HOUSE OF LORDS

Thursday, 11th March, 1965

The House met at three of the clock, The LORD CHANCELLOR on the Woolsack.

Prayers—Read by the Lord Bishop of St. Albans

HIGHLANDS AND ISLANDS: REPORT ON LAND USE

3.5 p.m.

VISCOUNT MASSEREENE AND FERRARD: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government how many meetings of the Advisory Panel on the Highlands and Islands, as distinct from meetings of Committees of the Panel, took place to discuss and prepare the Report on Land Use : and whether the Report was signed by all members of the Panel.]

THE JOINT PARLIAMENTARY UNDER-SECRETARY OF STATE FOR SCOTLAND (LORD HUGHES): My Lords, I understand that the preparation of this Report occupied the Advisory Panel on the Highlands and Islands over a period of four years. Under the close direction of the Panel, which met on average five times each year during this period, much of the detailed work was carried out by their Agriculture and Forestry Group, the meetings of which were, however, open to all Panel members. Every member of the Panel was given the opportunity of commenting in writing on the draft Report and of discussing it in full Panel. The final Report was approved by the Panel for submission to my right honourable friend, and was signed and submitted on their behalf by the Chairman, Lord Cameron.

VISCOUNT MASSEREENE AND FERRARD: My Lords, while thanking the noble Lord for his Answer, may I ask him whether he is aware that there appear to be certain inaccuracies in this Report? Further, when the Final Report had been prepared, what period of time were the members of the Panel given in which to write in and approve the Report?

LORD HUGHES: My Lords, on the first part of the noble Viscount's supplementary question, I am not aware of inaccuracies in the Report, although in the case of a Report of this nature it would not surprise me to find that different people looked at the same facts in a different way. On the second part, I do not know the exact time which was given, but having regard to the responsible nature of the membership of the Highland Panel and the way in which they have regarded their work, I am quite satisfied that they would not for one moment have consented to a Report going forward in their name if they had not been given adequate time to consider it.

LORD BURTON: My Lords I thank the Minister for his reply. Can he tell us whether there was any discussion at the full Panel meetings?

LORD HUGHES: My Lords, I cannot give that information from my own knowledge, but knowing the Highland Panel, I should be very surprised if that were not the case. If in fact it is the case, and there was not discussion, it would mean that the Panel had in fact read the Report very carefully before consenting to it. But what I will do, if the noble Lord wishes it, is to inquire on this particular point and write to him in due course, and perhaps also to the noble Viscount, Lord Massereene and Ferrard.

VISCOUNT MASSEREENE AND FERRARD: My Lords, does the noble Lord not agree that, in the case of a Report of this great importance, all members of the Panel ought to have signed it?

LORD HUGHES: Not necessarily. The method by which a continuing body such as the Highland Panel elect to do their work is obviously a matter best for them to decide.

LORD BURTON: My Lords, in reply the noble Lord stated that he was not aware of any inaccuracies in the Report.

Was he aware that the Forestry Commission submitted a report to the Inverness County Council only last week saying that the Panel were inaccurate in suggesting that there should be planting in the Western Islands?

LORD HUGHES: That, my Lords, merely bears out my point that different people—or, if I may add to it, different bodies—may look at the same situation and arrive at different conclusions. I have so far had the benefit of seeing the observations which the Forestry Commission have made to my right honourable friend on the subject, and they are, I would say, very satisfactory to the membership of the Highland Panel.

VISCOUNT MASSEREENE AND FERRARD: Further, my Lords, could the noble Lord tell me: does he know of any other instances where a Report has been made and the members of the Panel have not signed it? Is there any precedent for a Report not being signed by all those responsible for producing it?

LORD HUGHES: My Lords, I am not aware of any such position, but my membership of your Lordships' House is so comparatively recent that that statement does not carry any weight at all. What I should like to say, if I may be permitted to say this also in this Chamber, is that I have never been afraid of creating precedents, but I hope that I should never be a party to creating a bad precedent.

VISCOUNT DILHORNE: My Lords, whether or not the noble Lord is afraid of creating precedents, if a body is set up to make a Report and that Report embodies the views of all the members of that body, surely, without asking the noble Lord to create a precedent, it is the regular practice for all members to sign the Report as embodying their views.

LORD HUGHES: My Lords, it may or it may not be the case. I have no indication whatever—nor do I believe that anyone else has any indication—that the Report is not acceptable to all the members of the Panel.

LORD BURTON: My Lords, could the noble Lord say whether it is not unusual for a body such as the Highland Panel to fail to consult bodies like the Forestry Commission, the Crofters' Commission, the Deer Commission, and so on, before issuing such a Report?

LORD HUGHES: Of course, my Lords, the Highlands is a very unusual place.

REINTERMENT OF ANNE MOWBRAY REMAINS

3.12 p.m.

LORD DERWENT: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government when the remains of Anne Mowbray, Duchess of York, will be reinterred.]

THE JOINT PARLIAMENTARY UNDER-SECRETARY OF STATE, HOME OFFICE (LORD STONHAM): My Lords, my right honourable friend is consulting the authorities of Westminster Abbey and of the London Museum about arrangements for reinterment. It has not yet been possible to fix a date.

LORD DERWENT: May I ask the noble Lord whether the London Museum have finished their researches; and, if they have done so, what is the cause of this long delay?

LORD STONHAM: My Lords, the London Museum have not yet finished their researches. If your Lordships will bear with me I would explain the difficulty which confronts my right honourable friend. The view has been put to the Abbey authorities and the London Museum that the reinterment should take place without delay. The Abbey authorities could reinter the remains with no more delay than would be needed to ensure that the reinterment was conducted in a decent and reverent manner. They are anxious to prepare a commemorative plaque and to take a cast of the inscription on the coffin. But the London Museum would be extremely reluctant to bundle the remains back into the casket in their present condition, not only because, in the condition in which they were found, the remains were not in a state fit for decent and proper reinterment but because the opportunity for scientific, and historical knowledge of

[Lord Stonham.]

considerable importance would be irrevocably lost. The thick silt in the coffin contains not only the larger and more easily recognisable bones but many smaller ones, and the separation and identification of these is a long and difficult task which is as yet far from complete. It was thought desirable this should be completed so that the remains could be reinterred as a complete entity.

LORD DERWENT: My Lords, this is really not quite good enough. This body has had Christian burial. During the three months that the London Museum have, without authority, had these remains, have they yet discovered anything by their researches? And does anybody know what further things they expect to discover?

LORD STONHAM: My Lords, this body did receive Christian burial and was subsequently removed from the original place of burial. I do uot think that there is any question of any difference of feeling or sentiment between the noble Lord and Her Majesty's Government; but the examination of the remains that has so far taken place will serve no useful purpose unless it can be brought to a conclusion. There are many things which it is expected to discover. Examination may further establish identity by confirming a blood relationship between Anne Mowbray and the Princes in the Tower. We hope to be able to discover the state of the Princess's health, and possibly the cause of her death, and perhaps the circumstances of the transfer of the burial from Westminster Abbey to Stepney, will be revealed by further investigation. There are mauy other things of that nature to be discovered.

LORD DERWENT: My Lords, I am sorry to press this matter, but are any of these things that are supposed to have been discovered really of the slightest historical interest? Is the noble Lord aware that this is a public museum controlled by the Government? Is it not about time that the Government stepped in and said that these experiments—and they are little more than that—should stop?

LORD STONHAM: My Lords, my right honourable friend appreciates that this is a matter which has aroused considerable public interest—and not only public interest, but also a great deal of scientific, archæological and historical interest. If the work were hurried too much it might well be that the task would be botched; and I am quite sure that that is the last thing that anyone concerned would wish to happen.

VISCOUNT DILHORNE: My Lords, do I understand that the Government have not, in fact, authorised the continuance of these researches, of whatever value the results of those researches may be? Has the time not come when this body should be reinterred without delay? The London Museum, so far as I remember, started this operation without any authority at all. Did they subsequently obtain any authority? Did anyone authorise these researches? Have the Government approved of what they are doing? Do the Government approve? If not, I suggest that the Government should take action to see that this matter is terminated without delay.

LORD STONHAM: My Lords, the one power that my right honourable friend has is to grant a licence for reinterment. He has not yet granted that licence, and he is considering the representations made by the authorities of both Westminster Abbey and the London Museum before granting the licence.

VISCOUNT DILHORNE: My Lords, that does not answer the questions I put to the noble Lord. Are not the London Museum under the Treasury? Have not the Government some responsibility in this matter? Do the Government approve of these experiments being continued?

LORD STONHAM: My Lords, so far as Government approval is concerned, the position is that the Government would not wish that there should be any undue haste in a matter of this kind.

VISCOUNT DILHORNE: Three months!

LORD STONHAM: The noble Viscount says: " Three months ". When I originally answered a Question on this point I indicated that investigations were likely to take six months, of which some three months have elapsed. But we have not received many representations on this matter. It is thought that it would be a pity if the opportunities arising from

this investigation should be irrevocably lost by an over-hurried reinterment when we are not in a position to reinter the remains decently and properly.

LORD SEGAL: My Lords, can my noble friend say when the remains of Anne Mowbray will be allowed to rest in peace?

LORD STONHAM: As I indicated in my original Answer, and in my last supplementary, that has not been precisely determined, so far as an exact date is concerned; but I can give an assurance that it will be as soon as it can be decently and properly done.

LORD AIREDALE: My Lords, will Her Majesty's Government be more specific? Will Her Majesty's Government now say to the London Museum that at the expiry of three months from to-day's date this body is to be handed over for reinterment unless specific application is made to the Government by the Museum—and is approved by the Government—for a still longer period before reinterment?

LORD STONHAM: My Lords, I am quite sure that my right honourable friend would regard three months from the present date as the extreme limit which could be allowed before reinterment of the remains of the little Princess.

LORD BROWN: My Lords, I am puzzled. Can my noble friend give us any reason for hurrying this reinterment? He stated that there might be some marginal benefit, but it is not clear to me what benefit arises from hurrying the reinterment.

LORD SHEPHERD: My Lords, this is a matter of considerable delicacy, and I do not think that it is in good taste to continue putting these questions. May I suggest to the noble Viscount, who has an interest in this matter, that we could well discuss it through the usual channels, to see whether we could take it away from the Floor of the House? I believe that that would be the general feeling of the House on the matter.

WATER DESALINATION RESEARCH

3.22 p.m.

THE EARL OF BESSBOROUGH: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government what progress has been made in the problem of desalting water since the Council of Scientific and Industrial Research offered over a year ago an earmarked grant of up to £34,325 to the Water Research Association for studies in desalination; whether a close watch is now being kept on work in the United States and elsewhere; and whether the Committee concerned and the Atomic Energy Authority have made progress in their study of the economic factors as they affect this and other countries.]

THE PARLIAMENTARY SECRETARY, MINISTRY OF TECHNOLOGY (LORD SNOW): My Lords, the Water Research Association has made good progress in its study of the economic factors underlying the provision of sweet water. A mission is to leave shortly for the United States for discussions with the Office of Saline Water.

As announced last April, a Committee on Desalination Research has been established, including representatives from Government research stations, the Atomic Energy Authority and industry. This Committee has carried out a preliminary consideration of a research programme ,in conjunction with industry. The Atomic Energy Authority has undertaken work on the use of nuclear energy for a desalination plant. The Committee and the A.E.A. have also kept a close watch on work in the United States and elsewhere.

British industry, as the noble Earl is aware, since he has kept an active watch on this matter, has already established, primarily for arid areas, a commercially proven method of turning sea-water into fresh. This is the multi-stage flash evaporator, which is regarded as the most efficient in use to-day. Over the last ten years, British firms have supplied some 40 installations to various parts

[Lord Snow.]
of the world. They form in total more than 70 per cent. of the land-based plants now in operation everywhere. Her Majesty's Government are conscious of the need to support research to maintain our lead in what could be a growing export market for large desalination plants. My right honourable friend the Minister of Technology is considering plans for increasing the scale of effort on desalination research, and hopes to make a statement fairly soon.

THE EARL OF BESSBOROUGH: My Lords, while thanking the noble Lord for that encouraging reply, which shows that some progress has been made on the lines of action initiated by the previous Government, may I ask him whether he is aware that in the United States design studies are being produced in the Oakridge National Laboratory of the Atomic Energy Commission in Tennessee for a desalting plant which would be capable of producing 20 million gallons a day, with the possibility of increasing this capacity up to 50 or 100 million gallons a day, and that this quantity would probably provide the most economic method of producing water by the use of nuclear reactors? Is the noble Lord also aware that, when I was in Washington last autnmn, the Office of Saline Water said that they not only valued the co-operation with industry in this country, but would also like to see co-operation with this country extended in basic as well as applied research into the problems of desalting? Is this co-operation, in fact, continuing?

LORD SNOW: Yes, my Lords, I am aware of both those points. Co-operation is in fact continuing on the second matter, of basic research, but we also feel that this country cannot maintain the very strong position it now holds if we do not continue and increase our scale of basic research.

BUSINESS OF THE HOUSE

LORD SHEPHERD: My Lords, at a suitable time after 3.30 p.m., my noble friend Lord Mitchison will be making a Statement on the Milner Holland Report.

SCIENCE AND TECHNOLOGY BILL

3.25 p.m.

Order of the Day for the Third Reading read.

LORD SNOW: My Lords, I beg to move that this Bill be now read a third time.

Moved, That the Bill be now read 3ª.—(*Lord Snow*).

LORD BRIDGES: My Lords, having spoken on this Bill, both on Committee stage and on Report, I apologise for speaking again. What I have to refer to is a point which arises out of an Amendment moved by the noble Lord, Lord Snow, to paragraph 4 of Schedule 3, an Amendment which I cordially accepted. But in the course f moving the Amendment, the noble Lord, Lord Snow, said this:

> We have therefore decided that the Science Research Council should be authorised to recruit new staff to the Rutherford Laboratory on terms which would enable them to be members of the Atomic Energy Authority's pension scheme if they so choose. They do not intend to apply this measure to the Daresbury Laboratory in Cheshire, which is not in close proximity to Harwell and to which the same arguments do not apply.—[OFFICIAL REPORT, Vol. 264 (No. 48), col. 24, March 9, 1965.]

I wish to say a word or two about the exclusion by administrative action of the staff of Daresbury Laboratory from the provisions of this enactment. Perhaps I had better say a word or two about the relations of these two laboratories. They are both laboratories of NIRNS. Harwell, the larger and more important one, which started eight years ago, is convenient and accessible to universities in the South of England. It was always agreed that as and when further facilities should be provided, they would be provided in an area which would be more accessible to other universities. Hence the establishment of the laboratory at Daresbury, which is convenient to the universities of Liverpool and Manchester, which h ve strong departments in nuclear physics. At Harwell laboratory work has been going on for many years, but of course the Daresbury laboratory was started only two years ago and it will still be, say, eighteen months before research work starts there. Both laboratories are

equally laboratories of NIRNS and are on the same footing.

The noble Lord, Lord Snow, gave one reason why the provisions of this Bill, as amended, should apply to the Rutherford Laboratory and not to Daresbury. That was that the Rutherford Laboratory was next door to Harwell and that fact would make recruitment more difficult, if they could not have A.E.A. pension terms. I hope the noble Lord will forgive me for saying that this really does not justify a decision to cut the staff of Daresbury out of the A.E.A. pension scheme. Perhaps the noble Lord thought there was no staff at Daresbury because it is still being built, but, of course, that is not so. A highly technical laboratory of this kind cannot be built without expert staff being taken on to do the preliminary work of design and planning, and already there are at Daresbury 100 staff members, who are under the A.E.A. pension scheme. In time, when the laboratory is finished, the staff will rise to 350.

Under the decision announced by the noble Lord, Lord Snow, the existing 100 will have A.E.A. pension scheme terms and the rest would have to have another pension scheme. If we allow for those working at Harwell, out of a total of 1,550, 250 would be outside the A.E.A. pension scheme and 1,300 within—a very difficult arrangement. I want to emphasise that these two laboratories are engaged in work which is precisely identical in character, and employ the same kind of staff. The only difference is that at one laboratory the main instrument is the proton accelerator and at the other the electron accelerator—not, I think, a reason for justifying a separate pension arrangement. One of the arguments used in discussing these pension arrangements is that it is desirable to have uniformity of conditions over as wide an area as possible, and, within reason, that is sense. But surely it can be no sense to have a staff of 1,550 engaged in nuclear research in two establishments and to say that 1,300 of them may be on one set of conditions of service and 250 of them on another. I can see no justification for that.

Perhaps I owe your Lordships an apology for not having raised this matter on the Report stage. There were three reasons why I did not. The first was that, although the noble Lord, Lord Snow, very courteously showed me the terms of his Manuscript Amendment, I was not aware from what he said that he intended to propose the exclusion of the staff of the Daresbury Laboratory from the benefits of the scheme. Quite frankly, I doubted whether I had heard the noble Lord aright, and I wanted to hear what he said and follow the matter up before I commented on it in detail.

The second reason why I did not say anything on the Report stage was that I was feeling very grateful to the noble Lord, Lord Snow, for the Amendment that he had put down, and I did not wish to mix up my thanks and gratitude to him for the Amendment he had put forward, with criticism on one other point. The third reason was a personal one. On Tuesday last I had the misfortune to arrive in the Chamber late. I was unable to move my own Amendment, and it was moved for me by the noble and learned Viscount, Lord Dilhorne. I was overcome with feelings of shame, and not wishing to draw attention to myself, I thought that the less I was heard in the proceedings the better. But I have now made a rapid recovery from this unusual state, and I feel it is essential that I should put this point, and put it firmly and forcibly.

I put it forward for two reasons. The first concerns what in some countries is called the legislative history. But I was the Member of your Lordships' House who raised this matter, and it seems to me that if I allowed this Bill to pass into law without making any protest about the exclusion of the Daresbury Laboratory this might be regarded, so to speak, as forming part of the legislative history of the enactment and might weaken any protest which I or other people might wish to make at a later date.

The second point is that I wish to urge the noble Lord, Lord Snow, to think about this arrangement again, and not to stick to this decision (if decision it is) that the future entrants to the Daresbury Laboratory should be excluded, not by Statute—the position is covered in the Bill now before your Lordships—but by an administrative arrangement. I hope the noble Lord will be able to say that the arguments I have used really do provide good reason for further and

[Lord Bridges.]

early consideration of the decision which he announced on the Report stage. Frankly, it seems to me that the decision reached is not a sensible arrangement, and I do not think it would be regarded as acceptable. So far as I can see, this Amendment is not based on any principle; it is administratively very inconvenient; and again, so far as I can see, it will not benefit anybody. I hope that I may be forgiven for having put the point bluntly, and it in no way lessens my gratitude to the noble Lord for the considerable progress which he has already made in this matter, which I hope may be completed before long.

3.34 p.m.

VISCOUNT DILHORNE: My Lords, I am sorry if the efforts I made to assist the noble Lord, Lord Bridges, led to some embarrassment on his part; and I hope your Lordships will not think there is anything in the nature of an unholy alliance because I rise to my feet again to support his plea to the noble Lord, Lord Snow. I put this plea perhaps a little differently from the way the noble Lord, Lord Bridges, put it. If I may, I would remind your Lordships of exactly what was the issue that was raised by the noble Lord, Lord Bridges, during the Committee stage. It was that the present employees and the new employees of the National Institute of Research into Nuclear Science should be able to enjoy the benefits of the pension scheme administered by the Atomic Energy Authority. That was the issue, and the Amendment tabled by the noble Lord, Lord Bridges, made provision for this. The Amendment was not related to any particular laboratory, or the situation of a particular laboratory; it was related to a category of employees working under the National Institute.

We welcomed the efforts of the noble Lord, Lord Snow, when he put down the Manuscript Amendment embodying what the noble Lord, Lord Bridges, said, and, indeed, in one respect going slightly further, This, on the face of it, appeared quite satisfactory. Then the noble Lord, Lord Snow, in explaining the matter, said—and I am afraid that I did not appreciate its significance at the time—that a distinction was going to be drawn as an exercise of discretion between the Rutherford Laboratory and the Daresbury Laboratory. It was the first time, I must admit, that I had ever heard of the second laboratory. But are they not both under the National Institute? It is true that the Schedule as drawn contains the word "may", and it may be argued that the word "may" is permissive. But there can be no doubt, I should have thought, that the whole of the debate showed that the wish of this House was that those employed by the National Institute should be entitled to come under the pension scheme of the Atomic Energy Authority.

It was in the course of Lord Snow's speech that he quite frankly said—and I repeat that I did not appreciate its significance at the time—that administrative discretion was going to be exercised between the two laboratories. I must say, now that I appreciate it, that I feel this represents a departure from what was generally understood, and certainly what I understood, which was that all those employed in this Institute were to be on the same pension scheme. It seems to me extremely odd if, at the end of all this discussion, there will be one laboratory in which this nuclear research is going on where it will be possible to find people doing precisely the same jobs on different terms of employment.

I know that the noble Lord, Lord Snow, has fought a great battle; and he has won, I think, at least 90 per cent. of it. I ask him not to accept defeat with regard to the last 10 per cent., but to give us his assurance that he will reconsider what he said with regard to the Daresbury Laboratory, and give us at least some hope that he will be able to tell us in the near future that this exercise of discretion, which, after all, can affect only a small number of people adversely, will be reconsidered.

3.39 p.m.

LORD SNOW: My Lords, I am sorry if I was guilty of unintentional discourtesy on Tuesday. I thought that the noble and learned Viscount, Lord Dilhorne, had actually read the relevant parts of my speech before I made it.

VISCOUNT DILHORNE: No.

LORD SNOW: I am sorry. I thought that he had.

VISCOUNT DILHORNE: Quite frankly, if I had read it then, with the

distinction, I should not have known what it meant. But, in fact, I did not see it.

LORD SNOW: This point does not affect the substance of the Bill. It was an honest attempt to announce an administrative decision. The Bill is permissive, but this is an administrative decision. I am really sorry that noble Lords are disappointed that the staff of the Daresbury Laboratory will be recruited under the normal Science Research Council terms. I can well understand the noble Lord, Lord Bridges, wishing to have his attitude on record.

I am afraid that I cannot add anything useful to what I said on the Report stage. As the noble and learned Viscount, Lord Dilhorne, handsomely remarked, whatever we do in this whole matter, there are going to be anomalies. That is a necessary condition of the whole operation. We have tried to deal with these anomalies with all the consideration open to us. We have tried for a long time and at considerable expenditure, if I may say so, of man-hours. We accepted, and most willingly, the special arguments about the Rutherford Laboratory. There the scientists are working within touching distance of the Harwell scientists, and it is reasonable that they should work on the same terms. This was a point that was constantly pressed upon us in the conferences that we had, with many people —scientists and others—and, as I say, we most willingly accepted it. But this special argument does not apply to Daresbury, and we therefore concluded —and on the Report stage I reported this as an administrative decision—that the scientists there should not be distinguished from their colleagues in other establishments controlled by the Science Research Council.

3.42 p.m.

THE EARL OF BESSBOROUGH: My Lords, perhaps I might say a few words generally about this Bill. I think it has been greatly improved by your Lordships in regard to Schedule 3, even if the noble Lord, Lord Bridges, is not quite happy on this specific issue. Of course, in another place points of contention arose under Clauses 4 and 5. Clause 4, as your Lordships know, extends the functions of the Atomic Energy Authority and permits the Authority to undertake research not necessarily directly connected with atomic energy. As we heard from the noble Lord just now, in answer to my question on de-salting, I think this is one of the principal subjects on which the Atomic Energy Authority will be working——

LORD SNOW: Are now working.

THE EARL OF BESSBOROUGH: —and are now working, although the Bill has not yet been passed. None the less, I think we should welcome this, although it was thought in another place that these extensions of the powers of the A.E.A. might draw skilled workers away from industry. In the same way, I feel that we must respect the assurances which the Government have given us in this matter.

Likewise, under Clause 5(1)(*b*), we on this side, I think quite rightly, had some fears that under the present Government the furthering of the application of the results of scientific research might lead to a further degree of nationalisation in the industries concerned. However, again we accept the assurance given by the Secretary of State in another place that that is not the Government's intention, especially in view of the fact that the wording in this part of Clause 5 is indeed very close to the Department of Scientific and Industrial Research Act, 1956. We hope, therefore, that words which might, perhaps, not have been suspect had they been proposed by the previous Government, will not be used for the wrong purpose under the present Government.

In so far as Schedule 3 is concerned, I do not think I need say any more. My noble and learned friend has dealt with this point. Much as we may sympathise with the noble Lord, Lord Bridges, I do not feel that we on this side of the House can at this rather late stage go any further than we have already gone in supporting him. And, of course, we supported him in an entirely non-partisan spirit. We did not consider this question of the pensions of NIRNS employees to be in any sense a Party political matter. If in your Lordships' House we had wished to raise Party political issues in this Bill, we could easily have done so under Clause 5. But we did not. Indeed, as

[The Earl of Bessborough.]

I say, we accept the assurances given by the Secretary of State.

We supported the Amendments of the noble Lord, Lord Bridges, entirely on their own merits, just as we welcomed the Amendment of the noble Lord, Lord Snow, which has largely met our points, even if the noble Lord, Lord Bridges, is not yet completely happy. At all events, we were not suggesting here that there might be any question of hidden nationalisation. We merely agreed with our noble friends on the Cross Benches that it was better that those employed in the National Institute and the Atomic Energy Authority should benefit from a similar pension scheme, since they work so closely together.

During the Committee stage, I said that the whole problem was who should keep in step with whom. It seemed to the noble and learned Viscount, and to myself, to be clearly more important that the employees of the Institute should keep more in step with the Atomic Energy Authority, the universities, and even perhaps with industry, than that they should be uniformalised (if I may coin a word) within the Civil Service. The noble and learned Viscount adduced all the arguments which weighed most heavily in this respect, and I need not repeat them now.

As the noble Lord, Lord Snow, agreed, this was an extremely complex matter, although I must say that the more I looked at it the less complex I thought it to be. The principle of the matter is really quite simple and straightforward: should we, as the noble Lord, Lord Sherfield, said, drag down the new staff in NIRNS to a lower level, benefit-wise, than that to which existing staff had been accustomed? Our answer to that was emphatically " No ", and I am glad that the Government, after perhaps some weeks, have come to agree with us. But this was a matter of principle in which we believe that scientists throughout the country are interested. I believe it to be a very important principle, and I hope that scientists throughout Britain will recognise that we fought this battle in their interests.

I am certain that the noble Lord, Lord Bridges, was right to press his Amendments. I felt so even more strongly when I listened to my noble and learned friend, Lord Dilhorne, for I know that he was looking at this matter with an entirely fresh mind and judging it in a completely impartial and even, might I say, judicial manner. We were therefore very glad to see the Amendment which was ultimately moved by the noble Lord, Lord Snow, and accepted in this House. We hope and feel that it will now be accepted in another place to the satisfaction of the Opposition, and particularly one Conservative Member who first proposed a similar Amendment.

We now accept this Bill as it stands. It is, of course, still complicated by the fact that two Ministries, rather than one, are now involved in its application. I hope, however, that the noble Lord, Lord Bowden, who is responsible for the Science Research Council, and the noble Lord, Lord Snow, who is concerned with the Atomic Energy Authority will remain two, shall I say, heavenly twins (or, might I perhaps say, Siamese twins) and that they will not permit themselves to be separated.

On Question, Bill read 3ª, with the Amendments, and passed, and returned to the Commons.

MILNER HOLLAND REPORT ON LONDON HOUSING

3.48 p.m.

THE JOINT PARLIAMENTARY SECRETARY, MINISTRY OF LAND AND NATURAL RESOURCES (LORD MITCHISON): My Lords, I should like, with your Lordships' permission, to make a Statement similar to one which my right honourable friend the Minister of Housing and Local Government has just made in another place in answer to a Question about the Report of the Milner Holland Committee.

As the House is already aware, the Report of the Milner Holland Committee has been published to-day. Copies are available in the Printed Paper Office. The Report sets out the results of a thorough-going investigation of the housing situation in Greater London, with particular reference to rented housing and to the relations between private landlords and their tenants. Even on a preliminary reading it is clear that the Report is a document of great social importance. By setting a penetrating

and at times deeply moving account against the background of an illuminating analysis of a mass of statistical and other material, the Committee have made a major contribution to the better understanding of the effects of housing shortage in the metropolis.

The forthcoming Rent Bill will contain the Government's proposals for legislation on part of the field covered by the Committee. The suggestions in the Report on other aspects of housing policy will be studied by the Government in consultation with the local authorities concerned. Proposals for further action, by legislation or otherwise, will be brought forward as soon as practicable.

I am glad to take this opportunity of expressing the Government's thanks to the Committee for the care and speed with which they have prepared and presented their Report.

LORD HASTINGS: My Lords, I thank the noble Lord for repeating the Statement made in another place. I can say at once that we agree entirely that this is a document of great social importance. Indeed, I can say truthfully that it was always the belief of my right honourable friend Sir Keith Joseph and those of us associated with him that it would be of outstanding importance. I should like, of course, to associate myself, and at the same time my colleagues and other noble friends on this side of the House, with the expression of thanks to Sir Milner Holland and his Committee for the care and speed with which they have prepared this Report.

I would turn to that sentence in the Statement which refers to the Rent Bill and says that it

"will contain the Government's proposals for legislation on part of the field covered by the Committee."

I understand that it is the wish of the Government to have a debate on this Report in your Lordships' House. This is, of course, a voluminous document of some 450 pages in length, and we on this side should like to have sufficient time to read and thoroughly digest this Report before our debate, and I believe that will be a matter for discussion through the usual channels.

However, I should like just to ask the noble Lord this one question: Can he tell us whether the Rent Bill is likely to be printed within, say, the next fortnight or soon thereafter?—because it seems that it would be a pity to debate this Report in a vacuum, as it were, without a knowledge of what was contained in the Rent Bill. With that knowledge, I believe we could have a more interesting and useful debate.

LORD MITCHISON: My Lords, I am sure that everyone in the House welcomes the agreement of noble Lords opposite in the thanks which I offered on behalf of the Government to the Committee. I am sure, too, that the question of when we should have a debate, which I believe is wanted on both sides of the House, is one for discussion through the usual channels. The only question, therefore, that is asked me is whether I think it is better to have that debate before or after the appearance of the Rent Bill. Clearly, I cannot tell within a day or two when the Rent Bill will appear. I think that this, too, is a matter for discussion through the usual channels. But perhaps I may be allowed to express my personal view—if you like, the Government's view—that it is better to discuss, to form and to exchange our ideas on the very valuable material in this Report before we turn to new legislation about what is in it. If I may put it rather crudely, I think it is a very great deal to take in one debate both an extremely long and extremely useful Report and also the proposals that there will be in the coming legislation.

LORD WADE: My Lords, may I add to the observations that have already been made, and ask the noble Lord to convey the appreciation which is felt for the very hard work which has been put into this Report by Sir Milner Holland and his colleagues. It has produced some extremely valuable information on the effects of housing shortage in the metropolis, and I think it will be of great benefit to us in the debates which follow.

LORD MITCHISON: My Lords, I am sure the Committee will be most grateful for that expression of thanks from the Liberal Benches.

EDUCATION (SCOTLAND) BILL

House in Committee (according to Order).

House resumed: Bill reported without amendment; Report received.

RIVERS (PREVENTION OF POLLUTION) (SCOTLAND) BILL

3.56 p.m.

Order of the Day for the House to be put into Committee read.

Moved, That the House do now resolve itself into Committee.—(*Lord Hughes.*)

On Question, Motion agreed to.

House in Committee accordingly.

[The LORD MERTHYR in the Chair.]

Clause 1 [*River purification authority's consent for certain discharges of effluent*]:

LORD CRAIGTON moved, in subsection (3), to leave out " think fit " and insert " reasonably impose ". The noble Lord said: For the convenience of your Lordships, I should like to discuss this Amendment with Amendments Nos. 2, 4 and 5. We seek by this series of Amendments to bring this Bill into line with the English Rivers (Prevention of Pollution) Act, 1961. Very briefly, the point is that in England the authority may grant consent subject to such conditions as they may " reasonably impose ". In Scotland the authority is to grant consent subject to such conditions, not as they may reasonably impose, but, as they may think fit ".

I do not base my opposition to this phrase " think fit " on the grounds that something " reasonable " may be preferable to something " thought fit ", simply because there is, whichever phrase is used, a last resort appeal to the Secretary of State in Clause 6(2). That last resort appeal is couched in words that make it clear that the Secretary of State has an obligation to act reasonably. It is quite a short clause, and says:

> " Where an appeal is made as aforesaid, the Secretary of State may allow or dismiss the appeal, or may vary or revoke any terms of any such consent or notice, or may impose such new terms as he may think fit, and in the case of an appeal in relation to an application may deal with it as if it were an application to him in the first instance."

So, whichever words are used, the words I should like to insert or the words in the Bill, it seems clear that on appeal the outcome will be the same. I ask the noble Lord, if I am right on this, why change from the wording in the English Act? What is happening ? Industrialists are confused and worried and are likely, with two different codes in the two countries, to remain so. Boards, for whom this Bill is, after all, their instructions, may well take this change of wording as encouragement, if not instruction, to take a firmer line than is required of their English counterparts, or a different line. All those aggrieved by a condition will, in making their protests to the board, and perhaps later to the Secretary of State, be unnecessarily confused and may well read more than is intended into this change of law as between the two countries.

Again, local authorities, who may well spend some £50 million over the next ten years, and industry probably more, are also considerably concerned about the use of the word " reasonable ". For these reasons, and because I am unaware that the wording of the English Act has caused any difficulty, I think and I hope that the noble Lord will accept these Amendments. I appreciate that in this respect the change made by the Government is a laudable attempt to make an improvement, but for the reasons I have given the risks of confusion and misunderstanding are great, while the improvement, if any at all, is marginal and, in my view, far too marginal to justify the interpretation of similar powers in the two countries by the use of different words.

I mentioned the figure of £50 million as the amount local authorities would possibly be spending, and in this connection I must raise here, because it is appropriate, one matter of which I have given the noble Lord notice. On October 12, 1964, the Scottish River Pollution Advisory Committee made a report to the Secretary of State which was, in effect, essential background information on the urgency and extent of Scotland's clean river problems, and that recommended that a £50 million programme of spending over the next ten years should be announced by the Secretary of State. If that is the size of the local authority problem, then I am advised that the industrial costs may well be about £75 million and farming costs perhaps £25 million. Under Section 1(4) of the Rivers (Prevention of Pollution) Act, 1951, the Secretary of State is obliged to lay before both Houses any such report which, in his opinion, is likely to be of general public interest.

Just after the report was presented to the Secretary of State, this Bill was

to go through both Houses. This is such a report of public interest. That report of October 12, 1964, was laid before both Houses on March 4, 1965. It is not for me to comment on what happens in another place, but it seems plain that while they should have had, and indeed could have had, this report available for all stages of this Bill, it was available for none of them. In your Lordships' House the Second Reading was on February 25, and I must ask the noble Lord why this report of October 12, 1964, was made available to us, not on February 25 or before that, but six days after Second Reading. It would have been no more than courtesy to let my noble friends, who had many speeches to make and much interest in this Bill, have this background information. The matter is more important than just in the consideration of the desirability of "reasonable" or "think fit"; on every aspect of this Bill one should take into account the nature and size of the problem of which we now, for the first time, have some advice.

I am not going to read this report, but I should tell your Lordships the sort of information that is in it. The report explains the problem of Scottish prevention of pollution, and it is addressed to the Secretary of State. The Advisory Committee say they have consulted all the river pollution authorities. They go on to give the various categories of work to be done and how much should be spent, and then they recommend that a capital expenditure programme of £50 million on the provision of new and improved sewage purification works should be put in hand. They comment:

"We stress that this estimate is realistic and certainly not excessive. Indeed it is the minimum sum required to meet current needs."

They go on to say, for the reasons they give:

"We recommend, also, the adoption of a ten years' plan to provide new and improved purification works and that you"—

that is, the Secretary of State—

"should publicly announce this programme and see that it is carried out. We recommend, too, that those local authorities, of whom you have details, who are remiss in discharging their functions in this field should be stimulated to provide adequate and efficient sewage purification works".

Finally they say:

"Acceptance of these recommendations would involve additional expenditure of but £2·4 million per annum by local authorities during the decade. The Committee cannot conceive that a nation enjoying a high and increasing standard of living, and calling for higher standards of social and recreational facilities, would be unwilling to meet the necessary expenditure—a sum less than the cost of a toilet roll per head of the population per month."

I must ask the noble Lord, even at this late hour, whether the Government accept these recommendations; secondly, I ask him to explain the extraordinary delay in the fulfilment of a Statutory obligation which resulted in important and available information being denied this House and presumably the other place, at the time we should have had it; and thirdly, would the noble Lord please accept my Amendment? I beg to move.

Amendment moved—

Page 2, line 3, leave out ("think fit") and insert ("reasonably impose").—(*Lord Craigton.*)

LORD BALERNO: I should like to support my noble friend Lord Craigton in his desire that the word "reasonable" should be retained in this Bill, as it was in the former Act. The deliberate exclusion of the word surely has some significance, and the substitution of the words "think fit" puts a greater onus on the inspector for sewage purification, from whom may well develop an extreme officialdom. We have to remember that these inspectors will be dealing with a variety of farmers whose effluent is causing trouble and who are unaware of the intensity of these regulations, and they may themselves become somewhat unreasonably difficult to deal with. I think it is most important that the inspectors who carry out this work should be instructed to do so in a reasonable manner, and the deletion of the word "reasonable" from the Bill seems to me to put too much authority on the shoulders of persons who are perhaps not the best fitted to carry it out.

LORD STRATHEDEN AND CAMPBELL: I would also support the Amendment of the noble Lord, Lord Craigton, largely on the ground that the substitution of "reasonably impose" for "thinks fit" really strengthens the authority of the purification boards. And I speak as a member of one river

[Lord Stratheden and Campbell.]

purification board. "Think fit" is what goes on in their heads, and they impose those conditions. "Reasonably impose" gives a very strong implication that the matter has been carefully considered and is not put forward unless it is a really reasonable case. On those grounds, I support the Amendment.

LORD HUGHES: I am sorry I cannot accept the Amendments, because they would not improve the Bill at all. In the first place, I think the fears expressed by noble Lords that the change of words would cause concern to industry are groundless, or will prove to be groundless. I am certain that industry itself has no cause to worry about this change. When this particular Amendment was considered in another place an honourable Member there, who took a very prominent part in the consideration on the side of Her Majesty's Opposition, saw fit to observe that he did not consider that in this matter indnstry had the slightest need to fear. When I add that the Member concerned would be described there as the "honourable and learned Member", perhaps the value to be placed on the interpretation of words is even greater.

May I say just briefly why the wording was changed? It relates to the fact that there is now incorporated in the Bill appeal procedure which fits in with the requirements of the Council on Tribunals; and, strange as it may appear to noble Lords who have expressed the view that "reasonable" places greater restrictions or greater responsibility upon a board than "think fit", in fact it is the reverse, because when the Secretary of State has to consider an appeal in terms of the old procedure the only thing which he really is entitled to take into account is whether or not the board have been reasonable in their decision. The Secretary of State may be in the position of saying, "I do not think that this is a good decision, or the right decision that you have arrived at. But that is not my business. I cannot say, although I thiuk your decision is wrong, that it was unreasonable". Therefore, as the appeal is against only the reasonableness of the decision, the Secretary of State has really little authority.

But in terms of the appeal procedure which we are now putting into the Bill, the Secretary of State has unrestricted power to examine on behalf of the appellant the whole of the nature of the decisions, or the consents, or the refusal of consent that has been made by the river purification board, and he can accept them, amend them, revoke them, or substitute something else for them, as he may think fit. I would remind your Lordships that none of the Amendments seeks to alter the decision of the Secretary of State to deal with the matter as he thinks fit. So that, contrary to what may appear, the inclusion of the appeals machinery and the use of these words is, in fact, a greater safeguard for industry than existed in the previous Act. The Secretary of State is able to open up the whole matter on appeal.

In case we get too far away from reality in looking at these appeals, I should not like your Lordships to believe for one moment that the result of this legislation is going to be a flood of appeals to the Secretary of State. From the time the first Act was passed, in 1951, up to date, there has been only one appeal launched in the whole of Scotland against the decision of a board, a clear indication that there is no bureaucracy-ridden operation going on on the part of these boards. One would not think, if I may be permitted to be inconsistent, that it is reasonable to expect that boards which now have to account for their decisions to the Secretary of State by stating their reasons, should suddenly become a body who are to have no real regard for the interests of the appellants. For these reasons, I am unable to accept these Amendments which would act against the interests of industry and of agriculture, and would not in any way help the boards to carry out their task.

If I may proceed from that to the other point which the noble Lord raised, I am a little surprised at the strength of the language which he used in this matter, because, after all, he mentioned that the Report was dated October 12. I would remind your Lordships that the Election was held on October 15, so that the Report, dated and delivered presumably not later than October 13 or 14, would be received by Scottish Ministers of whom the noble Lord, Lord Craigton, was one; but one could not expect even the previous Administration to act on a £50 million matter the day

before the Election. So we can forgive them if they did not rush into print on this matter as quickly as perhaps they did on some other subjects during the previous year.

But that is not the only part of the story. In fact, there was a report of an advisory Sub-Committee a year before, in May, 1963, about the need for additional expenditure; and this, I am informed, was under discussion with Scottish Ministers for almost a year before the formal report was tabled. There were considerable discussions with Ministers as to what should go into the report. The noble Lord, Lord Craigton, may well have been one of the Ministers taking part in those discussions. In fact, the last meeting between the Committee and the then Secretary of State himself was in May, 1964. It was then decided that a formal report—I emphasise "formal report", because the Secretary of State had in fact been receiving reports in discussions for a period of almost a year—should be submitted; and this was the first report to the Secretary of State under Section 1 of the 1951 Act.

The Sub-Committee were asked to edit a report for submission to the Secretary of State, and it was decided—this may interest some noble Lords who were questioning me earlier on this—that it should be signed by all members. The result was that the report, although dated October 12, 1964, was not submitted to the Secretary of State until the following month. Although it is dated October 12, the previous Secretary of State did not in fact see it in its final form, although one may suspect that, because of all this discussion, he had a hand in formulating what was going to be in it; so he may well have been one of the compilers although his signature would not be on it.

In regard to Ministers, one would not have blamed even an Administration which had been in office for thirteen years if they took a little time to consider the implications of a first report of this kind, even though they had been discussing it, off and on, for a year; and if they took a little time to consider whether or not the report was to be published. New Ministers, therefore, must obviously be entitled to at least the same, if not a little more, latitude on this subject. Therefore, I would suggest to your Lordships that in fact there has been no unreasonable delay at all in deciding to table this report, because in deciding to do so the Ministers would obviously prefer to be in a position to indicate fairly quickly the action which they were going to take on it. I can say that within only a few days the Secretary of State will have given an indication of the reaction of Ministers to this report.

Finally, on the report, I do not think there is the least impropriety because the report was not tabled earlier, just because we were discussing this Bill and another place was discussing it earlier. Surely, when a Bill is placed before your Lordships' House, or when one is placed before another place, it is to be considered on its merits as to whether there is need for legislation, to consider whether rivers are polluted and whether or not it is necessary that they should be kept clean or made clean. It would be all wrong if the impression were to be created (and it would be quite erroneous, because I am sure the noble Lord, Lord Craigton, is not suggesting this in any way) that we should have sought even greater powers than there are in the Bill if noble Lords had known there was a suggested expenditure of £50 million—or, worse, that because this might well be a costly thing to do we should have sought less powers, so that it would not be possible to spend the £50 million. Either way the amount involved is irrelevant to the consideration of the machinery which is necessary. Either it is right that we should make it possible for our rivers to be clean, or it is not right. If it is right, then it matters not whether at the end of the day the expenditure is going to be £20 million, £50 million or £125 million, or even more if one aggregates the expenditure of all those who would be involved.

Having said that, I hope noble Lords will not have forgotten the main purpose of my being on my feet at this moment. It is to invite them to accept what I have said: that the purpose of the change of words in the clause makes it better for those who are to be the possible subjects of instructions or refusals of consent, and that to go back to the 1951 form of wording would not be in the interests of industry, of agriculture or of clean rivers.

LORD CRAIGTON: I am grateful to the noble Lord for his reply, because he

[Lord Craigton.]

had very short notice from me. He gave the background history of this report which he said was available to the Government in November. He did not give us a date, and I will not press him. He said that Ministers required a little time to consider the report. Of course that is so, but at this time the Bill was going through its stages in another place. I put it to the noble Lord that it might have been wiser for the Government to say, " We have not considered this report, but this is information which should be available to the Houses of Parliament ". Whether or not that is so, they had plenty of time to consider it between November and February 25, rather than March 4.

I do not think the noble Lord's explanation has satisfied me why there should be this apparent discourtesy to your Lordships, to wait just six days after the Second Reading to produce this important perspective report. I agree that this Bill covers something that will have to be done anyway, but, whether something is going to cost £150 million or £50 million, this might have covered the Bill at many stages, and it might have been a better Bill had this report been available.

On the matter of the Amendment, the noble Lord quoted my honourable and learned friend in another place. He observed that there was not much difference between the two sides on this point. I wonder, again, whether, if the Houses of Parliament had known how much money was involved, they would have taken the same view. I do not press this Amendment. I am grateful to the noble Lord for his clear explanation of the reason for the change, which I am sure will be much welcomed and which we want to get on the record. I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

4.24 p.m.

On Question, Whether Clause 1 shall stand part of the Bill?

LORD DRUMALBYN: May I ask a question on the working of this clause? Under subsection (1), everybody, as I understand it, will have to apply for the right to discharge trade or sewage effluent into a stream. Clearly, if conditions were made at that time applying to everybody wherever there was gross pollution of a heavy degree of pollution in a stream, the amount of expenditure which would have to be incurred in a short time would be heavy indeed. I understand from the report to which my noble friend alluded a few minutes ago that in regard to local authority expenditure the recommendation is that the rate of expenditure should be at £5 million a year. Presumably, the expenditure will have to be spaced over the period of ten years—I should like to receive an assurance from the noble Lord that the same consideration will be given to industry, and that its expenditure will be spaced over that period.

If industry were to be expected to incur " perfectionist expenditure ", so to speak, in the early part of the period, it would be difficult, in any case, to achieve the programmes within the times laid down by the river purification boards. Apart from that, there would be a feeling of unfairness in industry that harsher terms and conditions were being applied to them than were being applied to the local authorities. So I would ask the noble Lord whether he will give an assurance —and I am sure that he can give it— that the purification boards will proceed by gradually turning the screw where this is appropriate. Admittedly, in certain cases it will be necessary to install a complete new purification plant, but I ask that they will proceed by gradually turning the screw and by possibly dealing with the matter firm by firm, rather than by trying to secure in the early stages, as soon as the applications are made, the degree of purification which they hope to achieve. I hope that I have made myself clear and that the noble Lord will be able to give that assurance.

LORD HUGHES: I have no hesitation in assuring the noble Lord that the process must be gradual. It would be a physical impossibility to expect industry or local authorities overnight, over a month, or over a year, to bring about all the improvements that would be necessary. I say this without in any way implying the rate at which expenditure would be undertaken on the public side. I am not absolutely certain about the extent to which I can, with propriety, quote what my right honourable friend said in reply to a question in this respect only to-day in another place; but if I do a certain amount of paraphrasing I cannot go far wrong. What he said in

reply would not have been unacceptable to the noble Lord. In fact, the indication was that the level of investment in sewage purification would be increased as soon as is practicable, having regard to the fact that the practicability of the Committee's recommendations would be taken into account by my right honourable friend in the Government's current reappraisal of expenditure and priorities. I hope that will make him happy, as I think it ought to.

Clause 1 agreed to.

Clauses 2 and 3 agreed to.

4.30 p.m.

LORD CRAIGTON moved, after Clause 3, to insert the following new clause:

Control of seepage

" .—(1) Where any trade or sewage effluent, the volume of which in any day exceeds 5,000 gallons, is discharged into any well, borehole, pipe, shaft or quarry the river purification authority shall have power but shall not be bound to add substances or liquids to such discharges for the purpose of ascertaining whether such discharge is causing an offence under this Act.

(2) Where in relation to such discharge the river purification authority are of the opinion that seepage of such discharged effluent into a stream may give rise to an offence under this Act or that an offence has been committed, they shall require the person making the discharge to apply for consent (within a period specified by them) and the provisions of this Act and of the principal Act shall apply and the river purification authority may grant or refuse consent or grant consent subject to such conditions."

The noble Lord said: This is an Amendment about holes in the ground. We had difficulty in the Spray Irrigation Bill about the danger, if any, of drawing too much water out of holes in the ground to the detriment of the volume of flow in a stream, and we did nothing about it in that Bill. I could foresee difficulties and dangers being created for the drawer-up of fresh water, by the putter-down elsewhere of noxious effluent, without any stream being affected. It seems clear to me that the time may come, especially after the prohibitions of this Bill, when the Government of the day must consider the control of water, whether it goes into or whether it comes out of holes in the ground—in fact, the control of anything that goes into and comes out of holes in the ground.

This is not a Bill to cover the whole control of this subject, and my Amendment is intended to cover only the narrower scope of river purification. It was suggested on Second Reading that there was danger of a stream being contaminated by underground water; and in reply the noble Lord, Lord Hughes, said in effect: If there is contamination there will be an offence under the Bill, so there is no need for any special provision. But this is not the whole answer. The board would have to prove a contamination, but the board have at present no powers to add any tell-tale substances at source, and without such a device it might be very difficult to prove where the contaminated water was actually coming from. The board might know of the discharge underground. They might fear a serious breakthrough or seepage that might not occur for months, or even years, which, once started, might continue for months or even years after the source of discharge had been found and stopped. But the Board, under this Bill, could do nothing until the proven seepage had actually started.

The dischargers might have been helped by the skilled guidance of the board, and they might welcome official consent in a case where the dischargers were unsure whether the discharge would lead to contamination of a stream. My Amendment authorises the board to try to find out whether there is an offence or a danger of it; and if there is, empowers them to treat such a discharge as coming within their powers of consent.

Commenting on the Amendment itself, I do not believe that one can make it obligatory on an authority to do a tell-tale test, as with a large volume of fluid this might be possible only by using radioactive tell-tales that might themselves be dangerous. But they should have powers to do whatever is practicable. I have not put this in the Amendment, but it is for consideration whether the large dischargers—and my Amendment is limited to the large dischargers—should be required to advise the board that they were making a discharge, and not wait, as it were, to be found out. It is admittedly breaking new ground to have power to stop or control a discharge that has not yet done any harm, but this is where, as I have explained, the greatest risk may well

[Lord Craigton.]

lie. Of course, if the person putting the effluent in is stopped because of the risk which has not yet happened, there is always the appeal procedure to the Secretary of State.

There has been considerable pressure on some of us to move an Amendment to enable all boreholes to be controlled under this Bill. For the reasons I have given I do not think this would be the right thing to do. But I do believe—and my Amendment seeks to express this—that we must in the public interest control in this Bill any boreholes that are, or are likely to be, a danger to proper river purification. I beg to move.

Amendment moved—

After Clause 3, insert the said new clause.—(*Lord Craigton.*)

LORD STRATHEDEN AND CAMPBELL: My noble friend has moved this Amendment very clearly and cogently, and has covered every aspect of it. I was also going to raise the points which he raised. These substances which can be put in to indicate whether there is any seepage should be added before the actual pollution takes place. In fact, any person or firm, wishing to discharge into abandoned mine-workings and suchlike, should ask for prior approval, provided that those workings are within the area of the purification board. That goes part of the way of the English Water Resources Act, 1963, but it does not go nearly so far as that Act, which says that it shall not be lawful for any discharge of an offensive nature to be put into any hole in the ground, as my noble friend described it. I think this is a very important addition to the Bill, and I hope that the Government will give very serious consideration to the inclusion at the Report stage of something on the lines of the Amendment put down by my noble friend.

LORD HUGHES: I am grateful to the noble Lord for the Amendment which he has tabled, and about which he and I have already had quite considerable discussion. I am very much in agreement with the anxieties which are expressed about this problem, although it has not yet arisen in Scotland to any great extent. But we must accept that at least a possible consequence of the considerable expenditure which might be placed on industry if they were to continue to discharge effluent into a river, is that they might look for other and apparently cheaper ways of disposing of this. Tipping it down a disused coal pit or a disused quarry might involve only a very minor expenditure on transport, as against a very considerable expenditure in other directions. So it may well be that this is a problem which could grow very much greater.

Might I just point out briefly that, in so far as the disposal of effluent in this way results in a seepage into a river, there is an offence within the operations of the Bill. The river purification board would have authority to act in the matter, particularly if they themselves were satisfied, even without being able to follow the seepage back to its source, that this was the only possible way in which it could have reached the river, and could seek to impose conditions upon it. But, as I say, there is little experience. So far as I know, there is only one case of the kind at the moment. I do not know if we can go so far as to say that it has made a seepage into the River Clyde, but the authority concerned about this at the moment is the Clyde River Purification Board. The attempt to deal with the matter is a laudable one, but it would be wrong for me at this stage to accept the Amendment, because the difficulties of the solution might be worse than the difficulties of doing nothing about it in this Bill.

First, as the noble Lord, Lord Craigton. has indicated, we cannot adopt the English precedent in this matter, as very comprehensive powers in this matter arose there because they were part of the Water Resources Bill. I would remind your Lordships that this is a Bill to prevent the pollution of rivers, and it is at least conceivable, if not certain, that eventually there will be effluent put down quarry-holes or disused collieries which will not at any time have any effect whatsoever on rivers or streams anywhere in Scotland. To seek to control them, therefore, in a measure intended to control rivers would be dishonest. It may be that the need will develop, and if that happens I have no doubt that Parliament will consider, and, if so advised, enact, legislation to control dumping in quarries, boreholes, pits, whatever it may be, in Scotland in the same way as has been done for England and Wales.

I come to the aspect of being able to put in liquids or materials, to help an authority to determine whether or not a dumping in one particular place would cause seepage to a particular stream. This question itself, of course, is not without difficulties. The quantities conld be very considerable. In fact, the Amendment limits them to quantities in excess of 5,000 gallons per day. You do not trace, particularly if it is going to take months to do, by tipping in just a bucket of dye. In fact it might involve the addition of very large quantites indeed before they had any effect. Thus the result might be that the authority would be contriving to make themselves polluters of their own streams particularly if, in the process, they happened to affect supplies of water which were being used somewhere for domestic purposes. The users of these supplies, I suggest, would take a rather dim view if they suddenly found that they were getting green, yellow or red water.

But there is worse than that as a possibility. The most likely material to be used to determine the presence of seepage would be tracer elements, and as soon as one gets into the use of radioactive materials there is the possibility that one would create greater fear and alarm through having these going in many directions in underground strata, and eventually arriving in streams, particularly when, as the noble Lord, Lord Craigton, has, I think, very fairly stated, the periods involved may be very long. They may be months; they might be a year. In order to be effective, one would have to use radioactive materials which would have a half-life at least long enough to enable them still to be functioning at the expiry of that time. If, in fact, they were wrong, and the materials reached the streams very much faster than was anticipated, they would have proved their point, but at the expense of having radioactive substances then in their rivers for a very considerable period before they had ceased to be a possible danger.

I hope I have shown that the solution is not an easy one. It may be that it will not be possible to put something into this Bill which would come competently within the Title of the Bill. But Her Majesty's Government are very sympathetic to it. They believe that there is a possible danger (perhaps, if we were discussing this in two years' time, we might be forced to say that there is a certain danger), but how we could deal with it in the time since this was first raised, quite frankly, I am not in a position to say. I am grateful to the noble Lord for having tabled this Amendment. I can assure the Committee that the matter is being very carefully examined, not just from the legal point of view but from the technical and the scientific points of view; and if it is possible for an Amendment to be put down at the next stage, then I shall be very happy to do so. If that is not possible, there will perhaps be an opportunity at the next stage to say just why Her Majesty's Government have found it impossible to do anything.

I should like to conclude on this item by saying that it has been most important for the public interest that this matter should be ventilated, because, whether or not anything is included in the Bill, the whole subject will now be kept under close examination, so that if further and more comprehensive legislation on this subject than is possible iu this Bill should become necessary, Her Majesty's Government will undertake it. I therefore hope that the noble Lords will find it possible, on the assurances which I have given, to withdraw the Amendment.

LORD CRAIGTON: I am very grateful to the noble Lord for his reception. He and I knew that my Amendment, as drafted, was not acceptable, and we both realise that a solution, if we can find one, is not easy. I agree with him that we should try to find one. One point I would put to him is this. This Amendment, if he can draw one up—and he will have every assistance from myself and my noble friends—will affect the industrialist. We want to protect the industrialists from vexatious controls, but I know that the industrialist does not want to commit any offence to health. In that spirit, I have much pleasure in asking leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clauses 4 to 7 agreed to.

Clause 8 [*Application of Act to tidal waters*]:

4.46 p.m.

LORD CRAIGTON moved to add to subsection (4):

"In performing any functions under this Act or the said section 28 in relation to tidal waters (including all controlled waters) a River Purification Authority shall have special regard—

(*a*) to the interests of sea fisheries and

(*b*) to the factors arising from the tidal nature of the waters and, in particular, to additional dilution due to dispersal of the effluent by tidal action, and the varying direction of flow and salinity and any other special properties of those waters."

The noble Lord said: As I said in the debate on a previous Amendment, this Bill will be taken by the boards as an instruction on which their whole operations are based, and by this Amendment I seek to add words that draw the attention of boards to a matter of great importance in the area of their jurisdiction, and not least towards their responsibilities regarding offences under the Oil in navigable Waters Acts, which are referred to in a later Amendment. Such an Amendment as mine is well precedented. Similar general instructions are included in the Clean Rivers (Estuaries and Tidal Waters) Act, 1960; these were re-enacted in the Rivers (Prevention of Pollution) Act, 1961; and there is a kindred instruction, much on the same lines, in the Water Resources Act, 1963.

There are two good reasons for my Amendment, apart altogether from precedent. First, the Bill envisages almost a new approach to the problem of tidal waters, and this Amendment is an important safeguard for the many interests that may be concerned. Secondly, complex technological issues are involved, and the boards should be sure of the scope of the issues with which they should concern themselves. My wording may be faulty, but I hope the noble Lord will not turn this Amendment down, if he is going to turn it down, without further consideration. The simple point is that words such as I wish inserted, and which are suitable to the conditions of the English rivers boards, are in the English 1961 Act. In this, our Scottish Bill, there are no such words at all. I feel this is wrong. It is causing unnecessary disquiet, and I ask the noble Lord, even if he cannot accept my words, to consider this matter carefully between now and Report stage. If he will do this, I believe he will decide to put down, in words that suit Scottish conditions, the sort of Amendment that I know he knows I want, and which Scotland, I think, wants, too. I beg to move.

Amendment moved—

Page 9, line 3, at end insert the said words. —(*Lord Craigton.*)

LORD HUGHES: I am sorry that I appear to be unreceptive this afternoon, but I cannot accept this Amendment, either, for a variety of reasons; and, because the Amendment covers a variety of reasons, I will follow the noble Lord's excellent example on this occasion and stick closely to what I have written.

An Amendment differing only in that it referred to "fisheries" and not "sea fisheries" was debated and negatived in another place on December 17. Paragraph (*b*) of the Amendment was included originally in the Clean Rivers (Estuaries and Tidal Waters) Act, 1960, following representations from the Federation of British Industries, who were concerned that control over new outlets and discharges to tidal (controlled) waters would result in the same standards being applied to these waters as to inland waters. Many large industries have been, and will increasingly have to be, set up near tidal waters to enable them to discharge large or difficult effluents.

The Amendment is not appropriate to Scotland as regards paragraph (*a*), sea fisheries, for our river purification authorities, unlike authorities in England, have no fisheries functions in controlled or tidal or inland waters. As river purification authorities have no fisheries functions they should not have a duty imposed on them to have special regard to sea fisheries. This is really quite inconsistent. The Secretary of State appoints members with fisheries interests to river purification boards and these members will be concerned to see that pollution does not prejudice fish life in the waters over which authorities have jurisdiction.

Paragraph (*b*) on having special regard to the factors arising from the tidal nature of the waters does, however, affect river purification authorities under the Bill and the 1951 Act. The words of the Amendment are innocuous, but if read strictly

they could mean that our river purification authorities, in considering the conditions to be imposed on discharges to heavily polluted waters, such as the upper reaches of the Clyde, should have special regard to these waters and therefore impose stricter conditions than they would normally—a result not envisaged by the movers or, I am certain, by the Federation of British Industries. On the other hand, discharges from large electricity generating stations—such as those at Hunterston, Kincardine and Cockenzie—would not merit such strict conditions as would be appropriate in narrower or more polluted waters. We are back, therefore, to the provisions in the Bill empowering authorities to impose such conditions as "they may think fit". The strict answer to the Amendment is, therefore, that our river purificatiou authorities should better be left to exercise their judgment, subject always to a right of appeal to the Secretary of State, and therefore, that the Amendment should be resisted as being unnecessary.

I would remind the Committee of what I said on the Second Reading: that the desire to have clean rivers must be taken in regard to other circumstances. I repeat that we should be indulging in the heights of folly if we finished up with the cleanest rivers and the cleanest tidal waters in the whole world but with no industry by which we could live and enjoy them. The boards and the Secretary of State, as noble Lords would wish, must apply these things with reasonable regard to all the circumstances. From that point of view, industry has nothing to fear from the operation of the conditions as they exist, and I would remind the Committee further of the assurance I gave to the noble Lord, Lord Drumalbyn, that this is not a matter where a catastrophic change can take place overnight. If, therefore, it is accepted that we must proceed reasonably, having regard to all the circumstances in the matter of time, we must also proceed with similar discretion in regard to what is done in any particular river or any particular stream or any particular area of tital water. I hope therefore that the noble Lord will not feel that he is letting anyone down; but that he is, on the contrary helping them, if he allows the Bill to remain as it is.

LORD CRAIGTON: I am not as satisfied as I nearly always am with the noble Lord's reply. My Amendment does not arise from the fears of industry; it arises because I feel there is a need for a general direction on the nature of the board's duties. I quoted precedents; I will not do so again. This is not an unusual thing. The boards are made up of a great many people who do not have much to do with Acts of Parliament. The noble Lord, Lord Hurcomb, had a similar Amendment to mine in a Bill some years ago in your Lordships' House. It seems a good thing that there should be a general direction. I was expecting that the noble Lord would say that my Amendment was badly drafted—as was, I think, said when this matter was raised in another place. But the reply he gave was not the one I wanted. I wanted him to agree that some general direction as is in the English Act is necessary.

We may have to press the matter further at the next stage. The noble Lord said that his honourable friend, the Joint Under-Secretary in another place, turned it down; but if he will read the debate carefully he will see that his honourable friend very nearly accepted it, or so he said, and made it appear that if it were differently worded he would have accepted it. I ask leave to withdraw the Amendment, but I warn the noble Lord that if he cannot say he is prepared to think of the right form of words, then we must try again on a later occasion.

Amendmeut, by leave, withdrawn.

Clause 8 agreed to.

Clause 9 [*Penalties and proceedings for certain offences*]:

On Question, Whether Clause 9 shall stand part of the Bill?

LORD CRAIGTON: I have not put down any Amendments to this clause. I feel deeply the absence of my noble friend Lord Colville of Culross, whose understanding of these matters is so much greater than my own. I rise to keep the door ajar for him should he wish to raise any matters concerning this clause at a later date. On Second Reading the noble Viscount expressed concern about the position of potential offenders in cases where a mistake or accident had occurred, and especially those whose offences occurred due to circumstances outside their control. He wondered

[Lord Craigton.]

whether they are properly dealt with in this Bill. Another point that troubles me is what, under the Bill, is the position of an industrialist who commits an offence where no consent is involved—for example, an exceptionally heavy storm washing contaminated substances off a roof and into the river; or contamination caused by putting out a fire. In such a case, the Bill as drafted seems to place an unwarrantable burden upon dischargers who have no alternative means of disposal except into controlled water, yet have used their best endeavours to minimise or prevent pollution.

LORD HUGHES: I do not think I can add very much to what was said on the last occasion when this point was discussed. I think perhaps it would be sufficient if I were to say that the record of the river purification boards indicates that they do not seek to do things just for the sake of complying with the letter of the law, but that the whole administration of the boards has been a matter —if not of what everybody would call "sweet reasonableness," at least not of much controversy. I am certain that anyone who had not deliberately committed an offence, or permitted the offence to be committed through carelessness or negligence—that is to say, was completely innocent, and the result was something he could not have avoided—would have nothing to fear. If it should be proved, to my complete astonishment, that I am wrong in this matter then I will communicate further with the noble Lord. But if he hears no more from me then perhaps the Committee will accept it, if the noble Lord, Lord Craigton, does nothing further at the next stage, that satisfaction does exist.

Clause 9 agreed to.

Clause 10 [*Samples of effluents*]:

4.59 p.m.

LORD BALERNO had given Notice of several Amendments to the proposed new subsections to be inserted in Section 19 of the principal Act, the first being in the new subsection (2)(*a*) to leave out "forthwith". The noble Lord said: I beg leave to speak to Amendments Nos. 7, 8, 9 and 10 together, because they refer to the same snbject. I would refer the Committee to the opening subsection of Clause 10, of which the new subsections are a part. It says:

> "In any legal proceedings it shall be presumed, until the contrary is shown, that any sample of effluent taken at an inspection . . . is a sample of what was passing from the land or premises to those waters."

The problem is this. As the Bill now stands, the inspector could take a sample, and could then tell the owner or occupier of the land that he did so. As the Bill stands, it would be impossible for the occupier of land—or the master of a vessel—to show that the sample taken was not a fair sample. In fact, there would be only the word of the inspector that the sample was taken, and it would be impossible to prove to the contrary.

Inspectors are only human beings. In certain circumstances, one can conceive of several effluents from different premises coming out quite close to each other, and if all these effluents were being inspected, it might well happen that a sample would be taken by the inspector, in all good faith, he thinking it came from one set of premises, when in fact it came from another set of premises. These Amendments are intended to ensure that an occupier of land or a master of a vessel, or his representative, is warned that a sample is about to be taken, so that he can ensure that the sample is a sample taken from his premises, his land or his ship. It might be said that by giving him forewarning that a sample is being taken, he will adjust the effluent, but I suggest that paragraph (2A) of subsection (6) gives reasonable protection, and if an inspector of a purification board thought that an occupier of land or master of a vessel was playing tricks with him, I think there is sufficient to cover him at a later date. I beg to move.

Amendment moved—

Page 11, line 29, leave out ("forthwith").—(*Lord Balerno.*)

LORD HUGHES: I would ask your Lordships to reject these Amendments. I noticed, if I may say so without the slightest intention of giving offence, that the noble Lord has raised the inspectors a little compared with his previous reference. He has admitted that they are

human beings. Previously, he was prepared to accord them only the status of bureaucrats, which, in modern language, would seem to connote something at least sub-human.

The noble Lord himself must have had a little doubt about these Amendments, because he correctly anticipated the objection to them. We must accept that in the majority of cases people who are doing things which they ought not to do will be doing them from lack of knowledge rather than from a deliberate intention to break the law; but there will always be a number of people who will think that there is something clever in evading the restrictions which are accepted by their more law-abiding fellow citizens. These are the people who are most likely to seek to infringe the conditions imposed upon the discharge of their effluent, at times when it is likely they may get away with it; or when the inspectors are not expected to be available, or when the state of the tide may more speedily disperse the evidence.

The effect of this Amendment and the subsequent Amendments would necessarily be to make it very much easier for infringers to "fiddle" the arrangements. I would remind your Lordships that the taking of a sample is not the end of the matter. If the sample is to be the subject of a prosecution, the clause goes on to lay down the procedure which must be followed. The man against whom a charge is laid will receive a part of the sample, appropriately sealed. If we do what the noble Lord, Lord Balerno, asks us to do, it will be virtually impossible to prosecute successfully the worst offenders, and the people most likely to be proceeded against are the less culpable. Without any hesitation whatsoever, I must ask your Lordships not to accept these Amendments, which would drive a horse and cart through the Bill.

LORD CRAIGTON: If the noble Lord does not accept this Amendment, could he tell me one thing? What protection is there for a discharger against an inspector taking a sample at low water, or at a time of intermittent discharge, or at a time when the discharge is exceptionally heavy? Though I would not suggest for a moment that an inspector would do something wrong, in the nature of things there must be a time when there is not a normal discharge, and if the discharger is not to know that a sample has been taken, how is he to know that it has not been taken at some time when the discharge was abnormal?

LORD HUGHES: I think the best answer to that is the information I gave earlier, when discussing the Amendment about inspectors. In a period of twelve years there has been only one appeal against the decisions of the boards. As the noble Lord, Lord Balerno, himself pointed out, what the boards will do must necessarily arise from the advice of their officers—the inspectors whom we are now discussing. If they have got through a period of twelve years satisfactorily, I think that it is going beyond the bounds of possibility to expect that they are suddenly going to start to do their jobs in a way which would produce false results.

After all, if a sample had been taken and there was a prosecution, and the discharger had received a part of that sample and was satisfied from his own knowledge that it could have been taken only at an exceptional time, so that the sample was not at all typical of what he was discharging, it would not be difficult for him to satisfy a court that he was being unfairly dealt with—perhaps by producing his own samples taken at varying times to show that the inspector's sample was exceptional.

The inspectors and the boards will wish to proceed only in cases where it is so certain that someone is doing wrong that a conviction is likely to result. They will not be in the position, sometimes alleged against traffic policemen, of wanting to "make a certain score" over a definite period. Obviously the boards have not proceeded in this way in the past, and there is no reason why they should wish to proceed other than in the best interests of river purification.

I would remind your Lordships that the boards must have the co-operation of those who are discharging, and the best way of depriving themselves of co-operation from industry and agriculture is to create the suspicion, even if only in one instance, that they have indulged in sharp practices. Because, of

[Lord Hughes.]

course, to do what the noble Lord, Lord Craigton, has suggested might be done would be either gross neglect, which one would not expect from the trained inspectors we have, or sharp practice; and I am certain that the noble Lord would not wish to make any such allegation. I think that on this matter we are entitled to rely on the good sense of the boards and their inspectors.

LORD BALERNO: I thank the noble Lord for his answer. I admit it had not occurred to me that it would be possible for the occupier of the land to take samples himself and then produce them in court, thereby showing the contrary, as stated in subsection (1) of the clause. That certainly makes a diffence. I should like to say to the noble Lord that when I made some animadversions on the inspectors, I did not include all the inspectors; I just referred to an occasional inspector. When I referred to their probity, and perhaps not their highest intelligence, I referred to all the inspectors. I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

LORD BALERNO moved, in subsection 6(*b*), after "whatever kind" to insert "made by a qualified analyst". The noble Lord said: The point of this Amendment is that, as stated in the Bill,

> "an analysis shall be construed as including a reference to any test of whatever kind, and 'analysed' and 'analyst' shall be construed accordingly."

In the report of the Second Reading debate there was a slight misprint in *Hansard*, and what I gave as an illustration of an analysis, or what could be construed as an analysis, was that the inspector could put his hand in the effluent and put it to his mouth and taste it, and that would be construed as an analysis under the terms of the Act. Accordingly, I think it would be important to have after the word "kind" the words "made by a qualified analyst". I do not specify the scientific qualifications or the degrees he should have. That, I think, is unnecessary. What I feel we should take care of is that the inspector, who I understand is likely to be considered as an analyst, should not take the sample, because in that way you get into the situation of his being also the judge in the case. One must surely have some difference between the man who takes the sample and the man who analyses it.

Pollution can be of various kinds. It can vary from the extreme of a poisonous pollution up the scale to what may be a purely vegetable pollution; and the vegetable pollution may, indeed, be of positive value as food for the fish. For instance, silage effluent as it emerges from the silo looks the most disgusting and repulsive type of effluent, but it is, in fact, quite harmless, and when sufficiently diluted by the burn in proper proportions is beneficial to wild life in the water and, consequently, beneficial to human refreshment. There being such nuance on an analysis which can be made, I think one should be careful that the persons who are making the analyses of the effluent should be properly qualified persons. I beg to move.

Amendment moved—

Page 12, line 11, after ("kind") insert the said words.—(*Lord Balerno.*)

LORD HUGHES: I cannot accept this Amendment, either, but I do not think the noble Lord will be unhappy when I explain the reasons. It is not necessary to say that there should be a qualified analyst, because the River Inspectors (Qualifications) (Scotland) Order, 1953, made under the powers in Section 10 of the 1951 Act, prescribes the qualifications of a river inspector as

> "corporate membership of the Royal Institute of Chemistry and of the Institute of Sewage Purification".

River purification boards have laboratories, and their inspectors are qualified officers. Therefore, the person taking the sample is qualified. I doubt whether your Lordships would find it necessary for me to say this, but, as the lawyers say, for the av idance of doubt, I shall add that the courts would not accept a sample of evidence unless satisfied of the competence of the analyst. I think, in those circumstances, the noble Lord has had apprehensions about the taking of samples which are not justified.

LORD BALERNO: Once again, the noble Lord, Lord Hughes, has the advantage of me in having a more extensive knowledge of the position. I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

LORD HUGHES: This is one occasion on which I must take a certain amount of glory, because I am doing something arising from what was said on the Committee stage. Your Lordships will recollect that the noble Marquess, Lord Lothian, raised this point in the Second Reading debate. This clause, in conjunction with Section 19 of the 1951 Act, empowers river purification authorities to take samples passing from any land or vessel. It is questionable, however, whether land in this context includes premises, having regard to other clauses in the Bill (for example, Clauses 1(3), 2(2), 3, *et cetera*) which refer to land or premises. Your Lordships will notice that the Amendment does not refer, as was suggested by the noble Marquess, to the " occupier of the land or premises ", for the reason, however, that both Section 19 of the Act and the clause refer to effluent passing from the land or vessel and not from its occupier. I beg to move.

Amendment moved—

Page 12, line 12, after (" accordingly ") insert (", and any reference to land includes a reference to premises' ").—(*Lord Hughes.*)

On Question, Amendment agreed to.

Clause 10, as amended, agreed to.

Clauses 11 to 14 agreed to.

Clause 15 [*Interpretation and construction*]:

5.19 p.m.

VISCOUNT SIMON moved, after subsection (3), to insert:

" ( ) Nothing in section 1 of this Act as applied to tidal waters by section 8 of this Act or in section 22 of the principal Act as applied to tidal waters by section 29 thereof shall apply to discharges of oil or mixtures containing oil which are subject to the provisions of the Oil in Navigable Waters Acts 1955 and 1963."

The noble Viscount said: This Amendment arises in connection with a point that I raised during the debate on Second Reading. The United Kingdom is a signatory to two International Conventions for the Prevention of Pollution of the Sea by Oil—namely, the Coventions of 1954 and 1962, the second of which merely amended the first. I have a special interest in this, because when I looked it up I was surprised to find that I was a signatory of the final act of the 1962 Convention, a fact which I had completely forgotten. Under these Conventions, the discharge of oil into large areas of sea from ships is prohibited. The relevance of this Bill is perhaps best expressed by reminding your Lordships that the prohibited zone includes a depth of 100 miles round the coasts of Great Britain and Ireland. Originally this prohibition applied only to tankers, but it is extended to non-tankers as from a date three years after the acceptance of the Second Convention which will fall next month, April 11, 1965. There are some other exceptions with which I do not think I need deal.

Article IV of the Convention—and this is an International Convention to which we have subscribed—provides in terms that it shall not be an offence to discharge oil within these zones from a ship if it is done in certain circumstances: for instance, for the safety of the ship, for preventing damage to ship or cargo, for the saving of life or—and I think this is of some importance—if the discharge is purely accidental or the result of an accident, provided that the master takes immediate precautions to put it right.

Effect was given to this Convention by the Oil in Navigable Waters Acts, 1955 and 1963, which deal in turn with the previous year's Convention. These Acts provide the machinery in this country for implementing the Convention. Section 4(1) of the Act incorporates the defences laid out in the Convention, and it is an interesting point that these defences apply to ships only. The Oil in Navigable Waters Acts cover discharges from shore installations, but although the Act applies to discharges both from ships and from shore installations, these special international defences, if I may so call them, apply only to ships.

Under the Bill we are now considering, it appears that the master of a ship discharging oil in tidal waters to which the Bill applies (and those are laid down in the Schedule) could be subject to prosecution also under this Bill when it becomes an Act. But in this Bill, of course, the defences agreed internationally are not provided for, and the consequence could be, as I mentioned on Second Reading, that the master of a foreign ship, coming here with full knowledge of the international law on the subject and of the position under the Convention (and I can assure your Lordships that the masters of ships are

[Viscount Simon.]
well acquainted with things of this sort ; they are not lawyers, but they are required, as part of their training, to learn the elements of the law with which they are concerned) could find himself prosecuted under an Act which did not give him the internationally agreed defence. I think he would be very rightly resentful, and that, if he made a complaint, as he doubtless would, to his own Government, they also would be very rightly resentful.

It seems to me, in view of the international obligations which we have undertaken, that we ought to make quite certain that prosecutions of masters of ships in respect of discharge of oil in territorial waters should be undertaken under the Oil in Navigable Waters Act where these defences apply. This matter was fully discussed in another place, and an Amendment similar to the one I have put down was rejected, but I have studied very carefully the debates in another place, and I must say that I find the arguments adduced against the Amendment very thin. The first and, I think, the principal argument adduced by the Under-Secretary of State for Scotland in another place was that to accept the Amendment would represent a change in Government policy. That may or may not be a statement of fact, but it does not seem to me to be an argument.

There was then a great deal of talk about the possibility that the areas of legislation covered in the two Acts were not the same, and that this might leave a loophole where no prosecutions could take place. I think I am right in saying that the Under-Secretary was challenged on this point but did not return to it, and I have been unable to discover that there can be any areas in which neither the oil pollution Acts nor this Bill would apply. Then it is said that to do what was suggested would create an anomaly between discharges of oil from shore installations and discharges from ships. I readily concede that that is so. The anomaly is already in the oil pollution Acts because, as I have already explained, ships are given the benefit of the internationally agreed defences and shore installations are not. So that anomaly already exists. A further gloss on this was perhaps a slip on the part of the Minister, because he suggested that confusion might arise as to the legislation under which to prosecute, if it was not known whether the oil came from a ship or from a shore installation. It seems to me that if that is not known, there is no possibility of bringing a prosecution in any case.

During the discussion, I thought there was rather a lot of what I hope I may call, without offence, loose talk. I think that the Under-Secretary himself made the comment that there is little point in trying to clean our rivers if we allow our estuaries to be fouled indiscriminately. There is no question of indiscriminate fouling of the estuaries. The rules under the oil pollution Acts are in some respects stronger than the rules which would be applied by this Bill. There are not only higher penalties under those Acts, but there is one point which, I suggest, is of considerable importance. Nobody goes about polluting the seas on purpose. The most likely cause of pollution is an accident or a mishap. Under the Oil in Navigable Waters Act, if there is pollution as a result of an accident, it would remain an offence unless the master took immediate and proper steps to remedy the defect.

We had a short discussion on Clause 9 of this Bill a few moments ago and, so far as I could make out, some doubt was expressed about the position under this Bill in the event of an accidental discharge. I am advised that under Section 22 of the principal Act, which I think is the operative section, the words used are that anyone who causes or knowingly permits pollution is subject to the penalties of the Act. Those words, it seems to me, would make him absolutely free of prosecution if the discharge was accidental. So in those circumstances the position, if one had a prosecution under the Oil in Navigable Waters Act, would be strengthened.

At the end of our discussion on Second Reading, the noble Lord was good enough to repeat an assurance which had been given in another place that, because the legal procedure in Scotland made this possible, the Lord Advocate would give instructions to procurators fiscal for all such cases to be reported to the Crown Office and for the decision to be taken by Government under which of the two Statutes prosecutions would more appro-

priately proceed. It seems to me that, quite clearly in the case of ships, if we are to fulfil our international undertaking there is only one Act under which the prosecution could proceed; there is only one Act that is appropriate.

I do not know whether the noble Lord will be able to tell us whether there are any circumstances in which he considers that it would be appropriate to prosecute the master of a ship under this Bill. It seems to me that either there are such cases—and if there are, it appears that we are contemplating in certain circumstances not fulfilling our obligations under the international agreement—or else there are not such cases; and if there are not such cases, I would urge on the noble Lord that he should accept this Amendment and make the position clear in the Bill, instead of relying on administrative instructions. I hope that in the course of his reply the noble Lord will be able to tell us on which leg he is standing. I beg to move.

Amendment moved—

Page 14, line 7, at end insert the said subsection.—(*Viscount Simon.*)

LORD GEDDES: May I, too, declare an interest in the subject matter of this Amendment in that I am a director of a shipping company with particular responsibility for tanker operations. I do not propose to repeat the detailed arguments so clearly presented by my noble friend Lord Simon, but there is one point of basic principle which I feel should be emphasised briefly. The ship owners of the world have learned slowly and painfully to discipline themselves under a series of international conventions, ratified by the contracting parties on the basis of domestic legislation. These disciplines are of the utmost importance in the ordinary pursuit of the seaborne trade of the world.

Having passed the Oil in Navigable Waters Acts of 1955 and 1963, we gave our word to the shipping interests of the world that certain defences would be available to the masters of any ship, whether foreign or British. If by unilateral domestic action we withdraw that undertaking we leave ourselves dangerously exposed to similar unilateral withdrawals in overseas ports whether from these or any other conventions. Clearly, it is unthinkable that special defences should be available to foreign masters in British waters but not to their British counterparts. The technical implications of the point at issue are comparatively narrow; the international implications are wide and dangerous; and I would urge Her Majesty's Government to accept the Amendment.

LORD HUGHES: Both noble Lords who have spoken to the Amendment have stated their case fairly and accurately as they see it; but it is not just as simple as they have suggested. May I first of all say to your Lordships that there is no question whatsoever of Her Majesty's Government's withdrawing from international obligations. The 1955 Act remains on the Statute Book and will not be affected one iota when this Bill becomes an Act. I would remind your Lordships of the assurance which was given in another place and which, as the noble Viscount, Lord Simon, stated, I repeated here. So that it might be quite clear, I think it would be well if I repeated that assurance. The Lord Advocate authorised my right honourable friend in another place to use these words:

"I propose to give an instruction to procurators fiscal that all cases of alleged contravention of the Oil in Navigable Waters Acts and the Rivers (Prevention of Pollution) Acts in respect of discharges of oil from vessels should be reported to the Crown Office for consideration by Crown Counsel. The object of the instruction would be to make certain that prosecutions proceeded under the appropriate code."

When I gave that assurance the noble Viscount, Lord Simon, said that that was all very well so far as it went but Lord Advocates changed, and had we any assurance that what one Lord Advocate did would be followed by his successor? I can add further to the assurance, on the procedure in the Lord Advocate's Department, that when such an administrative instruction has been issued it remains part of the standing instructions irrespective of the holder of the Office, unless and until other instructions are issued by another Lord Advocate.

The noble Viscount, Lord Simon, asked me, in getting, I thought, right to the heart of the matter, whether I could indicate a case where proceedings would be taken under this Bill when it became an Act, rather than under the 1955 Act.

[Lord Hughes.]

In so far as ships accidentally or deliberately discharge oil, I cannot think of a case in which the Lord Advocate would elect to prosecute under this Bill rather than under the Oil in Navigable Waters Acts. That having been said, your Lordships may say, "Well, why not accept the Amendment?" The reason is a particularly simple one. There is a duty placed upon the boards to see that rivers and tidal waters are as clean as they can be made. In order that they may do so they must have an interest in the matter, and if we take one particular form of pollution and say that this does not come within the board's jurisdiction, that they have no responsibility whatever for seeing that oil pollution does not take place, they have no standing in the matter.

I would remind your Lordships that I said on Second Reading debate that in Scotland prosecution is a matter for the Crown authorities; it does not lie in the hands of private individuals or other authorities. But if we take the Amendment, the position would be, as I have said, that this body, interested only in having clean rivers and tidal waters, would be removed from having any locus in the matter. We would then be back in the position that if there were to be a prosecution, it would rest on a harbour authority reporting the matter to the procurator fiscal for his action. This, I suggest to your Lordships, would place harbour undertakings in a most invidious position. They would, in fact, be invited to be the party responsible for initiating prosecutions against their own customers. I do not say that a harbour authority would not do this in appropriate cases, because it would be quite unjustified on my part to suggest that harbour authorities would not undertake the duty because it was an unpleasant one and one which might, at the end of the day, prove to be an unprofitable one; but we ought not to place them in the position of having to make any such choice when there is a completely disinterested body able to undertake this action. In these circumstances, we should be neglecting our objective to have the rivers and tidal waters made as clean as possible if we accepted the Amendment.

This is not a new point. I would remind your Lordships that the case for excepting oil discharges has been considered in another place, and not once before but twice in the time of the previous Government, as a result of public inquiries into the Firth of Forth and Solway Tidal Waters Orders; and the Secretary of State—the predecessor of the present Secretary of State—in both cases decided that the 1951 Act should apply also to discharges of oil from ships. Ships, therefore, are subject to the provisions of both the 1951 Act and the 1955 Act, and without difficulty or incident whatever, and I submit that there is no need for reversing the decisions already taken by the then Secretary of State in both of these Orders. The first of them was taken in 1960, and the second in 1963. So there has been consideration of this subject over a period of years—in 1960, 1963, and again in 1965.

I can assure noble Lords that shipowners, whether of British or foreign vessels, have nothing to fear from the operation of this Bill when i becomes an Act. In fact, if I might introduce a slightly flippant note into what is discussion of a very serious subject, your Lordships have been reminded by the noble Viscount, Lord Simon, that the penalties under the 1955 Act are much more severe than they are under this Bill, where the maximum penalty is £500. If I remember rightly, in the 1955 Act the fine is £1,000 on summary conviction, and I think without limit on indictment. If we leave it to our reputation, I should imagine the legal authorities would be just as anxious to collect the maximum penalty rather than the other way round, so that there is every inducement, both in International Law and in revenue, to proceed under the 1955 Act. I hope that this admission of what is regarded as either a national strength or a national weakness would be the final argument to persuade your Lordships that the Amendment is not necessary.

LORD CRAIGTON: I have listened to the noble Lord, Lord Hughes, and I am grateful for his explanation, and to the noble Viscount, Lord Simon, for moving this Amendment. But I do not think the captain of, say, a Polish ship, if he commits an offence in British waters, can be expected to rely for Britain's interpretation of International Law on what a Scottish Minister told a Committee of this House in March, 1965. Even if

the Polish captain had a copy of *Hansard*, he would learn that the Lord Advocate would himself decide under which Act to prosecute; and, furthermore, the Lord Advocate would advise—though he could not instruct—his successor to do likewise. The noble Lord's explanation may be acceptable for our countrymen, but can visiting foreign nationals really be expected to understand these Scottish legal niceties?

I do not seek to make fun of this. I offer what may be a realistic solution. I realise that we and other nationals are subject to the international code on oil discharge on land and sea. On land, the offence will be nearly all by our own nationals or locally-owned firms. River pollution from land up country will be better policed, if that is the word, if the board have some direct responsibility. In relation to land offences, therefore, I consider the Bill makes sense, and I think what the noble Lord said makes sense. I do not think the Amendment is as helpful as it might be. I appreciate that we can safeguard ourselves against discharge from ships of undesirable trade effluents, and of course this Bill, which is our domestic code, covers this possibility.

But discharge of oil from ships will come from foreign as well as home ships. The present international code is adequate for our ships, but foreign ships are surely entitled to know where they stand, or where they float, in this respect, and that condition should be the same in every water they might visit. I believe the right place to draw the line is between land and water. The noble Viscount's Amendment includes shore installations. I suggest to noble Lords that at Report stage we should so amend this Bill as to exclude from it offences under the Oil in Navigable Waters Act committed by vessels floating free and not tied or connected by pipe to the land. If we do this, I suggest that we shall get the best of both worlds and the Bill will seem sense to the Polish captain.

There is one small point which I think should be raised and which was raised on the Report stage in another place but not answered. The Bill seeks to control the discharge of trade effluents from ships, but the principal Act defines trade effluents as something discharged from any premises. Could the noble Lord say whether ships are premises or whether a small Amendment of the 1951 Act is desirable?

5.44 p.m.

LORD HUGHES: I should like to answer the noble Lord's points. In the first place, I think he completely misunderstands the purpose of the assurance I gave. I did not anticipate that anything I said as to the Lord Advocate's intentions would lead to either the edition of *Hansard* which contains the Second Reading debate or to-day's edition becoming an international best seller, because in fact the question will not arise so far as the master of a Polish vessel or a home vessel is concerned. If matters proceed as the noble Viscount, Lord Simon, would wish them to proceed and as I expect them to proceed, if the captain is prosecuted he will be prosecuted under the 1955 Act. The noble Lord says, "Why not say so?" I am afraid he has not been listening to me. I said the reason for putting in this provision was so that the board may have a standing in the matter.

LORD CRAIGTON: That is exactly my point. Navigable waters go 100 miles out to sea. The river purification boards should have regard to land installations or ships attached to land, but I cannot see the sense of them going all over the harbour looking at vessels discharging oil when the captain has left the shore and is on his way off.

LORD HUGHES: But the noble Lord would go further. They would have nothing to do with the River Tay up to Perth because it is tidal. If the Amendment is accepted, only comparatively small vessels proceeding further up would come within the purview of the boards.

I come back to my point. The master of a vessel, whether British or foreign, is concerned only if he is to be prosecuted. If he is to be prosecuted, it is practically inconceivable that he would be prosecuted other than under the 1955 Act. The reason for giving the board a purview of the matter is so that they may exercise their functions in securing that rivers are clean, and from that point of view, and that point of view only, they are required to have a *locus*. This was a matter which must have weighed with the previous Secretary of State when he declined to make this sort of exception in two Orders in 1960 and 1963, and while I know

[Lord Hughes.]

that the noble Lord, Lord Craigton, at least has a high regard for what I have to say in these matters, he has an even higher regard for what his right honourable friend has to say in them; so when his right honourable friend and I are saying the same thing at different times, he is placed in an exceedingly difficult position, because he must toss both of us in "the drink" at the same time. I suggest that the shipowner, whether foreign or at home, has nothing whatever to gain from seeking to take this matter out of the Bill. As I have said, the two Orders which were made in 1960 and 1963 have operated satisfactorily without any incident whatever, and there is no reason to expect that their application to all the areas covered by this Bill will provide any different result.

VISCOUNT SIMON: I have listened with great interest to what the noble Lord, Lord Hughes, has said, and I thought he made a very good case for his argument, except in one respect: that is, that in cases of oil pollution in tidal waters—I would agree that the dividing line may be somewhere else—broadly the discovery, the detection of the pollution, will have to be undertaken by the harbour authority, because I do not think the river pollution board will be in any position to detect discharges from a ship in the harbour. Certainly I can say—speaking not with Scottish experience, but with English experience—that the Port of London Authority is itself the pollution authority for the River Thames, and we have never felt inhibited from prosecuting for discharging merely because the dischargers are customers, for we have an overall responsibility to the people living here for maintaining the cleanliness of the river. Nevertheless, I appreciate what the noble Lord has said.

I should like him to consider, if it is possible, between now and the Report stage, the sort of compromise suggestion that the noble Lord, Lord Craigton, made. He is quite right, of course, in saying that my Amendment would have covered discharges of oil from shore installations into tidal waters; and he is quite right also in saying that I addressed my argument almost entirely to discharges from ships. I was really doing so because I was concerned with the International Convention, and the International Convention does not cover discharges from shore installations. I do not feel that I should detain the Committee any longer on this matter, except to ask the noble Lord, Lord Hughes, whether he would be willing to have a little further discussion on the subject between now and the Report stage. Would the noble Lord consider that?

LORD HUGHES: Without unduly raising the hopes of the noble Viscount in this matter, it would be discourteous of me if I did not undertake to look at the matter still further, to see whether any compromise is possible to achieve both purposes—clean rivers and no dubiety at all on the part of shipowners.

VISCOUNT SIMON: I am greatly obliged to the noble Lord, and I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause 15 agreed to.

Remaining clauses agreed to.

Schedule 1 agreed to.

Schedule 2 [*Seaward limits of controlled waters*]:

5.52 p.m.

LORD CRAIGTON moved to leave out the reference to "A line drawn across Craigevan Bay and Stonehaven Bay from Garron Point . . . to Downie Point . . .". The noble Lord said: My noble friend Lord Stonehaven regrets that he cannot be here to speak to this Amendment. When this Bill first came to another place the words we seek to omit were not in the Bill. Stonehaven Bay was not mentioned. The reference to it was added in Committee, without discussion or explanation. That was bad enough. But I am advised that this area was included in the Bill without prior consultation between the Scottish Development Department and Kincardine County Council, without prior opportunity to the County Council to make representations, and without any opportunity for the appropriate committee of the County Council to consider the matter. Surely, this is most undemocratic. In all my experience with the Scottish Office I have never heard of land or water affected by legislation being included without prior

consultation with the local authority concerned.

In this case I am advised that there are strong local views. They object on grounds of expense. They object on the ground that tests show that the tidal flow will carry any effluent well clear of Stonehaven Bay. They object on the ground that this coast erodes, and that there is no possibility of deposit on this coast. They object on the ground that the Medical Officer of the Department of Home and Health in Scotland and an engineer from the Scottish Development Department knew of these things and have raised no objections. I am told that over the last five years there has been no complaint or evidence of any washed-up sewage matter, and that there is already a high degree of dilution which could be increased by the use of comminuters. I am told that it would be impracticable, for many good reasons, to site sewage works in the Borough of Stonehaven or the village of Cowie; and finally, that if and when the County Council's sewerage development is proceeded with it would be necessary to carry out considerable treatment of effluent before putting it into the sewers at all.

In view of these strongly held opinions, it was surely unnecessarily high-handed to include this area without so much as a "by your leave" or "thank you". If the noble Lord values, as I did, the co-operation of the local authorities, his right course is to accept my Amendment, to start discussions with those concerned. Then, if it is considered proper, after discussion, to do so, he can add this area to the scope of the Bill, as the Secretary of State has power to do under Clause 8 of the Bill. I beg to move.

Amendment moved—

Page 16, line 5, leave out lines 5 and 6.—(*Lord Craigton.*)

LORD HUGHES: If it is as impossible to pollute Stonehaven Bay as the representations of the authority would indicate—and I gather that in fact the representations are those of the Stonehaven Town Council——

LORD CRAIGTON: I should make it quite clear that the representations are those of my noble friend.

LORD HUGHES: Well, let us not proceed along those lines—one has suspicions in this matter. If it is impossible for the Bay to be polluted, as all these arguments would indicate, I do not know why there should be any worry; because the authority are not going to do anything unless there is a need for action. So that if the place is clean, and is going to remain clean, nothing will be done. But if it is excepted—and it is the only area of tidal water which is excepted—a possible inducement could be created whereby there would be an incentive to go there because it is the one place where it would be easy to have pollution. That, of course, is not the final answer, because as the noble Lord said, the Secretary of State could add this area afterwards. But I would say that it might be a case, if you like, of bolting the stable door after the horse has gone.

I am advised that no different procedure has been adopted in this case from that adopted in others of the same kind. Stonehaven Bay has received no less favourable treatment than others, because in fact none of the authorities were consulted in this matter. So that if there is any offence in this matter, in not following what has been done on other occasions, we have certainly done it in a wholesale fashion. No other authority has objected. They are all aware of the fact that they are listed. They are also aware of the fact that they were not consulted. The only objection, I would suggest to your Lordships, comes not from the local authority, but from Lord Stonehaven, who may have imagined that the inclusion of Stonehaven Bay at this late stage inflicted an injustice on the local authority concerned with the Bay.

One point which remains to be answered is that this reference did not appear in the Bill at the beginning; it came in without explanation, and it falls to me to make an explanation of the fault—and I myself can appear in a pure white sheet, as it was not my responsibility. But the fact is that Stonehaven Bay was not in at the beginning for the simple reason that, whether in typing or through some other cause, a line was missed. It ought to have been in from the beginning; it was accidentally left out, and when it was discovered that it had been accidentally omitted, it was put in. There was nothing more sinister than that. The authority are therefore now in the same position as they would

[Lord Hughes.]

have been in at the outset if the thing had been done properly. They have been subjected to no injustice, and they have received exactly the same consideration as all the rest, in that they have not been notified; so that at the end of the day they are in exactly the same position as everybody else. If their innocence in relation to present and future pollution is as great as mine in relation to this omission, they have no more to fear than I have in the matter.

LORD CRAIGTON: Nobody in the Scottish Office has a white sheet: it is a collective responsibility, and the noble Lord must also take responsibility. I am horrified to learn that these things should be done without consultation with the local authorities. If Stonehaven had known that they were in the Bill, they might have objected. But I do not think my noble friend would wish me to divide the Committee on this issue, and I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Schedule 2 agreed to.

Schedule 3 [*Modifications of sections 22, 24 and 28 of the principal Act*]:

LORD HUGHES: This is a drafting Amendment. It is merely to insert the word "of". I should think it is a typographical error. Without the word "of" the sentence does not make sense. I beg to move.

Amendment moved—

Page 17, line 20, after ("words") insert ("of").—(*Lord Hughes.*)

On Question, Amendment agreed to.

LORD BALERNO: In view of Lord Hughes's explanation as to why reasonableness should not be reintroduced into this Bill, I think fit not to move the last two Amendments in my name.

Schedule 3 agreed to.

Remaining Schedule agreed to.

House resumed: Bill reported, with Amendments.

ADMINISTRATION OF JUSTICE BILL [H.L.]

6.0 p.m.

Order of the Day for the consideration of Commons Amendments read.

THE LORD CHANCELLOR (LORD GARDINER): My Lords, I beg to move that the Commons Amendments be now considered. In so moving, I should like to ask your Lordships' agreement to move some of these Amendments together. For example, Amendments Nos. 1 to 11 are purely drafting Amendments and, I suggest, could usefully be taken together. I propose then to take Amendment 12; then Amendments 13 and 14 together; 15, 16, 17 and 18 together; and, again with your Lordships' permission, to take together Amendments 19 to 34, all of which are simply additions to the Schedule of obsolete enactments to be repealed. I beg to move.

Moved, That the Commons Amendments be now considered.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENTS

[*The references are to Bill* [59] *as first printed for the House of Commons*]

Clause 1, page 2, line 23, leave out from beginning to ("whether") in line 24 and insert ("any way in which he thinks fit")

line 24, leave out ("for the investment of") and insert ("in relation to")

Clause 4, page 4, line 12, at end insert ("except in a case in which it is made in connection with a cause or matter (as respectively defined by section 225 of the Supreme Court of Judicature (Consolidation) Act 1925) proceeding in a district registry established by virtue of section 84 of that Act")

line 14, at end insert ("and, in the said excepted case, shall be effected in such manner as may be prescribed in relation to that registry by rules made by the Lord Chancellor with the concurrence of the Treasury.")

Clause 7, page 7, line 39, leave out ("short-term") and insert ("short- or long-term")

Clause 9, page 10, line 4, leave out ("short-term") and insert ("short- or long-term")

line 12, leave out ("a deposit or short-term") and insert ("other than a long-term")

line 33, leave out ("a deposit or short-term") and insert ("an account other than a long term")

line 43, leave out ("a deposit") and insert ("an")

line 44, leave out from (" Rules ") to end of line 45 and insert (" (other than a long-term investment account) ")

Page 11, line 2, leave out first (" the ") and insert (" any ").

THE LORD CHANCELLOR: My Lords, as I have said, Amendments 1 to 11 are all drafting Amendments. If any of your Lordships wish to raise any points I shall be happy to deal with them, but subject thereto, I beg to move that this House doth agree with the Commons in the said Amendments.

Moved, That this House doth agree with the Commons in the said Amendments.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENT

Clause 19, page 16, line 20, at end insert—

(" ( ) Where money that has been recovered, or adjudged or ordered or agreed to be paid, as mentioned in subsection (1)(*a*) above, or has, after payment into court, been accepted as mentioned in subsection (1)(*b*) above, is in court at the commencement of this Act, then if it is not subject to be dealt with under that subsection and the person entitled thereto is not under disability it shall be paid out to that person upon an application's being made in that behalf to the court.")

THE LORD CHANCELLOR: My Lords, this Amendment relates to widows' damages. It provides in terms that a widow with money in court at the time the Act comes into force is to be entitled to payment out on application if there are no dependant children still under 21. During the Committee stage in another place there was argument as to whether or not the Bill as it then stood would have that effect. I do not think I need trouble your Lordships with the arguments. There had been a case in 1952, and it was argued that the effect of that case might be to raise some doubt on the point. Accordingly, the Amendment adds to Clause 19 a new subsection which expressly entitles such a widow (if she is not herself under a disability, as being, for example, an infant or of unsound mind) to obtain her money on application. A consequential Amendment is required to Clause 31. I beg to move.

Moved, That this House doth agree with the Commons in the said Amendment.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENTS

Clause 20, page 16, line 30, leave out (" two hundred and fifty ") and insert (" three hundred ")

line 36, leave out (" £250 ") and insert (" £300 ").

THE LORD CHANCELLOR: My Lords, these are linked Amendments which raise from £250 to £300 the limit of indebtedness in respect of which a county court has jurisdiction to make an administration order, thus implementing an undertaking given by the Government in another place in Committee. Your Lordships may remember that the original limit, many years ago, was £50. Its equivalent to-day is something like £230, and when the Bill was with your Lordships earlier it was felt that £250 would be about right. In another place it was felt that a higher figure would be better, and figures of £300, £400 and £500 were discussed. It was thought that, in the circumstances, £300, which was the figure ultimately agreed in another place, was a reasonable compromise between those views. I beg to move.

Moved, That this House doth agree with the Commons in the said Amendments.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENT

Clause 22, page 18, line 27, at end insert—

(" ( ) References in the said section 26 to the goods of the execution debtor shall, for the purposes of the application of that section to England and Wales, include references to anything else of his that may lawfully be seized in execution.")

THE LORD CHANCELLOR: My Lords, this is purely a drafting Amendment, the object of which is to resolve a possible doubt about the applicability of Clause 22(1) to the seizure in execution of money or negotiable interests. I beg to move.

Moved, That this House doth agree with the Commons in the said Amendment.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENT

After Clause 24, insert the following new clause—

Amelioration of conditions qualifying Lord Chancellor's Legal Visitor for pension

(" .—(1) Section 128 of the Supreme Court of Judicature (Consolidation) Act 1925 (which relates to the pensions of certain officers) shall,

in its application to the retirement of a person, after the commencement of this Act, from the office of Lord Chancellor's Legal Visitor, have effect as if, in subsection (1)(*c*) thereof (which prohibits the grant of a superannuation allowance to an officer under the age of seventy-two years unless he retires upon a medical certificate or has served fifteen years), for the words 'fifteen years' there were substituted the words 'ten years'.

(2) Any increase attributable to the foregoing subsection in the sums which, under section 118(2) of the said Act of 1925 or section 25(2) of the Administration of Justice (Pensions) Act 1950, are payable out of moneys provided by Parliament shall be paid out of moneys so provided.")

THE LORD CHANCELLOR: My Lords, this is an Amendment to reduce from fifteen to ten years the period of service which enables the Lord Chancellor's Legal Visitor to retire permaturely on pension. The Lord Chancellor's Legal Visitor has to be a barrister or solicitor of considerable experience, and is usually in the fifties when he is appointed. He has a great deal of travelling to do. The Court of Protection relies on his reports. He may have to make 1,500 visits to mental patients in the course of a year, and may normally travel 16,000 miles. By the time he is 65 he may be feeling the strain of that and wishes to retire, but may be unable to do so with pension until he reaches the age of 70. The object of the Amendment is to enable him to retire at 65 with a proportionate pension. I beg to move.

Moved, That his House doth agree with the Commons in the said Amendment.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENTS

Clause 30, page 21, line 37, at end insert (" and if subsection (2) were omitted ")

Schedule 1, page 33, column 2, leave out lines 2 to 6 and insert—

(" Section 1 shall have effect with the substitution, in subsection (1), for the words 'order the payment into Court' (in both places where they occur), of the words 'order the payment into the Supreme Court' and with the substitution, for subsection (3), of the following subsection:—

'(3) In the application of the principal Aet and of this Act to Scotland, references to payment into the Supreme Court shall be construed as references to consignation in the Court of Session'.")

THE LORD CHANCELLOR: My Lords, these two Amendments relate to Northern Ireland and to Scotland. Amendment No. 17 is consequential on the addition of the new subsection (2) to Clause 19. Since there is at present no power to control widows' damages in Northern Ireland, the Northern Irish Parliament would not need to include in any legislation corresponding to Clause 19 a provision analogous to the new subsection (2).

So far as Amendment No. 18 is concerned, this states that

" In the application of the principal Act and of this Act to Scotland, references to payment into the Supreme Court shall be construed as references to consignation in the Court of Session."

It is a question of adaptability of Scottish provisions. I beg to move.

Moved, That this House doth agree with the Commons in the said Amendments.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

COMMONS AMENDMENTS

Schedule 2, Page 35, line 31, at beginning insert—

(" 31 Eliz. 1. c. 11.	The Forcible Entry Act 1588.	The words 'coste and' wherever occurring.
21 Jas. 1. c. 3.	The Statute of Monopolies.	In section 4, the words 'and in double coste'. Section 8.")

line 32, at end insert—

(" 2 Will. & Mary c. 5.	The Distress for Rent Act 1689.	In section 3, the words 'and costs of suite'. In section 4, the words 'together with full costs of suite'.
8 & 9 Will. 3. c. 20.	The Bank of England Act 1696.	Section 46.")

line 34, at end insert—

(" 13 Anne c. 13.	The Presentation of Benefices Act 1713.	In section 4, the words from 'Provided that' onwards.")

line 36, at end insert—

(" 10 Geo. 3. c. 50.	The Parliamentary Privilege Act 1770.	Section 5.")

page 36, line 25, at end insert—

(" 41 Geo. 3. (U.K.) c. 63.	The House of Commons (Clergy Disqualification) Act 1801.	In section 2, the words 'with full costs of suit'.

41 Geo. 3. (U.K.) c. 79.	The Public Notaries Act 1801.	In section 16, the words 'with full costs of suit'.
52 Geo. 3. c. 11.	The House of Commons (Offices) Act 1812.	In section 2, the words 'the master of the rolls'.
57 Geo. 3. c. 19.	The Seditious Meetings Act 1817.	In section 30, the words from 'and the plaintiff' to 'expences'.")

line 30, at end insert—

(" 9 Geo. 4. c. 66.	The Nautical Almanack Act 1828.	In section 2, the words 'with costs of suit'.")

line 35, at end insert—

(" 1 & 2 Vict. c. 74.	The Small Tenements Recovery Act 1838.	In section 6, the words 'with costs of suit'.")

line 41, at end insert—

(" 6 & 7 Vict. c. 86.	The London Hackney Carriages Act 1843.	In section 47, the words from 'and if a verdict' onwards.
7 & 8 Vict. c. 22.	The Gold and Silver Wares Act 1844.	In section 13, the words from 'and if a verdict' onwards.")

page 37, line 41, column 3, leave out (" Section 127 ") and insert (" Sections 127, 213, 217, 219 and 220 ")

page 38, line 11, at end insert—

(" 20 & 21 Vict. c. 85.	The Matrimonial Causes Act 1857.	The whole Act.")

line 19, at end insert—

(" 27 & 28 Vict. c. 44.	The Matrimonial Causes Act 1864.	The whole Act.
27 & 28 Vict. c. 114.	The Improved of Land Act 1864.	Section 22. In section 23, the words 'and the mode in which such costs shall be settled or taxed', the words 'in the discretion of the Court or judge who shall hear such application' and the words 'the said costs shall.'")

line 23, at end insert—

(" 29 & 30 Vict. c. 37.	The Hop (Prevention of Frauds) Act 1866.	In section 15, the words from 'and any plaintiff' onwards.")

line 25, at end insert—

(" 34 & 35 Vict. c. 57.	The Courts of Justice (Additional Site) Act 1871.	The whole Act.")

line 31, at end insert—

(" 39 & 40 Vict. c. 59.	The Appellate Jurisdiction Act 1876.	In section 25, the words 'or Ireland' and the words from 'and the superior' to 'Justice.' ")

line 35, at end insert—

(" 47 & 48 Vict. c. 54.	The Yorkshire Registries Act 1884.	Section 36. In section 37, the words from the beginning to 'have effect'. In section 38, the words from 'or after any agreement' to 'into effect'. In section 40, the words from the beginning to 'under this Act'. In section 49, the words from the beginning to 'have effect'.")

page 39, line 8, at end insert—

(" 57 & 58 Vict. c. 23.	The Commissioners of Works Act 1894.	Section 1(3).")

THE LORD CHANCELLOR: My Lords, I believe I remarked, when this Bill was previously before your Lordships' House, what an extraordinary amount of statutory deadwood had already been found, and if my recollection is right we found some more on Third Reading which had not been found before. Another place appears to have been equally diligent and these Amendments, Nos. 19 to 34, refer to further obsolete provisions, and we are taking advantage of the Bill to repeal them. I accordingly beg to move that this House doth agree with the Commons in the said Amendments.

Moved, That this House doth agree with the Commons in the said Amendments.—(*The Lord Chancellor.*)

On Question, Motion agreed to.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (SCOTLAND) BILL [H.L.]

6.11 p.m.

Report of Amendments received (according to Order).

Clause 7 [*Senior and district registrars and other staff*]:

LORD HUGHES moved, after subsection 10, to insert:

"( ) (*a*) The Secretary of State may by regulations provide for the payment by a local registration authority, subject to such exceptions or conditions as may be specified in the regulations, of compensation to or in respect of any person holding or deemed to be holding an appointment under this section or any officer or servant provided under subsection (9) of this section who suffers loss of employment or loss or diminution of emoluments which is attributable to any provision contained in this Act or in a scheme under the last foregoing section or anything done in pursuance of this Act or of any such scheme.

(*b*) Different regulations may be made under this subsection in relation to different classes of persons.

(*c*) Regulations made under this subsection may include provision as to the manner in which and the persons to whom any claim for compensation by virtue of this subsection is to be made, and for the determination of all questions arising under the regulations.

(*d*) Regulations made under this subsection shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

The noble Lord said: My Lords, at the Committee stage I expressed doubts whether the consultations with the three local authority associations on the proposal to introduce a compensation clause could possibly produce results while the Bill was in your Lordships' House. I am very glad to say that none of the associations has demurred from the proposal, and I am thus able to translate the assurance which I gave your Lordships into fact. The Amendment now before the House is very largely the same as that put down by my noble friend Lord Burden, which drew support from the noble Lords opposite.

There are really only two points of difference between this Amendment and that of my noble friend Lord Burden. The first is that in the first line we have replaced the word "shall" with "may", a change which will commend itself to the noble Lord, Lord Craigton. While this makes the provision permissive rather than mandatory, I have no doubt at all that the Secretary of State will make regulations for the purpose after due consultation with the interested parties. The second difference is that we have widened the scope of the Amendment to make it clear that all registration staff are included; it was not clear from my noble friend's Amendment whether or not officers and servants provided by a local registration authority under Clause 7(9) were included.

If this Amendment is agreed to, I cannot, of course, forecast what any regulations made under it will contain. However, in accordance with your Lordships' wishes, it covers both full-time and part-time staff, but, as I indicated to your Lordships at the Committee stage, it may be necessary to exclude certain persons or classes of person. I hope your Lordships will not press me on this matter, as the details of the compensation scheme will have to be discussed fully with the local authority associations and with NALGO before the regulations can be prepared. Any regulations will, of course, be subject to annulment and your Lordships will thus have an opportunity of expressing approval or disapproval at the appropriate time. I beg to move.

Amendment moved—

Page 5, line 42, at end insert the said subsection.—(*Lord Hughes.*)

LORD CRAIGTON: My Lords, I need only to say "Thank you", on behalf of my noble friends, on behalf of NALGO, and on behalf of those for whom they speak, for the form of words which the noble Lord has put down and for his diligence and speed in solving this important problem.

On Question, Amendment agreed to.

Clause 8 [*Registration offices*]:

LORD CRAIGTON: My Lords, after our spirited debate on this point in Committee, I need now only thank the noble Lord for suggesting to me that I should try again by putting down my Amendment in a slightly different form of words which the noble Lord gave me. I beg to move.

Amendment moved—

Page 6, line 33, after (" stating ") insert (", in characters which can conveniently be read by the public,").—(*Lord Craigton.*)

LORD HUGHES: My Lords, you will recollect that at the Committee stage I found it very difficult to fight this one very hard, and I have succumbed.

On Question, Amendment agreed to.

Clause 53 [*Regulations*]:

LORD HUGHES: My Lords, this is an Amendment which is consequential on the compensation Amendment which your Lordships have accepted. Because there are now to be two sets of regulations possible, it is necessary to amend this to " made under this section " rather than " under this Act ". I beg to move.

Amendment moved—

Page 30, line 4, leave out (" under this Act ") and insert (" made under this section ").—(*Lord Hughes.*)

On Question, Amendment agreed to.

SOLICITORS BILL [H.L.]

6.17 p.m.

Order of the Day for the House to be put into Committee read.

Moved, That the House do now resolve itself into Committee.—(*Lord Tangley.*)

On Question, Motion agreed to.

House in Committee accordingly.

[The LORD STRANG in the Chair.]

Clause 1 agreed to.

Clause 2 [*Amendment of section 3 of principal Act*]:

LORD TANGLEY: This Amendment relates to a matter of pure drafting. Clause 2(2) of the Bill is the equivalent of Section 3(2) of the Solicitors Act, 1957, and I am satisfied that that section of the Act of 1957 is now imported into the Bill already. Therefore subsection (2) of Clause 2 is not necessary. I beg to move.

Amendment moved—

Page 2, line 28, leave out subsection (2).—(*Lord Tangley.*)

On Question, Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3 [*Amendment of section 4 of principal Act*]:

THE DEPUTY CHAIRMAN OF COMMITTEES: There is one slight misprint in the next Amendment. It should read:

" Page 2, line 34, leave out the first (' for ') and insert (' of ')."

LORD TANGLEY: I am much obliged for that correction. The Amendment itself was designed to remedy a misprint, and I apologise for both cases. I hope we have now got it right and that the Amendment may be accepted. I beg to move.

Amendment moved—

Page 2, line 34, leave out the first (" for ") and insert (" of ").—(*Lord Tangley.*)

VISCOUNT DILHORNE: I must say that when I read this Amendment I suspected there had been a slight grammatical slip. I had not detected that the Bill as drafted defined a class of solicitors as " solicitors for certain overseas solicitors ", which would be a very odd conjunction. I am glad that the mistake has been put right.

On Question, Amendment agreed to.

Clause 3, as amended, agreed to.

Clauses 4 and 5 agreed to.

Clause 6 [*Amendment of section 12 of Principal Act*]:

6.20 p.m.

LORD TANGLEY: I should like the Committee's permission, in dealing with Amendment No. 2, to refer also to Nos. 3, 4, 5 and 6. They all deal with the same matter. When I was introducing this Bill on Second Reading I drew the attention of the House to the fact that it is possible, under the modern system of education, for an articled clerk to become qualified by examination as a solicitor with little more than two years' practical experience. And I suggested, I think with the approval of your Lordships, that the Law Society ought to have the right, for the first three years, to attach to a man receiving a practising certificate conditions making it quite plain that during that period he should not necessarily be entitled to practise on his own. Some doubt was expressed as to whether the clause in fact went further than that and would authorise the Law Society to refuse a practising certificate

[Lord Tangley.]

altogether in those circumstances. Indeed, I was a little doubtful about that myself. The redrafting of this clause makes the situation quite plain, and, I think, puts the clause into exactly the position that I wished it to be in when I was explaining it to your Lordships before. I beg to move Amendment No. 2.

Amendment moved—

Page 4, line 30, leave out ("subsection") and insert ("section")—(*Lord Tangley.*)

VISCOUNT DILHORNE: I think the doubt was raised by me. I am grateful to the noble Lord for now putting the position beyond all doubt.

THE LORD CHANCELLOR: I am not sure that it was not I who in fact raised the objection, but I am equally grateful.

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is consequential. I beg to move.

Amendment moved—

Page 4, line 31, leave out ("1").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment, also, is consequential. I beg to move.

Amendment moved—

Page 4, line 34, leave out ("subsection (3)") and insert ("the provisions").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: Again, this Amendment is consequential. I beg to move.

Amendment moved—

Page 5, line 40, at end insert—

("'( ) Subject as aforesaid, the applicant shall, unless the Society or the Master of the Rolls otherwise orders, give to the Society not less than six weeks before his application for a practising certificate notice of his intention to apply therefor, and the Society may in its discretion—

(*a*) grant or refuse the application; or

(*b*) decide to issue a certificate to the applicant subject to such terms and conditions as the Society may in its discretion think fit,

and where the Society decides to issue a certificate subject to conditons, it may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of any appeal under subsection (2) of the next following section.

( ) The Society shall not refuse an application by a solicitor for a practising certificate in a case where subsection (2) of this subsection has effect by reason only that the applicant is applying for the first time or has not held a practising certificate free of conditions since the date of his admission.

( ) Where a solicitor applies for a practising certificate—

(*a*) a certificate issued to him on that application shall not, in the case where subsection ( ) of this section has effect by reason only of his not having held a practising certificate free of conditions since the date of his admission, be made subject to any conditions binding upon him in respect of any period beyond three years after the date on which the first practising certificate issued to him had effect;

(*b*) in a case in which the said subsection ( ) has effect by virtue only of such circumstances as are mentioned in paragraph (*g*), (*j*) or (*k*) of subsection (1) of this section and an appeal has been made to the appropriate court against the order or judgment in question, the Society shall not refuse the application before the determination of that appeal unless in the opinion of the Society the proceedings on that appeal have been unduly protracted by the appellant or are unlikely to be successful.

( ) Where a practising certificate free of conditions is issued by the Society under subsection ( ) of this section to a solicitor in relation to whom that subsection has effect by virtue of particular circumstances such as are mentioned in paragraph (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*h*), (*j*) or (*k*) of subsection (1) of this section, the said subsection ( ) shall not thereafter have effect in relation to that solicitor by virtue of those circumstances.'").—(*Lord Tangley.*)

On Question, Amendment ag eed to.

LORD TANGLEY: This is a further consequential Amendment. I beg to move.

Amendment moved—

Page 5, line 41, leave out subsection (2).—(*Lord Tangley.*)

On Question, Amendment ag eed to.

Clause 6, as amended, agreed to.

Clause 7 agreed to.

6.24 p.m.

LORD TANGLEY moved, after Clause 7, to insert the following new clause

Interest on clients' money

" .—(1) Rules made under section 292 of the principal Act shall make provision for requiring a solicitor, in such cases as may be prescribed by the rules, either—

(*a*) to keep on deposit in a separate account at a bank for the benefit of the client money received for or on account of a client; or

(*b*) to make good to the client out of the solicitor's own money a sum equivalent to the interest which would have accrued if the money so received had been so kept on deposit.

(2) The cases in which a solicitor may be required to act in accordance with rules made pursuant to this section may be defined, among other things, by reference to the amount of any sum received or the period for which it is or is likely to be retained or both; and such rules may include provision for enabling a client (without prejudice to any other remedy) to require that any question arising under the rules in relation to the client's money be referred to and determined by the Society.

(3) Except as provided by rules made pursuant to this section, a solicitor shall not be liable by virtue of the relation between solicitor and client to account to any client for interest received by the solicitor on moneys deposited at a bank being moneys received or held for or on account of his clients generally.

(4) Nothing in this section, or in rules made pursuant to this section, shall—

(*a*) affect any arrangement in writing, whenever made between a solicitor and his client as to the application of the clients' money or interest thereon; or

(*b*) apply to money received by a solicitor being money subject to a trust of which the solicitor is a trustee."

The noble Lord said: This is an Amendment of substance which I feel I must justify to the Committee. Your Lordships will recall that on Second Reading I drew attention to the effect of a decision of your Lordships' House, sitting in its Judicial capacity, in the case of *Brown* v. *Commissioners of Inland Revenue*. That case was a tax case coming from Scotland, but it affirmed the principle that a fiduciary relationship exists between solicitor and client and that, in consequence, a solicitor may not, without the full knowledge and free assent of his client, make any pecuniary advantage from him other than proper charges and disbursements. The particular point of the case is that it applied this principle to clients' money in the hands of a solicitor which the solicitor puts on deposit and which, in consequence, earns interest. Your Lordships held that solicitors must account to their clients for any such interest.

I want to make it abundantly plain that the solicitors' profession completely and absolutely accepts that decision. There is not the slightest desire on the part of the Law Society, or on the part of the profession, to repeal the decision in that case. On the contrary, it is the foundation of the practice of a solicitor that this particular fiduciary relationship exists and should be maintained; indeed, the whole structure of the Law Society's supervision and, if necessary, discipline of the profession rests upon that foundation. The Amendment to which I am asking the Committee to agree is designed, not to repeal this case but, in fact, in some respects, to put additional obligations upon solicitors and to define the proper way in which the principle of the case should be applied in certain instances.

As it stands to-day, the position is that a solicitor who receives clients' moneys is under obligation to put them in a separate banking account, apart from his own moneys. There is no obligation whatever on the solicitor to put clients' moneys on deposit, or to earn interest upon them. If he does, then he must account for it. The difficulty in the practical application of this case relates to sums which are themselves too small to be put on deposit, or sums which are held for too short a period to justify their being put on deposit. A solicitor will have, in his clients' account, perhaps, a large number of sums of £1 or 10s. in respect of rents or small debts collected, or in respect of maintenance payments under a separation order which have been collected. I think the Committee will agree that it would be ridiculous to suppose that there could be any possibility of that money being put on deposit and earning interest which should be accounted for to the client.

Then there is the other extreme, that of sums which are large enough in themselves to be justifiably put upon deposit but which are being held for too short a period. A typical instance is in a conveyancing practice, where a large number of conveyancing matters are always going on—the buying and selling of houses of £5,000 or £6,000 in value. The solicitor will have these sums coming in and he will be paying them out again within a few days. So there are two elements, really, in this matter that have to be taken into account: the size of the amount and the period over which it will be wanted.

Now the problem arises in this way. Although these sums, whether by reason of their amount or by reason of the period, cannot properly or reasonably be put on deposit, it is possible for a solicitor prudently to look at the sum total of his clients' account and say, "I think I could safely put a fifth, a fourth, or a third of this money on deposit for a particular

[Lord Tangley.]

period of time, and earn interest upon it". The difficulty in practice of applying the decision in *Brown's* case is that it is quite impossible to calculate what, if any, part of that interest earned would be attributable, shall we say, to the 10s. the £1 and the 5s.—the small sums to which I have been referring. It is really impracticable to do the arithmetic and to work it out in that way. I explained that difficulty, I think, to your Lordships on Second Reading.

Therefore, if a solicitor is to comply strictly with the full principle of *Brown's* case in those circumstances, there is only one thing he can do; that is, not to put the money on deposit at all. In that case nothing is earned, the client gains absolutely nothing and the solicitor loses a certain amount of interest. The only party who gains is the bank, who will have the money on current account without paying any interest at all. I am sure the Committee will agree that, to work this thing in practice in such a way that the client gets nothing, the solicitor loses and the bank gains, was certainly not the intention of this House when laying down this very right and proper principle in *Brown's* case.

What is the remedy I am proposing for this situation? I am suggesting that where it is fair to the client, money shall be put upon deposit account. It is a legal obligation, in the right and proper case where it is fair to the client, to put the money on deposit. That is a new legal obligation, because it goes far beyond what was required by the *Brown* case. I propose further to provide that if the solicitor does not put the money on deposit in a case where he should have done so then he shall still be bound to account to the client for the amount of interest that would have been earned if he had put that money on deposit.

I referred just now to two factors: the amount and the period. Each of those is relevant in coming to a conclusion as to whether, in fairness to the client, the money should or should not be put on deposit. Broadly speaking, rough justice might be done if it was said that it would be unnecessary to put the money on deposit or to account for the interest if the sum was less than £500 or the period over which it was held was less than, shall we say, eight weeks or two months. Neither of those factors, I am sure the Committee will agree, can be regarded as absolute. One can remember cases where the sum would be less than £500, where it would be say £450, but would be available for six months. Clearly, that money ought to be put on deposit. One can conceive of cases of a million pounds, held for three or four weeks. That clearly ought to be on deposit. The solution I offer is this. Above the limit of £500 or two months there should be an absolute obligation to put the money on deposit. Below those limits there should be an obligation to put the money on deposit where it was fair and right for the solicitor to do so in the interests of the client.

The means whereby it is proposed to carry that principle, if you approve it, into effect is by means of this new clause that I am moving, coupled with rules which the Law Society would make under the clause. The clause, as the Committee will see, is mandatory upon the Law Society. It says:

> "Rules made under Section 29 of the principal Act shall make provision for requiring a solicitor, in such cases as may be prescribed by the rules . . ."

et cetera. So the Law Society has to do it; and I am authorised by the Law Society to give an absolute assurance that they will make such a rule and bring it into force simultaneously with the coming into force of this Bill, if and when it becomes an Act.

I think the Committee will agree that some form of rule procedure is necessary, because, from what I have said, a measure of elasticity is essential in giving effect to fairness in this way. It did not seem to me to be right that I should ask the Committee to give the Law Society this power without ascertaining what means they would use to exercise this power and without bringing that to your Lordships' notice. Therefore, I invited the Law Society to draft a rule and to submit it to the Master of the Rolls for his provisional approval (if I may use that colloquial expression) because it seemed to me right that the Committee should be in a position to judge the combined effect of the clause and of the rule.

That rule has been drafted and it provides, virtually, that if the two limits, £500 and two months, are exceeded, there shall be absolute liability to put the money on

deposit and to pay interest to the client. If, on the other hand, it is reasonable and fair to the client, even under those limits, that it should be done, there is equally an obligation there. There are three sanctions for that. There is the first and obvious one that the court has the last word in these matters. Second, we are providing a new sanction in the rule that the Law Society may be asked by the client to give a certificate as to whether the solicitor was right or wrong in not accounting for interest or not putting his money on deposit. Lastly, and probably most important of all, there is the acconntant's certificate—I am still calling it a "certificate" though I am going to move an Amendment later to call it a "report"—which the solicitor has to produce before he can get a practising certificate. That accountant's report must certify that the accounts rules have been complied with. This new rule will be one of the accounts rules and will fall within the ambit of the accountant's inspection.

I am glad to say that the Law Society responded to my invitation: that is, to draft the substance of the rule that they are prepared to make. I am glad to say also that they submitted it to the Master of the Rolls; and I am even more glad to say that, according to my information, the Master of the Rolls would be prepared to approve such a rule. But as I see the noble and learned Lord, Lord Denning, is sitting here beside me, he will no doubt be able to tell us whether I am right or wrong in reading his mind. The last thing—I am not sure whether I said this before—is that we are not proposing that this clause should be retrospective. We do not like retrospective legislation and we are leaving the profession to sort out for themselves as best they can the situations in which they find themselves from the date of the *Brown* case to the date that this Bill becomes an Act and, as I hope, comes into force. I beg to move.

Amendment moved—

After Clause 7 insert the said new clause.—(*Lord Tangley.*)

VISCOUNT DILHORNE: I am sure the Committee are grateful to the noble Lord for his clear exposition of what at first sight appears rather a complicated proposal. I am also sure that the proposals put forward could solve the difficult problem which arose for members of the solicitors' profession in the light of the decision on the *Brown* case. I would congratulate the noble Lord and, indeed, the Law Society for the proposals now put forward, which, for my own part, I fully support.

LORD SILKIN: I should like also to congratulate the noble Lord on the clear way in which he has explained this rather complicated Amendment. What I want to say has no bearing on the merits of the proposal. I think the Law Society are doing the right thing; and I consider the compromise, if I may so call it, is fair and reasonable. I should think it would commend itself to members of my profession. But I want to enter a caveat about the way in which this is being done. I realise that it may be rather late in the day to complain about the rules procedure, the procedure of an organisation making rules which provide for a legal obligation on members of the profession and which, as the noble Lord explained, lay down certain penalties in the event of a breach of these rules. From time to time all of us, I, especially, and the noble and learned Viscount himself, have complained about delegated legislation: the growing practice of passing legislation by means of regulations under an Act which have to be approved, or which can be rejected by means of a Negative Resolution. But, at least, these regulations are published, and Parliament has an opportunity of expressing its views either by a Negative or a Positive Resolution. Nevertheless, it is regarded as unsatisfactory, but possibly inevitable in view of the increasing complexity of legislation and the inevitable length of the Bills that come before us.

But this is a further step—the making of rules which do not have to be approved by anybody except three noble and learned Lords—the Lord Chancellor, the Master of the Rolls and the Lord Chief Justice. I am sure none of them will take my words as casting any reflection upon them in any capacity whatever. But to give the Law Society or any other body the power to make such rules, which are binding on the profession and, incidentally, affect the general public as well, without requiring their approval even by members of the

[Lord Silkin.]

profession, seems to me a very considerable extension of the doctrine of delegated legislation.

I realise that I am a little late in the day in complaining about this procedure. It was in the 1957 Solicitors Act and, so far as I know, it might have been in earlier legislation. But I think that the time has arrived when we ought to look at what we are doing and, if possible, call a halt to this increasing trend of legislation by rules. It is not my province this evening to put forward any alternative. I think that this is a matter which requires very careful consideration. All I want to do is to point out to the Committee that this is an undesirable practice and that it would be worth while looking into the whole question to see whether any alternative can be found, which would give the people concerned —that means, the general public and the members of the profession—the opportunity of approving these rules and definitely of putting an end to this increasing trend of legislation by rule. I want to repeat that so far as the actual proposed rules are concerned, I see no objection to them. But that is quite irrelevant. These are rules which are going to affect a large number of people, with penalties imposed in respect of a breach, and those affected ought to have the opportunity of approving them.

LORD DENNING: May I say how much I sympathise with the view expressed by my noble friend Lord Silkin. It happens that the only person who has to approve these rules is the Master of the Rolls. The Lord Chancellor and the Lord Chief Justice are excused the responsibility in this case. The substantive section of the original Act says, as regards the rules on accounts:

> "Any such rules shall not come into operation until they have been approved by the Master of the Rolls."

It was originally proposed in this Bill that even that sanction should be taken away; but that is going to be amended. This is a special responsibility of the Master of the Rolls, because here it is not just the interests of the Law Society that are concerned, but also the interests of clients. I have been privileged to see the proposed rules and, as Master of the Rolls, I should like to say that I am satisfied that they fairly protect the interests of clients.

At all events, in the new rules the principles in law and equity ettled by *Brown's* case are to be followed so far as possible. What has happened over the years is that solicitors, and, I may say, other people such as stockbrokers and estate agents, who have in their hands large amounts of clients' money and who put them into current account, where there is no interest, have not been responsible to anyone, but if they put those moneys into deposit account they were held responsible for the interest. That has always been the position in law and equity, but in point of practice this has not been so. I may say that many counsel, when their fees have been in the hands of solicitors and it has been a long time before they received them, have thought about what has happened to the interest on the fees.

This rule goes further than *Brown's* case. It says that a solicitor is responsible for the interest not only when he puts money on deposit; if he ought to have put the money on deposit and has not done so, he is responsible for the interest, too. That is a big advance, a great strengthening of the position from *Brown's* case and it has to be encouraged. There is this additional safeguard. If the amount is over £500 and is to be held for more than two months, then in any case the solicitor has to be responsible for the interest to the client. Apart from that there is the overriding rule, in fairness to the client, whether the money is on deposit or ought to have been on deposit, that he must account for the interest. As the rules follow out those principles. I am sure that all Masters of the Rolls will be pleased to approve them. This rule is to come into operation at the same time as the exempting section. So I would support this Amendment.

THE LORD CHANCELLOR: The Government have given careful consideration to the practical difficulties which have been occasioned to the solicitors' profession by the decision of your Lordships' House in *Brown* v. *Inland Revenue Commissioners*. It was not very easy to see what would be the right method of solving those difficulties so that they would be both practical and fair to clients. But, having given this Amendment careful consideration, the Government accept it. They feel that this is a

right and proper method by which those difficulties might be solved.

I have some sympathy with the point raised by my noble friend Lord Silkin, but of course this is just the sort of case in which experience might suggest that either the monetary limit or the period of time should be increased or decreased. Where legislation to make changes of that kind is necessary, one is apt to be told that there is no Parliamentary time. The difficulty is that we cannot have it both ways. The Government feel that if it were for the Law Society to make these rules on their own, there might be some question about it; but the public interest is fully safeguarded in that such rules require, and will continue to require, the approval of the noble and learned Lord the Master of the Rolls. For those reasons, the Government accept the Amendment. This means, of course, that we will also accept it in another place.

LORD AIREDALE: May I humbly put forward a suggestion for one small drafting improvement? This new clause being mandatory, as the noble and learned Lord, Lord Tangley, told us, I should have thought that subsection (2) would have begun by saying, not as it stands,

"The cases in which a solicitor may be required to act . . ."

but rather

"The cases in which a solicitor shall be required to act . . . ".

I may be quite wrong about this, but if I am right there will be the opportunity at the next stage of the Bill to make this small drafting Amendment.

LORD TANGLEY: I think I should deal with that last point. I am obliged to the noble Lord for raising it, but I believe the word "may" is correct in the context. I will explain why this is so if the noble Lord wishes me to, but I am satisfied that "may" is the right word to use in this connection.

On Question, Amendment agreed to.

Clause 8 [*Amendment of section 30 of principal Act*]:

6.51 p.m.

LORD TANGLEY moved, in the proposed new subsection (1) of Section 30 of the principal Act to leave out "certificate" and insert "report". The noble Lord said: I would ask the permission of the Committee to take with this Amendment, No. 8, Amendments Nos. 9 to 15 inclusive. This battery of Amendments, if I may so describe them, is designed entirely to sooth the consciences and increase the repose of the accountants. The position is, as I reminded your Lordships just now, that accountants have to produce a document to a solicitor, and a solicitor has to produce the document to the Law Society before he can get a practising certificate. The accountant's document must state that the books have been examined and that the Solicitors' Account Rules, which will include such a rule as we have been discussing in the last Amendment, have been complied with during the relevant period.

There are certain factors in those investigations which involve the accountant in forming a matter of opinion. The accountants say that only facts should be certified and that one will report upon an opinion. And if opinion and fact are mixed, they think that "report" is the right way to describe their document, rather than "certificate". Far be it from me to worry the accountants' consciences or to disturb their repose. Far be it from a lawyer to quarrel with an accountant on a mere matter of wording. I am in a benevolent mood in this matter, and I want to give this point to the accountants, even if it takes ten Amendments to do it. I hope your Lordships will join me in that benevolent state of mind and agree to the Amendments. I beg to move.

Amendment moved—

Page 6, line 21, leave out ("certificate") and insert ("report").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: Amendments Nos. 9, 10 and 11 are consequential Amendments. I beg to move.

Amendments moved—

Page 6, line 22, leave out ("certificate") and insert ("report")

line 25, leave out ("certificate") and insert ("report")

line 29, leave out ("certificate") and insert ("report").—(*Lord Tangley.*)

On Question, Amendments agreed to.

LORD TANGLEY: This is a consequential Amendment. I beg to move—

Page 6, line 30, leave out subsection (2) and insert:

("( ) In section 30(2)(*c*) of the principal Act, for the word 'certificate' there shall be substituted the word 'report'.

( ) In section 30(3) of the principal Act:—

(*a*) after paragraph (*a*) there shall be inserted the following paragraph—

'(*aa*) the information to be contained in an accountant's report in accordance with subsection (1) of this section;' and

(*b*) in paragraph (*b*), for the word 'certificate' there shall be substituted the word 'report'."—(*Lord Tangley*.)

On Question, Amendment agreed to.

LORD TANGLEY: This, too, is a consequential Amendment. I beg to move.

Page 6, line 34, at end insert—

("( ) For the words 'accountant's certificate' wherever they occur in section 30 of the principal Act there shall be substituted the words 'accountant's report'."—(*Lord Tangley*.)

On Question, Amendment agreed to.

Clause 8, as amended, agreed to.

Clause 9 agreed to.

Clause 10 [*Solicitors guilty of undue delay in certain matters*]:

LORD TANGLEY: This Amendment is a pure matter of drafting. The Law Society are taking powers, as I explained on Second Reading, to act in certain cases of delay, and it has been represented to me that it was not clear under this clause, as drafted, whether those powers could be exercised only when a solicitor was acting purely as a solicitor, or whether they could be pursued when he was also acting as a trustee. The object of this Amendment is to make that clear. I beg to move.

Amendment moved—

Page 7, line 1, leave out ("with any") and insert ("any matter which relates to the administration of a").—(*Lord Tangley*.)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment relates to the Postmaster General. Under the clause in the original Bill the Postmaster General was asked to undertake certain duties with regard to redirection of postal packets. He has represented to the Law Society that we are asking him to do more than he has power to do. The object of this Amendment is to relieve him of an obligation which he says he cannot undertake. I beg to move.

Amendment moved—

Page 7, line 14, leave out ("paragraph 7") and insert ("paragraphs 7 and 8").—(*Lord Tangley*.)

On Question, Amendment agreed to.

Clause 10, as amended, agreed to.

Clause 11 [*Control of clients' documents and moneys in the control or possession of certain solicitors*]:

LORD TANGLEY: This is another drafting Amendment. It is exactly the same point as I raised on Amendment No. 16, about a solicitor who is also acting as a trustee. I beg to move.

Amendment moved—

Page 7, line 42, leave out ("with any") and insert ("any matter which relates to the administration of a").—(*Lord Tangley*.)

On Question, Amendment agreed to.

LORD TANGLEY: This also is a drafting Amendment, and in this connection I would refer also to Amendment No. 20. The Law Society are entitled under the clause to receive copies of certain documents under paragraph (i), and the provision should apply also to paragraph (ii). I beg to move.

Amendment moved—

Page 8, line 11, leave out from ("subsection") to ("or") in line 12 and insert ("or to any sum of money referred to in paragraph (ii) of this subsection").—(*Lord Tangley*.)

On Question, Amendment agreed to.

LORD TANGLEY: This is a consequential Amendment. I beg to move.

Amendment moved—

Page 8, line 12, after ("matter") insert ("or sum of money, as the case may be,").—(*Lord Tangley*.)

On Question, Amendment agreed to.

Clause 11, as amended, agreed to.

Clause 12 [*Control of deceased solicitor's practice in certain circumstances*]:

LORD TANGLEY: Under Schedule 1, the Law Society are entitled to take possession of documents in certain cases, either from a solicitor or from his personal representative. The object of this Amendment is to make it clear that if an order has been made against a solicitor and the solicitor dies that order shall continue in force against his personal representative without need to apply for a new order against the personal representative. I would refer also to Amendment No. 22, which is consequential upon this. I beg to move.

Amendment moved—

Page 8, line 31, after ("and") insert ("shall continue to apply").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This is a consequential Amendment. I beg to move.

Amendment moved—

Page 8, line 32, after ("apply") insert ("or applied, as the case may be,").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is designed to remedy a purely grammatical slip. The phrase "personal representatives" ought clearly to be "the personal representatives". I beg to move.

Amendment moved—

Page 8, line 33, after ("words") insert ("the").—(*Lord Tangley.*)

On Question, Amendment agreed to.

Clause 12, as amended, agreed to.

Clause 13 [*On death of solicitor practising on his own account Society to deal with banking accounts of practice*]:

LORD TANGLEY: This Amendment proposes to remove some words which I believe are now superfluous and might cause some difficulty in practice. It is a very technical point. I will explain it if any of your Lordships feels it desirable to spend any time on it, but I can assure you that it is purely a technical point. I beg to move.

Amendment moved—

Page 8, line 44, leave out from ("Society") to ("to") in line 45.—(*Lord Tangley.*)

On Question, Amendment agreed to.

Clause 13, as amended, agreed to.

Clause 14 [*Administration of practice of deceased solicitor where no grant applied for*]:

7.0 p.m.

On Question, Whether Clause 14 shall be agreed to?

LORD TANGLEY: My Lords, I am asking your Lordships to leave out this clause. When I mentioned the matter on Second Reading, I told your Lordships that the Senior Probate Registrar believed that the object which this clause was designed to fulfil could be dealt with under the Judicature Act. I am glad to say that conversations have taken place between the Law Society and the Senior Probate Registrar, and the Senior Probate Registrar is prepared to issue a Practice Direction under the Judicature Act which will, we believe, solve the problem and make this clause and the powers it contains unnecessary.

THE LORD CHANCELLOR: As the noble Lord will remember, I felt bound to take some objection to this clause on Second Reading, for reasons which I then gave and need not now repeat. I am happy to know that other arrangements have been made which will enable the noble Lord to withdraw the clause.

On Question, Clause 14 disagreed to.

Clause 15 [*Order under paragraph 7 of Schedule 1 to principal Act to be an act of bankruptcy*]:

On Question, Whether Clause 15 shall be agreed to?

LORD TANGLEY: In this case also I am going to ask your Lordships to leave out the clause. I also mentioned this on Second Reading. The effect of the clause would have been to enable the Law Society, entirely in the interests of clients, to treat a freezing order of a solicitor's bank account as an act of bankruptcy. The President of the Board of Trade drew attention to the fact that there is no other act of bankruptcy except where there has been a debt—and an unpaid debt at that—and that it would be going far beyond the ordinary bankruptcy practice to allow this particular happening to be an act of bankruptcy. The Law Society have considered this, and I am inclined to the view that we have let the balance swing too far against the solicitor in this particular instance. Therefore I would ask leave for this clause to be left out of the Bill.

On Question, Clause 15 disagreed to.

Clause 16 [*Power to make grants out of Compensation Fund in additional circumstances*]:

LORD TANGLEY: This is really a drafting Amendment. The original clause, as drafted, relied on Section 32 of the Solicitors Act, 1957. It has been redrafted, with the aid of very distinguished draftsmen, to give full effect to the clause as I explained it on Second Reading. We

[Lord Tangley.]

believe that in this form it is more certain in its effect. I should like, if I may, to refer also to Amendmeut No. 26, which is consequential on this Amendment. I beg to move.

Amendment moved—

Leave out Clause 16 and insert the following new clause—

Power to make grants out of Compensation Fund in cases of hardship

(" .—(1) Where the Council on a complaint being made to the Society against a solicitor are satisfied that he has failed to account for money due to a person in connection with his practice as a solicitor, or in connection with any trust of which he is a trustee, and that that person has suffered or is likely to suffer hardship in consequence of the failure, the Society may, subject to the provisions of this section, make to that person a grant (hereafter in this section called a 'hardship grant') out of the Compensation Fund maintained under section 32 of the principal Act.

(2) The Society shall not make a hardship grant unless—

(*a*) it has given to the solicitor (except in a case where he has died) at least eight days' notice in writing requiring of him an explanation of the state of affairs to which the complaint against him relates, and

(*b*) the solicitor has failed to comply with the notice, or he has complied with it but the Council are of the opinion, and have so notified the solicitor in writing, that his explanation does not constitute a sufficient assurance that the money will be accounted for within a reasonable time.

(3) A hardship grant may be made whether or not the solicitor had a practising certificate in force at the time of any act or default by him which is relevant to the matters giving rise to his failure to account, and notwithstanding that subsequently to that act or default the solicitor has died or had his name removed from or struck off the roll, or has ceased to practise or been suspended from practice.

(4) A hardship grant may be made either unconditionally or subject to the conditions of this subsection, and if the Society determines that it shall be so subject and, when making the grant, gives to the person receiving the grant notice in writing of its determination, the following provisions shall have effect, that is to say,—

(*a*) the Society shall to the amount of the grant be subrogated to any rights and remedies of that person in respect of any matters giving rise to the solicitor's failure to account, and

(*b*) that person shall have no right under bankruptcy or other legal proceedings or otherwise to receive in respect of those matters any sum out of the assets of the solicitor until the Society has been reimbursed the full amount of the grant,

and in paragraphs (*a*) and (*b*) of this subsection references to the person to whom the grant is made or to the solicitor include, in the event of his death, insolvency or other disability, references to his personal representative or any other person having authority to administer his estate.

(5) The Council may make rules with respect to the procedure to be followed in giving effect to the provisions of this section, and of Schedule 2 to the principal Act, including rules as to the furnishing of particulars by a person appearing to be eligible for a hardship grant; and for the purposes of inquiring into any matters which may affect the making or refusal of a hardship grant, the Council or any committee appointed by the Council and authorised by them to exercise any of their functions or to assist them in the exercise of any such functions, may administer oaths.

(6) In this section the expressions 'trust' and 'trustee' have the same meanings as in section 29 of the principal Act.

(7) At the end of paragraph 7(*d*) of Schedule 2 to the principal Act (which enables the Compensation Fund to be applied in making grants under section 32 of that Act) there shall be added the words 'or of any hardship grant which the Society may make under section 16 of the Solicitors Act 1965'.

(8) The provisions of this section shall be supplemental to, and not derogate from, the provisions of section 32 of the principal Act (which enables grants to be made out of the Compensation Fund in the case of a solicitor's dishonesty).")—(*Lord Tangley.*)

On Question, Amendment agreed to.

Clause 17 [*Amendment of Schedule 2 to principal Act*]:

LORD TANGLEY: This is a consequential Amendment. I beg to move.

Amendment moved—

Page 10, line 43, leave out from (" under ") to (" of ") in line 44 and insert (" section 16(4) ").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This is not quite a drafting matter, but it is really very formal. It relates to the Compensation Fund. The Society's servants and agents are, under various provisions of the existing legislation, indemnified against the consequences of acting under the orders of the Law Society, but there seems to be some little doubt as to whether the Compensation Fund itself would bear any such indemnity. There is no doubt that that was the intention, and this Amendment makes it clear. I beg to move.

Amendment moved—

Page 10, line 44, at end insert ("and the following sub-paragraph shall be inserted after paragraph 7(*d*) of that Schedule:—

'(*dd*) for payment of all costs and damages incurred by the Society, its servants or agents

by virtue of paragraph 16 of Schedule 1 to this Act'.").—(*Lord Tangley.*)

On Question, Amendment agreed to.

Clause 17, as amended, agreed to.

Clauses 18 and 19 agreed to.

Clause 20 [*Amendment of section 46 of principal Act*]:

LORD TANGLEY moved to leave out subsection (1). The noble Lord said: This is a clause relating to the quorum of the Disciplinary Committee. On Second Reading I explained to your Lordships that in the interests of the parties it was thought desirable to enable the parties to agree to the proceedings continuing notwithstanding the temporary absence of one member of the Committee. The quorum, of course, is three. I have had an opportunity of discussing this matter at some length with the noble and learned Lord, the Lord Chancellor, and he has persuaded me that I ought to drop this provision. I do that with some regret, because there is nothing for the Law Society, there is nothing for the profession, in this clause: it is entirely for the convenience of the parties. But the Lord Chancellor has represented to me, as he did on Second Reading to the House, that this could cause embarrassment.

He has also made the point, which I think is a very cogent one, if I may say so with respect, that when you are conducting proceedings which may lead to the ruin of a solicitor, he ought at least to have three of his judges there all the time. It is too serious a matter to be left to less than three. I have weighed up all these representations, and, with some regret but none the less feeling the force of these arguments, I propose that we drop this proposal. I beg to move.

Amendment moved—

Page 12, line 2, leave out subsection (1).—(*Lord Tangley.*)

THE LORD CHANCELLOR: I am grateful to the noble Lord for having met the points I raised on the Second Reading debate.

On Question, Amendment agreed to.

Clause 20, as amended, agreed to.

Clauses 21 to 31 agreed to.

Schedule 1 [*Substituted Schedule 1 to principal Act*]:

LORD TANGLEY: In speaking to this Amendment, may I also refer to Amendment No. 30? This raises the ancient and very serious question as to what is a postal packet. That is a happy hunting ground—the noble Lord, Lord Conesford, is not here—for many lawyers in many fields. We had included in this Bill our own definition of postal packets, telegrams, letters, *et cetera,* but we thought that discretion was the better part of valour and that we had better fall back on the sanctified definition of Section 87(1) of the Post Office Act, 1953. I beg to move.

Amendment moved—

Page 17, line 17, leave out from ("fit") to ("postal").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is consequential. I beg to move.

Amendment moved—

Page 17, line 17, after ("packets") insert ("(as defined by section 87(1) of the Post Office Act 1953)").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is also for the benefit of the Postmaster General. He has drawn our attention to the fact that we are putting certain duties upon him. In this case, he finds that he can undertake these duties but thinks he ought to be paid for doing them, which is quite right. That is what this Amendment provides. I beg to move.

Amendment moved—

Page 17, line 23, at end insert—

("( ) Where such an order is made under sub-paragraph ( ) of this paragraph the Society shall pay to the Postmaster General the like charges (if any) as would have been charged and payable:—

(i) in respect of an application or instructions by the addressee, in the case of a permanent change of his place of business, for the re-direction or delivery of postal packets to which the order relates to him at the address of the person to whom they are to be re-directed, sent or delivered under the order, during the time specified in the order, and

(ii) in respect of the re-direction or re-transmission of any individual postal packet in accordance with the order, if the packet had been re-directed or re-transmitted in accordance with such application or instructions as aforesaid.")—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: With your Lordships' permission, I should like to take Amendments Nos. 32, 33 and 36 together, as they raise the same principle. It really is a simple matter of drafting. We are proposing to omit paragraph 17. We are satisfied now that Section 99 of the Judicature Act, 1925, already covers the point, so there is no need to make special provision in this Bill. I beg to move.

Amendment moved—

Page 17, line 27, leave out ("paragraphs 17 and 18") and insert ("paragraph 17").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is consequential. I beg to move.

Amendment moved—

Page 17, line 28, leave out ("they affect") and insert ("it affects").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is purely a matter of drafting. Attention has been drawn to the fact that firms as well as individual solicitors have clients. Therefore, we ought to refer to firms' clients as well as "his" clients—the reference there is, of course, to an individual solicitor. I beg to move.

Amendment moved—

Page 17, line 32, after third ("his") insert ("or his firm's").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment deals with a similar point. It provides that procedural notice may be necessary for a firm no less than for an individual solicitor. I beg to move.

Amendment moved—

Page 18, line 15, after ("solicitor") insert ("or his firm").—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: This Amendment is consequential. I beg to move.

Amendment moved—

Page 19, line 11, leave out paragraph 17.—(*Lord Tangley.*)

On Question, Amendment agreed to.

Schedule 1, as amended, agreed to.

Schedules 2 and 3 agreed to.

Schedule 4 [*Provisions of principal Act repealed*]:

LORD TANGLEY: This Amendment provides that all rules should require approval of the Master of the Rolls, and not only some. This is the matter to which the Master of the Rolls himself referred just now, and it makes all rules subject to the approval and consent of the Master of the Rolls. I beg to move.

Amendment moved—

Page 20, line 29, leave out from ("subsection;") to ("sections") in line 30—(*Lord Tangley.*)

On Question, Amendment agreed to.

LORD TANGLEY: I have to apologise for the next Amendment; it is a hangover. There was a clause in an early draft of this Bill to which this was appended. The clause was not included in the Bill as I introduced it, and I am very sorry to say we overlooked that these words were still there. It is a disgraceful confession to have to make, but these words relate to nothing else in the Bill, and, therefore, I ask that this vermiform appendix be removed. I beg to move.

Amendment moved—

Page 20, line 31, leave out from ("subsection;") to ("in") in line 32.—(*Lord Tangley.*)

On Question, Amendment agreed to.

Schedule 4, as amended, agreed to.

In the Title:

LORD TANGLEY: This Amendment to the Long Title is designed to provide accommodation (if that is the right way of putting it) for the new Clause 7 arising out of *Brown's* case. I beg to move.

Amendment moved—

Line 11, after ("solicitors;") insert ("to make provision with regard to interest on clients' money;").—(*Lord Tangley.*)

On Question, Amendment agreed to.

Title, as amended, agreed to.

House resumed: Bill reported, with Amendments.

NATIONAL ASSISTANCE BILL [H.L.]

7.15 p.m.

Report of Amendments received (according to Order).

Clause 1:

National Asistance Board may join in certain legal proceedings

1.—(1) The National Assistance Board may join with any plaintiff (hereinafter called "the other plaintiff") in any proceedings whose purpose, or part of whose purpose, is the recovery or obtaining of any sum or sums of money the equivalent of which or of part of which the Board thinks itself likely, if such proceedings were not brought, to have to pay to the other plaintiff.

(3) It shall be the duty of any court in which any proceedings mentioned in the foregoing subsection have been initiated to bring such proceedings to the notice of the Board.

(5) In any case in which such a direction as is mentioned in the last preceding subsection is in force, the Board may pay to the other plaintiff such sums as are ordered by the judgment to be paid to the Board, whether or not such payments are actually made to the Board.

LORD DRUMALBYN moved, in subsection (1), to leave out "recovery or obtaining" and to insert:

"obtaining by periodic payments or the recovery".

The noble Lord said: My Lords, this is little more than a drafting Amendment. At an earlier stage I moved an Amendment to limit the scope of the Bill to maintenance and affiliation payments. What I thought could be excluded in particular were proceedings the purpose of which was to obtain a lump sum by way of compensation or damages. I cannot say with certainty that the Amendment I am now moving will achieve that object, but it at least will suggest very strongly to anyone reading and seeking to interpret this clause that it is concerned wholly, or at least mainly, with cases which involve periodic payments and the recovery of weekly payments already made by the National Assistance Board, or of amounts which the court says should have been paid by the defendant either to the National Assistance Board or to the other plaintiff.

It may be that the Amendment leaves more latitude than that to the National Assistance Board, and I gathered that the noble Lady would prefer rather more latitude than I had originally suggested, so that if some case came to the attention of the National Assistance Board where they thought it would be desirable in the public interest and in the interests of the other plaintiff that they should be joined with the other plaintiff in the action, they could be joined.

In any case, the Amendment serves to emphasise what are the main purposes of the Bill—I am sure that the noble Lady will agree—that is, to deal with maintenance of the deserted or divorced wife under a maintenance order, or the support of the illegitimate child under an affiliation order. I beg to move.

Amendment moved—

Page 1, line 7, leave out ("recovery or obtaining") and insert the said new words.—(*Lord Drumalbyn.*)

BARONESS SUMMERSKILL: My Lords, the noble Lord and I discussed this matter on the Committee stage and I congratulate him at arriving at a form of words which I think is quite clear to most people. They mean that the payment should be made, not in a lump sum but in a periodic fashion. Of course, the noble Lord will recall that I gave certain illustrations at Committee stage and on Second Reading, and I think if we put these words in and then leave it to the discretion of the Board the Bill will have been improved. I should like to accept the Amendment.

On Question, Amendment agreed to.

LORD DRUMALBYN: My Lords, this is really part of the same Amendment and is consequential. I beg to move.

Amendment moved—

Page 1, line 11, at end insert ("or which the Board has already paid to the other plaintiff").—(*Lord Drumalbyn.*)

On Question, Amendment agreed to.

BARONESS SUMMERSKILL: My Lords, again this Amendment stems from discussion we had in Committee stage and on Second Reading. The noble Lord was a little apprehensive, I think, lest a woman might be compelled to join with the Board although she was reluctant to do so. This makes it quite clear that she will not have to join with the Board unless she is perfectly willing to do so. I beg to move.

Amendment moved—

Page 1, line 11, at end insert (" provided that no joint proceedings may be brought under this subsection without the consent of the other plaintiff ").—(*Baroness Summerskill.*)

LORD DRUMALBYN: My Lords, I am grateful to the noble Lady for putting in this Amendment.

On Question, Amendment agreed to.

BARONESS SUMMERSKILL moved to leave out subsection (3) and to insert instead:

" ( ) Upon the initiation of any such proceedings as are mentioned in the foregoing subsection, it shall be the duty of the court in which the proceedings are brought to bring them to the notice of the Board ".

The noble Baroness said: My Lords, I think it was generally agreed by the House that, in order to protect the woman, at least so that she might claim at an earlier stage, it is desirable that the Board should be instructed that proceedings were pending. This Amendment serves to emphasise the need to bring the Board into the picture at the initial stage of a case. I beg to move.

Amendment moved—

Page 1, line 26, leave out subsection (3) and insert the said subsection.—(*Baroness Summerskill.*)

LORD DRUMALBYN: My Lords, I again thank the noble Baroness for clarifying this intention.

On Question, Amendment agreed to.

BARONESS SUMMERSKILL: My Lords, I am quite sure that the noble and learned Lord on the Woolsack will approve of this little change: it makes the wording more legalistic. I beg to move.

Amendment moved—

Page 2, line 2, leave out (" judgment ") and insert (" court ").—(*Baroness Summerskill.*)

On Question, Amendment agreed to.

7.21 p.m.

LORD DRUMALBYN moved, in subsection (5), to leave out all words after " may " and to insert instead:

" make payments to the other plaintiff, whether or not the sums ordered by the Court to be paid to them are actually paid; so however that—

(*a*) taking one week with another the Board shall not pay to the other plaintiff less than the payments actually made to the Board;

(*b*) where the payments ordered by the Court to be paid to the Board exceed the amounts which the Board would have paid to the other plaintiff in accordance with the National Assistance Act 1948 had no such order been made, the payments made by the Board for any period during which the sums ordered by the Court to be paid are not actually paid shall not exceed the sums which the Board would have paid had no such order been made;

(*c*) where the sums ordered by the Court to be paid are paid irregularly or intermittently, the Board shall apply such payments first to the recoupment of payments made by the Board in the absence of the periodic payments ordered by the Court to be made to the Board and shall pay the balance to the other plaintiff in such manner and in such instalments as are, in the opinion of the Board, expedient in the interests of the other plaintiff."

The noble Lord said: My Lords, we had some discussion at the earlier stage of the Bill as to the circumstances in which the Board should pass on money received from the defendant and the amount which they should pay the other plaintiff if those sums were not received. The purpose of this Amendment—I think it is self-explanatory—is that the Board shall not pay the co-plaintiff less than they receive from the defendant, which was the point the noble Baroness wanted to insist on; and secondly, the point I was anxious to preserve: that the Board should not pay the co-plaintiff more than they are entitled to do under the National Assistance Act where the defendant is due to make and fails to make a larger periodic payment. Thirdly (this was a point the noble Baroness brought to my attention), where the defendant pays irregularly, or misses altogether from time to time, and then pays what he should have paid, or part of what he should have paid, the Board may pass on the money in whatever way they think to be in the interest of the co-plaintiff, not necessarily in a lump sum. I beg to move.

Amendment moved—

Page 2, line 7, leave out from (" may ") to end of line 10 and insert the said new words.—(*Lord Drumalbyn.*)

BARONESS SUMMERSKILL: My Lords, I have endeavoured to arrive at the same conclusion as the noble Lord has by drafting Amendment No. 9. But I agree that he has included a very important point: that the Board shall not be allowed to pay anything more than the National Assistance rate. I

said on Second Reading that I was quite prepared to compromise on what we might call the third prong of his Amendment, and if I accept that, my attempt at drafting in Amendment 9 will fall. I am pleased to accept this Amendment.

LORD DRUMALBYN: My Lords, I am very grateful to the noble Baroness.

On Question, Amendment agreed to.

BARONESS SUMMERSKILL: My Lords, this is a drafting Amendment. I beg to move.

Amendment moved—

Page 2, line 8, leave out ("judgment") and insert ("court").—(*Baroness Summerskill.*)

On Question, Amendment agreed to.

BARONESS SUMMERSKILL: My Lords, in view of the fact that I have accepted Amendment No. 6, I will not move Amendments Nos. 8 and 9 in my name. I beg to move Amendment No. 10.

Amendment moved—

Page 2, line 11, leave out subsection (6).—(*Baroness Summerskill.*)

On Question, Amendment agreed to.

Clause 2 [*Payments for children of persons fully employed*]:

BARONESS SUMMERSKILL: My Lords, this is a drafting Amendment. I beg to move.

Amendment moved—

Page 2, line 21, leave out from ("for") to end to line 23 and insert ("all the words after 'money'").—(*Baroness Summerskill.*)

On Question, Amendment agreed to.

BARONESS SUMMERSKILL: My Lords, this again meets the suggestion that we should apply it to Scotland also, as the noble Lord said. I beg to move.

Amendment moved—

After Clause 2, insert the following new clause—

Application to Scotland

(" . In the application of this Act to Scotland—

(*a*) For the word 'plaintiff' there shall be substituted the word 'pursuer' which shall include any party initiating proceedings in any court in Scotland;

(*b*) for the reference to the Matrimonial Causes Act 1950 there shall be substituted a reference to the Divorce (Scotland) Acts 1938 and 1964;

(*c*) for the reference to the Matrimonial Proceedings (Magistrates' Courts) Act 1960 there shall be substituted a reference to the Maintenance Orders Act 1950;

(*d*) for the reference to the Guardianship of Infants Acts 1885 and 1925 there shall be substituted a reference to the Custody of Children (Scotland) Act 1939; and

(*e*) for the reference to the Affiliation Proceedings Act 1957 there shall be substituted a reference to the Illegitimate Children (Scotland) Act 1930.")—(*Baroness Summerskill.*)

LORD DRUMALBYN: I thank the noble Baroness for following this out.

BARONESS SUMMERSKILL: My Lords, I should like to think that Scottish women also would benefit from this Bill.

On Question, Amendment agreed to.

BARONESS SUMMERSKILL: My Lords, this is a drafting Amendment. I beg to move.

Amendment moved—

After Clause 2 insert the following new clause—

Interpretation

(" .—(1) In this Act, 'plaintiff' includes a party proceeding by action, summons, petition, or counter-claim.

(2) Any reference in this Act to any other enactment includes a reference to that enactment as amended by any other Act, whether passed before or after the commencement of this Act.")—(*Baroness Summerskill.*)

On Question, Amendment agreed to.

The House adjourned at twenty-eight minutes past seven o'clock.