the purpose of this Bill is to ensure that debts are repaid. If someone owes \$15 000 and cannot enter into a scheme, it is more than likely that he will finish up in the Bankruptcy Court. However, if the counsellor is satisfied that a scheme can be worked out, enabling a debt to be repaid fully, it will be to everyone's benefit. So, I cannot see why, if a scheme is workable for someone who owes \$15 000, that person should not be able to enter into it. This is in the interests of the creditor, because he has more chance of getting his debt paid if his debtor is included in the scheme. I therefore oppose the amendment.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, K. T. Griffin, and C. M. Hill.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. D. H. Laidlaw. No—The Hon. J. E. Dunford.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. So that this amendment can be considered by the House of Assembly, I give my casting vote for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 12—"Preparation of scheme."

**The Hon. D. H. L. BANFIELD** moved:

Page 5—

Line 4—After "must" insert " , subject to this section,".

Line 5—Leave out "to be distributed".

Line 11—Leave out "A" and insert "Subject to this section, a".

Amendments carried.

**The Hon. D. H. L. BANFIELD** moved:

Page 5, after line 13—Insert paragraph as follows:

(ab) prohibit or restrict the sale or disposal of specified property by the debtor or any other transaction affecting specified property of the debtor;

**The Hon. J. C. BURDETT:** I support the amendment. It seems reasonable that a scheme should be able to prohibit or restrict the sale or disposal of specified property of the debtor: otherwise, a debtor could make the position of his creditors worse by getting rid of existing assets.

Amendment carried.

**The Hon. J. C. BURDETT:** I move:

Page 5, lines 16 and 17—Leave out paragraph (c) and insert new paragraph (c) as follows:

(c) provide for the modification of contractual provisions relating to—

- (i) the interest to be paid by the debtor;
- (ii) the amount of instalments to be paid by the debtor;
- (iii) the time of payment of instalments by a debtor.

This is perhaps the most important of the amendments that were not agreed to in the Select Committee. This amendment was considered but not agreed to by the Select Committee, but I consider this is one of the most important matters in the Bill. The existing subclause (3) (c) enables the scheme to provide for a modification to the contractual rights and liabilities of debtors and creditors. There is no limit on that power at all. It means that, where there are rights between debtors and creditors, the scheme can provide for any modification whatsoever: that seems to be unjustified by the purpose of the Bill, and it is far too wide.

The Minister will recall that in the last session the

Contracts Review Bill was referred to the Law Reform Committee. At least in regard to debts that are the subject of a scheme, we would not need a Contracts Review Bill if we passed this subclause as it stands because a scheme could provide for any modification of contractual rights at all. The price of goods could be changed by the scheme and, if there were a lease, the term of the lease could be changed. Members on this side who were on the Select Committee agreed that the only justification for modifying contractual rights was when it had regard to the payment of the debt.

A contract is one of the basic things in all commercial transactions: it has legal effect and is binding. If the concept of the contract is destroyed, commercial relations as we know them will be destroyed. In some cases it may be necessary to modify contractual rights, and members on this side have considered this. We thought it was necessary to provide for varying the amount of instalments to be paid so that one creditor was not preferred to others in the hope of debts being paid. We also thought it was necessary to provide that the time of payment of instalments be varied. If a scheme such as this is to be implemented, it is proper that the total indebtedness to all the creditors be considered, not just one creditor who may have an exorbitant and preferential interest rate, high instalments, or frequent payments.

We believed that some things might have to be modified, and there ought to be some rights for the tribunal to vary contractual rights between debtors and creditors in matters of interest rate, instalments, and the time for payment. To allow all provisions in the contract to be varied is quite unjustified and outside the ambit of the Bill. For these reasons I move this amendment.

**The Hon. C. J. SUMNER:** In the general type of case that would come before the debt counsellor and the tribunal, there would be no need or desire to amend the terms of the contract, except as specified in the amendment. Mr. Burdett's argument would have some force if the clause provided that those changes to the terms of the contract were permanent. However, they are not, and that will be clear from the Minister's following amendment. At the end of the scheme the original contract comes into force, if within that time the debt has not been satisfied. The Hon. Mr. Burdett's fears are unfounded, particularly in view of new subclause (4) which the committee agreed should be inserted. If it were an open-ended proposition, the Hon. Mr. Burdett would be justifiably worried, but it is not.

The clause gives the tribunal an extra flexibility to resolve the differences between the debtor and the creditor. There may be situations in which it is of benefit to the creditor. The general argument in favour of the broader clause, which is the Government's proposition, is that it would give the tribunal an extra flexibility. It cannot be to the detriment of creditors, because it can only pertain during the existence of the scheme; a three-year period. At the end of that period the original rights and liabilities under the terms of the contract will revive.

**The Hon. K. T. GRIFFIN:** I support the amendment. The ordinary rules of statutory interpretation require that a provision must be construed in the context in which it appears. In considering the provisions in the Bill, it is clear that there are no limitations on the way the scheme may provide for the modification of contractual rights and liabilities to the debtors and creditors. Therefore, the provision as it stands must be given the widest possible interpretation, because there is no limiting factor. If that is done it will allow a scheme to modify all contractual rights and liabilities, or any one or more of them. That extends beyond the modification of the instalments, the interest

rate, and the time for payment of instalments.

Under the scheme proposed in the Bill, the appropriate modifications, which should be within the jurisdiction of the tribunal considering the scheme, ought to be limited to the interest to be paid, the amount of instalments to be paid, and the time of payment of the instalments. If a scheme may vary any one or more of those provisions, it then serves the interests of the debtor in the context in which the scheme is proposed and in the light of the circumstances of the debtor. Therefore, the tribunal should not have the wide power as embodied in the present provision. There should be provisions specifically restricting the way in which the modification of contractual rights and liabilities can be made.

The Hon. Mr. Sumner, indicated that there is a proposed amendment which would limit modifications to contractual rights and liabilities to the period of the subsistence of the scheme. That is really not relevant to the way in which the contractual rights and liabilities may be modified under an open-ended arrangement. For a period of three years the rights and liabilities may be modified quite extensively to the detriment of the creditor in many ways other than those proposed by the Hon. Mr. Burdett's amendment. That breadth of opportunity for the tribunal should not be allowed and should be restricted.

**The Hon. D. H. L. BANFIELD:** I oppose the amendment. Of necessity, this clause, namely 12 (3) (c), was framed broadly to enable the tribunal to look at the contract as a whole and if incidental matters relating to the debtor's financial difficulties arose then the breadth of the clause would enable the tribunal to deal with the contract realistically and not in a confined manner which may equally offend a creditor by denying the tribunal power to modify a term which may well solve the debtor's problem and enable him to pay his creditor. That is what it is all about: for the creditor to be paid. We do not want any restrictions placed on that position.

**The Hon. C. J. SUMNER:** I ask the Hon. Mr. Burdett what would happen if a creditor was prepared to accept an amount lower than the original contract price, provided that it was paid within the three-year period of the scheme. It seems that this clause would enable such a scheme to be entered into and to be sanctioned by the tribunal, to the benefit of the creditor.

**The Hon. J. C. BURDETT:** I am pleased to answer that question, because if the creditor agreed to accept the lower sum on condition that the debt was paid at an earlier date, that could be done and can be done at present; it does not need this Bill to do it. It is well known that any contract can be varied by agreement. If the creditor agrees to accept a smaller sum on condition that the debt is paid in a lesser time, there is nothing to stop him doing this; this Bill is not needed in order to do it.

The Committee divided on the amendment:

Ayes (9)—The Hons. J. C. Burdett (teller), M. B. Cameron, J. A. Carnie, Jessie Cooper, R. C. DeGaris, R. A. Geddes, K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. M. B. Dawkins. No—The Hon. J. E. Dunford.

**The CHAIRMAN:** There are 9 Ayes and 9 Noes. To allow this amendment to be further considered, I give my casting vote for the Ayes.

Amendment thus carried.

**The Hon. D. H. L. BANFIELD:** I move:

Page 5, after line 13—Insert subclauses as follows:

(4) Where a scheme modifies contractual rights and liabilities, that modification is effective only during the subsistence of the scheme.

(5) Where a mortgage debt was incurred for the purpose of purchasing or improving the land on which it is secured, a scheme covering that debt—

(a) may not—

- (i) reduce the amount of any instalment payable under the mortgage;
- (ii) postpone the payment of any instalment payable under the mortgage;
- (iii) reduce the rate of interest payable under the mortgage;

and

(b) must provide for the payment of all arrears (if any) outstanding under the mortgage at the commencement of the scheme within twelve months of the commencement of the scheme.

(6) Where a mortgage debt is covered by a scheme—

(a) any provision in the mortgage whereby, upon default by the mortgagor in complying with the terms of the mortgage, payment of the amount secured by the mortgage is to be made before it would otherwise be payable, is during the subsistence of the scheme, of no effect;

and

(b) where the provisions of the mortgage provide that a lower rate of interest is chargeable if instalments are paid within specified times, interest at the lower rate shall continue to be payable, during the subsistence of the scheme, notwithstanding that the mortgagor is in arrears in the payment of instalments.

The amendment has been accepted by the Select Committee, and I ask members to accept it.

**The Hon. J. C. BURDETT:** Proposed subclause (4) provides that, where a scheme modified contractual rights and liabilities, that modification is effective only during the subsistence of the scheme. At the end of the scheme, the original arrangement continues. The proposed subclause (5) is part of the total amendment relating to mortgage debts and securities. The Select Committee mainly had in mind housing debts and housing loans. These are debts within the meaning of the Bill, but the variations that may be made are limited by the amendment, and all debts may be provided to be paid within 12 months of the commencement of the scheme. Proposed subclause (6) also is part of the total scheme relating to mortgage debts and securities.

**The Hon. C. J. SUMNER:** I think proposed subclause (4) overcomes the problems that the Hon. Mr. Burdett had in mind regarding the previous clause. In other words, it ensures that, at the termination of the scheme, the original rights and liabilities under the contract are renewed. If a debt has not been paid after that time, the creditor still has his remedies. When I put to the Hon. Mr. Burdett the situation of creditors coming to an agreement with the debtor to accept a lower price, he said that that could happen anyhow. That is true, but in some circumstances it may be more practical to enable it to happen within a scheme and, if the price is reduced for the period of that scheme and the debtor fails to live up to the scheme, at the end the original price comes into operation again.

It may be advantageous to modify a contract in a broad manner, not in the restricted manner that the Hon. Mr. Burdett has mentioned. Take a debt of \$7 500: creditors who have \$7 250 owing may agree to a reduction in price for the period of the scheme in order to get payment, but a creditor who has only \$250 owing to him may refuse to

agree to a reduction in price. In the overall interests of the creditors, there would seem to be a case for a tribunal being able to impose that scheme on the recalcitrant creditor who is owed only \$250. There is always provision that modification of the scheme must be put to the tribunal and, if the tribunal saw opposition from the majority of the creditors or if it felt that injustice was being done to creditors, it would refuse to ratify the scheme. This provision gives the protection that the Hon. Mr. Burdett wanted to give.

Amendment carried; clause as amended passed.

Clause 13—"Reference of scheme to tribunal."

**The Hon. D. H. L. BANFIELD** moved:

Page 5, lines 30 to 39—Leave out subclauses (2) and (3) and insert new subclauses as follows:

(2) The following persons may give evidence, or make representations, to the tribunal in relation to a proposed scheme—

- (a) the debtor;
- (b) a debt counsellor;
- (c) any creditor affected by the proposed scheme; and
- (d) any other person who may, in the opinion of the tribunal, be able to assist it to arrive at a just decision.

(3) Representations may be made to the tribunal—

- (a) personally, or by counsel or other representative; or
- (b) in writing.

**The Hon. J. C. BURDETT:** One of the main things that members of the Select Committee wanted was to make sure that it was quite clear that the debtor himself had the right to appear.

Amendment carried.

**The Hon. D. H. L. BANFIELD** moved:

Page 6, line 3—Leave out all words in this line and insert: property—

(a) that has been seized by the creditor in pursuance of a security;

**The Hon. J. C. BURDETT:** I move that the amendment be amended by inserting in paragraph (a), after "has", the following:

, within the period of six months immediately preceding the date of the order,.

Opposition members on the Select Committee agreed with the Minister's amendment as far as it goes, but it does not go quite far enough. Subclause (5), as it stands, provides:

Upon approving a scheme under this section, the tribunal may order a creditor to whom debts covered by the scheme are owed to return any property seized in pursuance of a security given by the debtor over that property.

It was pointed out that the property may no longer be in the possession of the creditor, or it may have been seized 10 years before. I agree with the Minister's amendment as far as it goes, namely, that the order to return the property seized should only be able to be made when still in the creditor's possession. However, there ought to be a limitation that the order to return the property should only be able to be made within six months immediately preceding the date of the order, that is, where the property had been seized in the six months immediately preceding the date of the order; that is a normal relation-back period. That term is well known in the law of bankruptcy: when something has happened shortly before the bankruptcy, or before the scheme in this case, there should be the power to do something about it. Where a debtor's asset was seized by a creditor, pursuant to a security, shortly before the scheme came into effect, it is proper that it ought to be able to be returned and brought back into the scheme, but there should be a time limit.

**The Hon. D. H. L. BANFIELD:** I oppose the Hon. Mr.

Burdett's amendment. The proposed relation-back period is unnecessary, as it is ensured that the creditor may not be requested to release property he no longer possesses. The six months requirement adds nothing to the clause since, besides the protection to which I have referred, this is a matter of discretion for the tribunal, which would look to the practicability of the matter in considering whether to exercise the discretion.

The Committee divided on the Hon. Mr. Burdett's amendment:

Ayes (9)—The Hons. J. C. Burdett (teller), J. A. Carnie, Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, K. T. Griffin, C. M. Hill, and D. H. Laidlaw.

Noes (9)—The Hons. D. H. L. Banfield (teller), F. T. Blevins, T. M. Casey, B. A. Chatterton, J. R. Cornwall, C. W. Creedon, N. K. Foster, Anne Levy, and C. J. Sumner.

Pair—Aye—The Hon. M. B. Cameron. No—The Hon. J. E. Dunford.

The CHAIRMAN: There are 9 Ayes and 9 Noes. I give my casting vote for the Ayes.

The Hon. J. C. Burdett's amendment thus carried; the Hon. D. H. L. Banfield's amendment as amended carried.

The Hon. D. H. L. BANFIELD moved:

Page 6, after paragraph (a)—Insert:  
and

(b) that is still in the possession of the creditor, not being property that has, in pursuance of the security, become property of the creditor.

The Hon. J. C. BURDETT: I find that a mistake has been made in the drafting of the amendment that is on file in my name. I do not seek to delete any words but support the Minister's amendment.  
Amendment carried.

The Hon. D. H. L. BANFIELD moved:

Page 6—

After line 3—Insert subclauses as follows:

(5a) Where a scheme contains a provision prohibiting or restricting the sale or disposal of any interest in land by a debtor the tribunal may direct the Registrar-General to register a memorandum of that provision on the relevant certificate of title to the land.

(5b) After the registration of a memorandum by the Registrar-General in pursuance of a direction of the tribunal under subsection (5a) of this section, any transaction entered into by the debtor in contravention of the provision of the scheme to which the memorandum relates is void and of no effect.

Line 8—After "scheme" insert—

(a) by admitting further debts to the scheme;

or

(b) in any other manner.

After line 8, insert subclause as follows:

(7a) Notice of an application for the variation of an approved scheme—

(a) must, if the application is made by a creditor, be given—

(i) to the debtor;

and

(ii) to all other creditors affected by the scheme or the proposed variation;

and

(b) must, if the application is made by the debtor, be given to all creditors affected by the scheme, or the proposed variation.

Amendments carried; clause as amended passed.

Clause 14—"Proceedings not to be taken during subsistence of approved scheme."

The Hon. D. H. L. BANFIELD moved:

Page 6—

Line 12—Leave out "During" and insert "Subject to subsection (3a) of this section, during".

Line 13—After "proceedings" insert "under the law of the State".

Line 18—Leave out "Any proceedings" and insert "Subject to subsection (3a) of this section, any proceedings under the law of the State".

Amendments carried.

The Hon. D. H. L. BANFIELD moved:

After line 24—Insert new subclause as follows:

(3a) This section does not affect the enforcement of a security over personal property of the debtor unless the tribunal is satisfied and certified upon approval of the scheme that the scheme provides for—

(a) complete discharge of the secured debt during the subsistence of the scheme;

or

(b) a reduction of the secured debt during the subsistence of the scheme that bears to the amount of the secured debt at the commencement of the scheme a greater proportion than the amount of the expected depreciation of the property subject to the mortgage bears to the value of that property at the commencement of the scheme.

The Hon. J. C. BURDETT: This is the final part of the total amendments recommended by the Select Committee dealing with the matter of security. The effect of the amendment is that, where the debt is secured over personal property, the moratorium will not apply.

Amendment carried.

The Hon. D. H. L. BANFIELD moved:

Page 6—

Line 26—After "proceedings" insert "under the law of the State".

Line 27—Leave out "of" where it occurs for the second time and insert "or".

Line 28—After "allowed by" insert "this Act or".

Amendments carried; clause as amended passed.

New clause 14a.

The Hon. D. H. L. BANFIELD moved:

After clause 14—Insert the following new clause:

14a. If it comes to the knowledge of a debt counsellor that a debtor has contravened, or failed to comply with a provision of an approved scheme, he shall give notice of that fact—

(a) to the tribunal;

and

(b) to all creditors to whom debts covered by the scheme are owed.

New clause inserted.

Clause 15—"Revocation of an approved scheme."

The Hon. D. H. L. BANFIELD moved:

Page 6—

Lines 32 to 35—Leave out paragraph (a) and insert paragraph as follows:

(a) that a debtor has, in making an application under this Part—

(i) withheld material information;

or

(ii) made a material misstatement;

Line 37—Leave out "term or".

Lines 40 to 43—Leave out subclause (2) and insert subclause as follows:

(2) The tribunal need not revoke a scheme—

(a) on the ground that the debtor, in making an application under this Part, has withheld material information or made a material misstatement if the tribunal is satisfied that the

debtor did not intend to deceive or defraud;  
or  
(b) on the ground that the debtor has contravened or failed to comply with a provision of the scheme if the tribunal is satisfied that the contravention or default is trivial and should, in the circumstances of the case, be excused.

Amendments carried; clause as amended passed.  
Progress reported; Committee to sit again.

**ADJOURNMENT**

At 5.17 p.m. the Council adjourned until Thursday 21 September at 2.15 p.m.