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Lords Chamber

Volume 285: debated on Monday 17 July 1967

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House Of Lords

Monday, 17th July, 1967

The House met at half-past two of the clock: The LORD CHANCELLOR on the Woolsack.

Prayers—Read by the Lord Bishop of Chichester.

The Lord Vaux of Harrowden—Took the Oath.

Postal Delays

2.35 p.m.

LORD BOOTHBY

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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 whether they are aware that letters within the London Postal Region are now taking two days to deliver, and to Scotland sometimes longer; and in view of the fact that it is expensive to conduct all correspondence by means of telegram or special messenger, whether anything can be done to remedy this.]

BARONESS PHILLIPS

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My Lords, fully-paid letters posted in London for addresses in London are, with relatively few exceptions,

delivered by the next weekday after posting. Much of the fully-paid correspondence for Scotland is also delivered on the next weekday after posting. If the noble Lord will let me have particulars of any delays I will ask my right honourable friend the Postmaster General to look into them.

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LORD BOOTHBY

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My Lords, I should like to thank the noble Baroness for her reply, and also for the courtesy of the Post Office in sending an official to see me. It seems that only 5 per cent. of the mail is delayed, and not for the first time, was one of the unluckly ones; I am prepared to let it go at that.

BARONESS EMMET OF AMBERLEY

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My Lords, may I ask whether there is any difference between a threepenny and a fourpenny letter posted? I have found that there have been delays in respect of threepenny invitation cards sent out and I wondered whether that was unusual or whether it was to be expected.

BARONESS PHILLIPS

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My Lords, I am speaking a little without reference to the officials concerned, but I think I am correct in saying, from other experience that I have had, that there is some delay for the cheaper letter.

South Africa: Supply Of Defensive Equipment

2.37 p.m.

LORD OAKSHOTT

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My Lords, 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 which member countries of United Nations Organisation are exporting defensive equipment to the Republic of South Africa, in defiance of the United Nations embargo; and what was the value of these exports at the last convenient known date.]

THE MINISTER OF STATE FOR FOREIGN AFFAIRS
(LORD CHALFONT)

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My Lords, Her Majesty's Government have not available to them the information to answer this Question.

LORD OAKSHOTT

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My Lords, I thank the noble Lord for that short and complete reply. May I ask whether he does not think it would be a good thing if we could have information available on a matter as important as this, perhaps through the trade section of our Embassy in Pretoria or somewhere like that? However, putting that to one side, may I ask another supplementary question arising out of what Lord Shackleton said in answer to a Question last week? Should I be right in thinking that Her Majesty's Government are not entirely

unresponsive to the suggestion that a fresh look should be taken at the whole of this policy?

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LORD CHALFONT

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My Lords, so far as the first part of the supplementary question is concerned, I think it would be difficult, if not impracticable, to try to discover exactly how each of the 122 members of the United Nations are in fact interpreting the relevant United Nations resolution, which is not a mandatory one. So far as the second part of the question is concerned, of course Her Majesty's Government have this problem under constant review.

LORD OAKSHOTT

Share

My Lords, I thank the noble Lord for that further answer. May I ask whether he will accept from me that "a nod is as good as a wink …" and that I should not wish to press him in view of what he has just said?

LORD BARNBY

Share

My Lords, since the reply of the noble Lord gives substance to the fact that it was a United Nations resolution that led up to this situation, can he indicate whether that resolution referred only to South Africa or is action with regard to arms extended also to other nations?

LORD CHALFONT

Share

My Lords, the resolution to which I referred—in fact there are two resolutions of the United Nations which, as I say, are nonmandatory—refers to South Africa specifically.

LORD BARNBY

Share

And to no other country?

LORD CHALFONT

Share

My Lords, the particular resolution to which I am referring refers to no other country.

Uk Assets In Blocked Currencies

VISCOUNT HALL

Share

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 whether they have a record of, or have assessed, the gross amount of currency in sterling equivalent, belonging to U.K. nationals and companies, blocked abroad by local currency control regulations; and, if so, whether they will state the amounts retained, long-term or

short-term, in the individual countries.]

LORD SHEPHERD

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My Lords, a brief explanation. I contacted my noble friend this morning, and in view of the short notice given of his Question, I have not been able to provide the information. My noble friend will be putting it down on another day.

Medical Termination Of Pregnancy Bill

Brought from the Commons on Friday last, and printed, pursuant to Standing Order No. 45; read 1[a] .

Aden, Perim And Kuria Muria Islands Bill

2.41 p.m.

Order of the Day for the Second Reading read.

THE MINISTER WITHOUT PORTFOLIO

(LORD SHACKLETON)

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My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Aden, Perim and Kuria Muria Islands Bill, has consented to place her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

My Lords, I beg to move that this Bill be now read a second time. Your Lordships will recall that on June 19 I made a Statement in your Lordships' House, and that I then set out certain steps which the Government had decided upon with a view to the implementation of our policy in South Arabia. Let me deal first, briefly, with that Statement. There has been some misunderstanding about the objects of this policy and of the package announced on June 19. Our objectives in South Arabia, as I said then, quoting from the Foreign Secretary in another place, can be described in a sentence:

> “"We intend to withdraw our military forces in an orderly way and to establish an independent South Arabia in January, 1968" (col. 1201).”

These two objectives are to a large extent interdependent. We have thus announced our intention of granting independence on January 9 and of withdrawing completely from South Arabia by then. This is our first objective and is a firm decision. We shall not leave any British troops behind after independence, nor will ground troops be sent to South Arabia after independence to resist external aggression or internal subversion.

The purpose of the naval task force and of the V-bomber force at Masirah is related to our second objective: the establishment of a stable Government to take South Arabia into independence. The aircraft from the carrier force and the V-bombers will be used only in the event of external aggression and they are formidable enough to represent a powerful deterrent to such aggression. Noble Lords may, like others, believe that external aggression is not likely. If this is true, so much the better. I must say that I am inclined to rate the risk not very high, but, as I found when I was in South Arabia, there is a general and deeply felt fear in South Arabia of the Egyptians in the Yemen; and this is understandable in view of the violent propaganda on Cairo, Sanaa and Tais radios and Egyptian military methods, including the use of poison gas. It is therefore not to be wondered at that there is anxiety. It is to provide reassurance against this fear that we are providing a deterrent force, so that the South Arabians can concentrate on their problems, which are difficult enough, reassured from the paralysing fear of Egyptian attack.

South Arabia needs not only assurance against external aggression but also the means to deal with its own internal security problems. Any independent country has to be able to do this, and a stable or

own internal security problems. Any independent country has to be able to do this, and a stable or effective Government cannot be expected in South Arabia unless both the people and the Government have confidence that the Government and the forces at its disposal will be able to protect them. This is the purpose of the defence aid we are giving them, including the considerable additional aid which I described to your Lordships previously. As the country responsible for South Arabia's security up to now, it is our responsibility to equip them with security forces for their independence. The scale of assistance may be more than should normally he needed for security purposes, but it is necessary in present South Arabian conditions, in which most of the difficulties arise from a campaign of subversion, violence and dissidence, inspired, financed and increasingly organised from outside.

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We believe that the military aid we have promised South Arabia will take care of the military aspects of the situation. I will not go into the events of 20th June, the day after these announcements were made, and the events in Crater after that. They were certainly nothing to do with the announcement of that particular policy. They have been described in the Press and in Statements in another place and here. I should only like to say that the difficulties in the South Arabian army and police had nothing to do with our policy, but arose partly from tribal and personal difficulties resulting from the necessarily rather rapid build-up of the South Arabian forces and partly from the tensions and distrust caused by the Arab defeat in the Arab—Israel War and the great lie about British involvement. There is no reason to think the South Arabian forces will not settle down to work harmoniously together in the months before independence. Due to the highly successful policy of the High Commissioner and the military authorities, who worked very closely together at all times, and to the skill, restraint and courage of the British troops involved, the Crater situation has once more been brought under full British control with an absolute minimum of bloodshed. Far from undermining our policy the events of the last three weeks illustrate, I think, the dangers (I apologise for saying it again, but it cannot be said too often) of a Congo situation, which is precisely what we are trying to prevent.

I have left to last our policy on the political front, not because it is not important—on the contrary it is most important—but because it is where our continuing efforts are and must be concentrated. We must give military aid to the South Arabian Government in order to give to it and the people of South Arabia sufficient confidence to work together to build up their country, but at the same time we are very conscious that that Government must be as representative as possible. Noble Lords know of the many efforts we have made to bring into being a broader-based Government, both through the United Nations and by trying to get into direct touch with the more extremist nationalist Parties. I have myself made a number of attempts in this direction, and we have said that we are ready at any time to talk to them without pre-conditions. The fault hitherto for any lack of progress has lain with the leaders of those Parties, and not with us. But Mr. Hussein Bayoomi is now, as noble Lords know, trying at the request of the Supreme Council to create a new provisional Government which will include as many elements of South Arabian opinion as possible. It is worth noting that Mr. Bayoomi, whom I know well, is an Adeni Minister and not a State Ruler.

It is too early to say what will ultimately emerge, but I am not unhopeful of an eventual settlement. When I say that I am not unhopeful, I mean that I personally am not unhopeful. I think that the extremist organisations will see where both their interests and that of South Arabia lie: that is, in peaceful settlement and not in continuing terrorism from which they and South Arabia suffer most of all, and particularly not in the murders that have taken place of members of the different Parties. It seems to me that the rivalry for influence between the National Liberation Front and FLOSY may be one of the obstacles to progress and negotiations. Neither organisation can publicly be seen to be more flexible than the other. In these circumstances, the work of the United Nations in bringing about a situation in which all the parties can come together may be all the more important.

I believe that the United Nations still potentially has an essential part to play, and I hope that the meetings which have taken place in New York between members of the United Nations Mission and the FLOSY delegation, led by Mr. Makawee, will achieve progress towards finding a way to bring FLOSY into the Government. The noble Lord, Lord Caradon, is in touch with the United Nations Mission, but noble Lords, will, I am sure, understand if I prefer to say no more at present, although if I am pressed I will try to say a little more in my winding-up.

Whatever Government rules South Arabia on independence day—and I have described the efforts we are

making to ensure that it is an effective, broad based and stable Government—South Arabia will become independent on January 9. The Bill, to which I now turn, the Second Reading of which we are taking to-day, is an enabling Bill to give the necessary legislative basis for this.

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My Lords, as I have said, it is Her Majesty's Government's policy to bring Aden and the rest of South Arabia to independence on January 9, 1968. There are three territories in South Arabia which have colonial status and it is these we are concerned with in the Bill. These territories are Aden, Perim and the Kuria Muria Islands. The three territories form part of Her Majesty's Dominions and Her Majesty has sovereignty over them. The other territories in South Arabia, the Protectorate of South Arabia and the island of Kamaran, do not form part of Her Majesty's Dominions, and the Bill does not relate to them, since statutory provision is not necessary in order to bring those territories to independence.

The Bill before your Lordships does not lay down the lines of future development in South Arabia. We do not have power to do so. The Federation of South Arabia already exists as a legal entity and our powers in relation to the internal affairs of the Protectorate at large are virtually non-existent. It is important to emphasise this because so many people, including our critics in the nationalist organisations, believe that we actually rule throughout the Federation. This is not so for the greater part of it. Thus it is the South Arabians, and not we, who are primarily responsible for creating their own institutions and form of government though, of course, we can and do seek to influence them in the discharge of our special responsibilities for the three territories which have for so long been part of Her Majesty's Dominions. Aden first became our responsibility in 1839; and Perim in 1857. The then Sultan of Muscat ceded the Kuria Muria Islands to Queen Victoria in 1854.

My Lords, the question of South Arabia is as involved as it is important. Nevertheless, I am happy to say that the Bill itself is straightforward. Its essential intention is to make the necessary provision in our law so that the three territories will cease to be colonial territories. The date for the relinquishment of sovereignty is not specified in the Bill itself because the general circumstances of South Arabia, and in particular the desirability of allowing scope for further constitutional progress before independence, make it wise to leave ourselves some flexibility over the actual date for the surrender of sovereignty. But this does not affect our intention on the date. I will deal with this a little later.

It may help your Lordships if I now deal with the Bill briefly clause by clause. Clause 1 contains the central provisions of the Bill. It provides for the relinquishment of Her Majesty's sovereignty over Aden, Perim and the Kuria Muria Islands. This will be done by providing that on the appointed day these three territories will cease to form part of Her Majesty's Dominions, and that Her Majesty's Government in the United Kingdom shall thereafter have no responsibility for the government of those territories. This day will be appointed by Order in Council.

When the Bill was considered in another place, it was proposed that there should be provision for separate appointed days in relation to each of the three territories. It was suggested, and it is an argument which commands respect, that the future of at least one of the territories, namely, Perim, may not best lie with South Arabia; that it may be possible to achieve its internationalisation; and that Her Majesty's Government should retain some flexibility so that if internationalisation could be effected within a reasonably short time of the independence of South Arabia as a whole, there would be power to retain Perim as part of Her Majesty's Dominions until that could be achieved. Her Majesty's Government accept this proposition and we will do all that we can to achieve the internationalisation of Perim. We have no intention of retaining responsibility for Perim after the date of relinquishment of sovereignty over Aden, but we are prepared not to be bound by having only one appointed day. I therefore propose to put forward Amendments, the effect of which will be to enable us to have separate appointed days in relation to each of the three territories, and these days could then be appointed by separate Orders should this be necessary.

Clause 2 and the Schedule make modifications to the British Nationality Acts. These modifications follow those usually made when colonial territories cease to be such. Subsection (1) of Clause 2 gives effect to the Schedule. Paragraph 1 of the Schedule provides for the loss of citizenship of the United Kingdom and Colonies by persons who, by virtue of their connection with one of the three territories, or with a territory of which one of the three territories forms part on independence, possesses on a day to be designated a nationality or citizenship to be specified. Your Lordships may like to know that the Federal Government

have just enacted a law which will ensure that South Arabia, including Aden, will have its own citizenship by independence. The law is of a liberal kind and fairly comparable to the citizenship provisions of other emergent Commonwealth countries. I will try to arrange for a copy of this law to be made available in due course in your Lordships' Library.

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The Bill also provides power to specify formally a date for the change of citizenship in United Kingdom law to match the change at local law. A citizen of the United Kingdom who on the designated day possesses citizenship of the United Kingdom and Colonies through his connection with the newly independent State will thus lose his United Kingdom citizenship. This is normal practice. There are, of course, certain exceptions which I will deal with in a moment.

Paragraph 2 of the Schedule provides that a woman will not be able to acquire citizenship of the United Kingdom and Colonies by virtue of her marriage to a person who ceases to be a United Kingdom citizen, or would have ceased to be one had he lived, by virtue of paragraph 1. This paragraph does not deprive anyone of United Kingdom citizenship; it merely curtails the right to acquire citizenship in the future. In paragraph 3, sub-paragraphs (1) and (2), which we have to read with sub-paragraph (6) of paragraph 3 of the Schedule, provide that persons who possess citizenship of the United Kingdom and Colonies because of a close connection with this country or a remaining British dependent territory shall not lose their citizenship under paragraph 1. Sub-paragraph (3) contains a further exception. A person who is ordinarily resident in the United Kingdom or a remaining British dependency would retain his British status. Subparagraph (4) provides that a married woman who would otherwise lose her citizenship under the Schedule shall not do so if her husband does not do so.

My Lords, to return to the main part of the Bill, subsection (2) of Clause 2 amends the definition of "Governor" in the British Nationality Act. When, in 1963, the title of "Governor of Aden" was changed to that of "High Commissioner for Aden and the Protectorate of South Arabia" some doubt arose as to whether the High Commissioner was covered by that Act in relation to the Protectorate of South Arabia. The purpose of this provision is therefore to put beyond doubt the validity of certain registrations and naturalisations made by the High Commissioner since 1963.

Subsection (3) extends the nationality provisions as part of the law of the associated States in the West Indies. When I first read this, I thought it was rather a mysterious association, but the United Kingdom and the West Indies associated States share a common citizenship law. It is necessary to keep the laws of both places in line, and this is what subsection (3) does. It would, after all, be anomalous for a person to lose his United Kingdom citizenship under the law of the United Kingdom, but to remain a United Kingdom citizen under the law of the associated States of the West Indies.

Clause 3 gives power to make modifications by Order in Council of other statutory provisions in consequence of the relinquishment of sovereignty over the three territories. A provision of this kind is usual where colonial territories cease to be such, and any Orders made under this clause will, by virtue of Clause 6(2), be subject to annulment by Resolution of either House of Parliament.

Clause 4 gives power to make regulations for the purpose of giving effect to arrangements made in connection with the winding up of the Aden Widows' and Orphans' Pension Fund. When it became clear that Aden was moving towards independence representations were made by the Board of Management about the future of the Fund, which was established in 1949 on the basis of contributions paid by subscribers and by the Aden Government. As a result of discussions between all concerned, the Fund is going to be converted into a scheme by legislation. Existing subscribers may like to transfer to the scheme, or to withdraw their interest in the Fund by accepting a lump sum. Overseas officers (who are defined in relation to the Overseas Service Aid Scheme) are being given the further option of transferring their interest in the Fund to the United Kingdom Exchequer, instead of remaining in the scheme. I will, if your Lordships wish, go into further detail in Committee on this point, but I think the arrangements are satisfactory and take care of the due interests of all concerned.

Subsection (1) gives the Minister of Overseas Development the power to make regulations for the payment of pensions, and if necessary to make payments by way of a lump sum or return of contributions, and to pay interest on contributions. Subsection (2) deals with the payment of contributions, and it defines those who will be eligible to make those contributions. Subsection (3)

provides that any pension, lump sum, or refund of contributions shall be paid out of monies voted by Parliament. Subsection (4) provides that the power to make regulations under this clause shall be exercisable by Statutory Instrument, subject to annulment by either House of Parliament. Subsection (5), again, is a technical one defining certain of the words, "The Aden Widows' and Orphans' Pension Fund".

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Clause 5 is, again, technical, because it deals with pending appeals to Her Majesty in Council. At the present time, appeals lie from the Supreme Court of Aden to the Court of Appeal for Eastern Africa, and thence to the Privy Council. In certain cases, appeals may also lie from the Federal High Court to the Privy Council. This clause gives power to make Orders in Council providing for the continuance and disposal of pending appeals after independence by the Judicial Committee of the Privy Council.

My Lords, there are a number of other supplementary provisions, which I do not think I need go into. Behind this technical little Bill still lie tremendous problems which must be solved, and I certainly do not underestimate the difficulties facing South Arabia in the months before independence. But we are determined to do all we can to help her to overcome them, and I would again as I do not think we can too often do this—like to mention the British expatriates in South Arabia, who are doing a particularly valuable job in extremely difficult conditions in maintaining the administrative and economic life of the country. It is vital to the success of independence that there should be enough stability for these ex-patriates to remain. And then again, the British troops, whose courage and restraint and good sense, in circumstances which at times may have seemed to us, as well as to them, to be intolerable—these have greatly contributed to make political progress possible, when it has been only too easy (and we have had an example of this recently) to destroy any hope of such progress by hasty or ill-considered actions. I will, if your Lordships wish, deal with the present situation, and I hope to answer any questions about certain of the security issues that have arisen recently.

The British Government are completely sincere in their desire for a political settlement in South Arabia, and we will pursue this objective until we leave. I believe that the present Federal Government are also sincere in wishing for a settlement. If only we could look for some meeting of minds from the leaders of the more extreme national elements, I am convinced it would not be difficult to reach a settlement which would be acceptable to all parties; which would give them the influential role in the development of their country which I know, from my knowledge of some of the members, they are well fitted to undertake. There are public-spirited men among them. But we are in this terrible situation—a situation which has happened all too often—in which the sides have lined up and it is almost impossible to bring them together. It will not be a sign of weakness—rather, in my view, it will be a sign of strength—if we are able to talk to them and get a solution which will lead to a stable and peaceful South Arabia.

Time is short for fixing a firm date for independence. We have demonstrated that we are going, and that our only interest in South Arabia is to leave behind a peaceful and stable country. It is up to those whose country it is to realise that they have more to gain for the sake of their country, not from fighting each other, or us, because soon we shall not be there for them to fight, but in working together. I am convinced, from my knowledge of Sir Humphrey Trevelyan and the splendid and courageous work he is doing out there, that he, for one, will do his utmost to bring this about; and I am sure that your Lordships would wish him, and all those faced with this, at times, agonising problem the good luck that they need and which so many of them have so well deserved. My Lords, I beg to move.

Moved, That the Bill be now read 2[a] .—(*Lord Shackleton*.)

3.8 p.m.

EARL JELLICOE

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My Lords, the noble Lord, Lord Shackleton, has rightly put this Bill, with its quite limited objectives, in the more general context of our policies towards the Middle East and towards South Arabia. I wish for a moment, at least, to return the compliment and cast just a glance at our general policies in the area, before returning to the specifics of this particular Bill. I hope that the noble Lord will take it as a compliment that, had it not been for his two visits to Aden; had it not been for the changes in policy which flowed from these visits; had it not been, above all, for the package deal announced by the

Foreign Secretary in another place on June 19, the criticisms which I am about to make of the Government's handling of these extremely intractable—and I am the first to admit that they are very intractable—problems in South Arabia would have been a great deal more severe.

But I believe, my Lords, that the Government in fact perpetrated two cardinal errors. The first was an error of commission, which was to couple the inherited policy of independence for South Arabia with their then new decision to abandon the Aden base and to back down on the proposed defence treaty with the independent Government of South Arabia. From that initial mistake much avoidable mischief has flowed. We may perhaps never know—or at least not for a long time—whether, but for that decision, President Nasser would have gone back on his agreement on the Yemen with King Feisal of Saudi Arabia. All we do know, and I am quite certain of this, is that this wilful decision made it inevitable that Nasser would seek to maintain an Egyptian military presence in the Yemen.

The second result (and I hold this to be equally attributable to our decision to withdraw) has been a marked increase in terrorism in Aden itself. But, of course, this decision, in making naked the infirmity of purpose and the lack of resolution of the British Government of that time, has done a great deal to weaken and to undermine our general policies and position in the Middle East as a whole.

The second mistake was an error of omission, and that omission was to leave the Middle East and South Arabia as it were suspended while we failed to decide—or at least to announce—our future policies towards South Arabia. This drift served only to exacerbate the mounting chaos in Aden and the Protectorate. It seemed, indeed, until recently that this last major act of de-colonialisation on our part would take place in shameful and humiliating circumstances. That being so, it would be churlish of me, speaking from these Benches, not to welcome the radical changes in policy underlying the "package deal" announced by the Foreign Secretary on June 19. Given the mistakes of the past and the long period of drift, it will not be easy to retrieve the position; but at least the new policies represent a comprehensible and comprehensive approach to the problems of South Arabia. They hang together and, if followed through, may well point the way forward; and in so far as the noble Lord, Lord Shackleton, has played a major part in making these new policies possible we are greatly in his debt.

Given the noble Lord's knowledge of these issues, I should like to take the opportunity of putting a number of questions to him touching on the so-called "package deal". I believe most of us would agree that if at all possible the basis of the Federal Government must be broadened in the period between now and independence. I noted the noble Lord's relative optimism about this and I hope sincerely that it is justified. We have also noted the remarks made by the Minister of State, Mr. Thomson, about the contacts in New York between Mr. Makawee and the United Nations Commission and between Mr. Makawee and Her Majesty's Government through the noble Lord, Lord Caradon.

When the Minister of State spoke in another place some ten days ago we were led to expect that these contacts were imminent. I gather from what the noble Lord, Lord Shackleton, said in moving the Second Reading that they have in fact been established. Can the noble Lord confirm that this is so, and has Mr. El Asnag been brought into them in some way? And how do Her Majesty's Government relate these possible negotiations or conversations in New York with the negotiations which the Federal Premier, Mr. Bayoomi, and I presume also Sir Humphrey Trevelyan, are carrying out on the spot in an attempt to establish a new provisional Government?

My second series of questions relates to the proposed new Constitution. We have accepted it on behalf of the Colony of Aden. Can the noble Lord tell us how acceptable he judges it is likely to prove to the States of the Protectorate; and, if it proves acceptable, where do we go from there? In the context I am particularly concerned about the three unfederated States in the Eastern Protectorate. I suspect that their failure hitherto to join the Federation is yet another by-product of Her Majesty's Government's original decision to withdraw, and to withdraw without a defence agreement; but I welcome the Government's new proposals for financing the Hadhrami-Beduin Legion. But is this the extent of the protection which we shall afford these three as yet unfederated States in the period after independence when their merger with the Federation may be under negotiation?

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I now turn to the internal security position within the Colony of Aden itself. I should like, first of all, to join with the noble Lord, Lord Shackleton, in expressing our admiration for the skill and efficiency which has enabled our re-occupation of Crater to be carried out with an absolute minimum of casualties. It was a very remarkable and skilfully executed operation. Can the noble Lord tell us whether in that operation and in the building-up to it the Commanders on the spot had discretion, or were limitations placed on them in regard to the choice of weapons which they were permitted to use, as has been reported in the Press? Of course, it would be idle to pretend that after this success the internal security position in Aden remains anything but extremely precarious, and in this context I would ask the noble Lord whether he can tell us anything more about Her Majesty's Government's proposals for "phasing in" Federal control rather than British control over internal security. I recognise that as long as sovereignty is not transferred and as long as British troops remain in Aden itself, ultimate control for internal security purposes must vest in us. Nevertheless, the sooner responsibility for day-to-day internal security can be handed over to the Federal authorities and the Federal forces, the better.

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Finally, my Lords, there is the question of external protection. I am sure most of your Lordships welcome the change of Government heart announced on June 19, and I am certain the majority of the Members of your Lordships' House welcome the firm, if very belated, decision of Her Majesty's Government that the newly independent South Arabian State should not be left without any external protection. I hope these decisions may lead to the recognition that there is still need for a continuing British military presence in the area. We have our commitments to the South Arabian Government, as has at last been recognised, and we have our existing obligations in the Gulf, where a premature withdrawal and the creation of a quite unnecessary vacuum could set the whole area alight. Therefore I hope the noble Lord can confirm that, apart from the V-bomber force, our continued military presence near South Arabia will not be limited to a precise and rigorously fixed six-months' period, but will be maintained at least until South Arabia becomes a member of the United Nations.

So much for the general point. There is the specific point about the strong naval force which the Government propose to base in South Arabian waters. Of course I appreciate the difficulties in keeping an attack-carrier on station for a long and protracted period. But, my Lords, what if the seventh month turns out to be the critical month, and not one of the first six months? What if the ninth month turns out to be the critical month? Will there be any strong naval force in the area? Are we then to assume that the support of sea-based air power will not be available to the South Arabian States? I hope that the noble Lord can confirm that our planning here will remain more flexible than the Government Statement last month would seem to indicate. Above all, I trust that in all this, in this whole package deal, there will be no wobble. Having now, at long last, decided on their policy, I hope that, just for once, this Government can really stick to it, whatever the difficuties in South Arabia, and they will be considerable, and whatever the pressures, and they also will be considerable, from their own Left Wing.

Turning from the general to the particular, I am grateful to the noble Lord for the clear way in which he has taken us through this Bill, and I should like to make it clear that we welcome it in principle. For a long time now we have favoured the attainment of independence by Aden within the South Arabian Federation. I do not think that anyone who knows the area could ever have entertained any illusion about the ease with which this independence could be achieved. However, I believe, and I have already made this clear, that had we remained in power independence would have been achieved in less dire circumstances than we have witnessed. There are, however a number of questions which I should like to put to the noble Lord and which, depending on his answers, I may wish to explore further in Committee.

In the first place, as he explained, the Bill deals not only with Aden itself but also with a number of offshore islands. It paves the way for the relinquishment of British sovereignty over the island of Perim and the Kuria Muria islands. It does not, as he said, deal with another British possession in the area, Kamaran, because that is a protectorate; but it is caught up, nevertheless, in these complex problems. We are really concerned, therefore, with three island territories here; Kamaran, administered, I think, from Aden, some 200 to 300 miles north off the Yemen coast, very close to the Yemen coast; Perim, in the very jaws of the Gulf of Bab-el-Mandeb between Arabia and Africa; and the Kuria Muria group many hundreds of miles to the east, offshore Muscat and administered, I believe, from Bahrein.

I do not know what is proposed for these three territories by the Government. I shall in a moment be reverting to the proposal for the internationalisation of Perim which the noble Lord, Lord Shackleton, has

just ventilated. But your Lordships will see that these three island territories are quite distinct, in population and administration, and, of course, in geography. I therefore welcome the decision of the Government to make separate Orders in Council—and to introduce amendments to that effect—for Perim and the Kuria Muria islands as well as for Aden. I am sure this is a wise decision. But time between now and January is advancing very rapidly, and I hope that the Government can tell us more about their intentions and the ultimate destiny of these islands.

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In another place on June 19 the Under-Secretary for Foreign Affairs made it clear that the Government would arrange for formal consultations to take place with the hundred or so inhabitants of the Kuria Muria group, with the 2,500 or so inhabitants of Kamaran, and with the inhabitants, presumably, of Perim as Nell. Can the noble Lord tell us what their plans for these consultations are? What form will they take? Will the United Nations be involved in them, and when will they be held? And what will happen in the event, possibly unlikely, that the inhabitants of these islands decide that they are best off in their present prosition under British protection or sovereignty? Can he in any event give us an absolute assurance that there will be no question of the transfer of the island of Kamaran to the Yemen against the express wishes of the inhabitants?

My second question relates to Perim itself, and it has in part been answered by the noble Lord. This island is of course by far the most important of these various offshore territories. It commands what in normal times is one of the most important sea lanes in the world to-day. It takes no imagination, therefore, to visualise the danger which could result from Perim falling into ill-disposed hands. There would be obvious danger for Israel, for example. Perim is far more strategically placed than Sharm-el-Sheikh, and command of it would enable Israel to be stifled and without the possibility of retaliation far more effectively than command of Sharm-el-Sheikh. It is in truth, as was said in another place, the stopper in the Red Sea bottle. In such hands control of Perim could be more than a threat to just Israel. It could be a threat to free navigation of any and all the maritime countries. I understand that the South Arabian Government are expecting that Perim will become part of the South Arabian State. The island is also claimed by the Yemen, and that claim was only recently reiterated. Unless some other arrangements can be made, therefore, it is only too possible that the newly independent State will be plunged straight away into a territorial dispute with its northern neighbour.

I should therefore hope that the Government will do everything in their power to see that Perim is placed under United Nations trusteeship. This imaginative solution was urged by my colleagues in another place, both from the Back Benches and from the Front Bench; it has a great deal to commend it, and I am very glad that it has been accepted, at least in principle, by the Government. The Foreign Secretary, in replying to the debate in another place, went out of his way to say that he was going to try extremely hard to see whether some such arrangement could be worked out in the United Nations, and he has indicated since that he is discussing it in the United Nations and with the Federal authorities. Can the noble Lord tell us more about the results of those discussions? I hope that in any event he can confirm that the Foreign Secretary is continuing to bend his very considerable energies to this attractive and imaginative solution for what could otherwise become a dangerous international trouble spot.

My third and final point concerns the degree to which Parliament will be able to supervise and scrutinise in this run-up period to independence the dispositions to be made for our present possessions in South Arabia. I am worried because our discussions on the various stages of this Bill may be our last chance of debating the destiny of these territories before their future is irrevocably decided under an Order in Council. Only Clauses 3 and 5 of the Bill, which deal with relatively minor matters, are subject to the annulment procedure. But not so the all-important Clause 1. I know that the precedents are against me. I believe that there is no case of an Order in Council under an independence Act being subject to parliamentary control. But the Colony of Aden and these offshore territories are being taken to independence in really quite exceptional circumstances. Normally independence comes after full consultation with the peoples concerned, after a Constitution has been agreed, and on the principle of majority rule. But in Aden there have been no free elections, for very understandable reasons. There is no assurance that the Hone-Bell Constitution will commend itself to the people of Aden, although I hope it will. And we certainly cannot say that there is at present in Aden majority rule. If this applies to mainland Aden, it applies with equal force to the offshore islands whose future I have touched upon. The Government themselves have made it clear that they have no precise idea as yet as to their final destiny.

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Surely in these quite exceptional circumstances there is a case for departing from the usual procedure. The Foreign Secretary himself has said, in a debate in another place on June 19:

> “"It is impossible at this moment to foresee how events may work out, and therefore how the proposals on South Arabia which I am about to make may have to be recon- sidered."—(OFFICIAL REPORT, Commons, col. 1126.)”

Surely in these circumstances it would be right for Parliament to have an opportunity of a further look at, and a further say about, if necessary, the dispositions to be made for Aden, for the offshore colonies, and indeed for Kamaran. Surely this could be fitted in, even if the Government are intent on adhering rigidly to their January 9 dateline, in the period between October and January. I ask the Government seriously to consider this possibility.

One final word. South Arabia is moving to independence in conditions of unparalleled difficulty. Never before—save possibly, I suppose, in the last days of the Palestine mandate; and that in many ways is an unhappy precedent to adduce—have our people on the spot been exposed to such difficulty, such "agonising decision I think was the phrase used by the noble Lord, Lord Shackleton. This is imposing a

great strain on our troops in Aden and in the Protectorate; it has imposed a great strain and great responsibilities on the British civilians on the spot, upon the businessmen and the administrators. I should like to associate myself with the words of appreciation which the noble Lord has used about the present High Commissioner, Sir Humphrey Trevelyan. I am very glad that the noble Lord, Lord Shackleton, concluded his speech by paying so well deserved a tribute to our people on the spot in Aden and in the Protectorate. They have our admiration, and it is quite right that they should know it.

3.33 p.m.

LORD GLADWYN

Share

My Lords, once again we are debating a subject which involves both the interests and the conscience of our ex-Imperial country. I am quite sure that, more especially in this House, our main object should be not to score mere debating points or to criticise the Government for the sake of criticising, but rather to try to arrive at some kind of consensus as regards the best way, or at any rate the least had way, of extricating ourselves with honour from an extremely difficult and, indeed, almost dangerous situation. Having said that, I think I might for one moment legitimately refer to the advice on this problem generally which has been consistently offered from these Benches, advice which I believe has had a certain effect on the outcome of events.

We were the first Party to advocate an early withdrawal by Britain from her various bases in the Indian Ocean and the Persian Gulf; but we always contemplated, as we still do, withdrawal in accordance with a carefully prepared and co-ordinated scheme. So far as Singapore is concerned, we suggested that this should be related to any project which we might agree with the Americans and others for the general defence of Australia and for South East Asia generally. That was in April, 1965, over two years ago. A few months later Mr. Enoch Powell, Shadow Minister of Defence in the Tory Party, made a speech which appeared on the face of it to be rather in harmony with the ideas which I had had the honour to advance, on behalf of the Liberal Party, a few months earlier. That was in October, 1965. Then, finally, Mr. Mayhew, in March, 1966, came down substantially in favour of this thesis, and as a result had to resign and was repudiated by the Government at that time.

But, as we saw it, there was no point in simply evacuating a base in one part of Arabia, namely Aden, and hanging on indefinitely to bases in another part of Arabia, namely Bahrein and other points in the Persian Gulf; for the same forces which had rendered or were rendering our military presence in Aden impossible were likely in the near future to operate elsewhere in the Arab world. In other words, bases are just not consonant with the rising tide of Arab nationalism, which has been much intensified by the recent Arab-Israeli war. If we want to protect our oil interests within the limits of the possible it will shortly have to be by means other than the ultimate threat of military sanctions. The French have no bases East of Suez, but for one reason or another their present oil supplies from the Middle East are

assured, whereas ours, unfortunately, are not. I do not say that we should pursue the same sort of "have it both ways" policy as they are pursuing, or have lately been pursuing; because, frankly, in our case we should not be prepared to score victories over our allies and friends. But the fact re- mains that if we were altogether out of Arabia, we should be more able to defend our interests by diplomatic means and actions than appears to be possible at present. That is our thesis.

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Having said that by way of justification for our general attitude on these Benches, perhaps I may turn to the consideration of the problem presented by the early grant of independence to Perim, Kamaran and the Kuria Muria islands. Here I find myself in general agreement with what the noble Earl, Lord Jellicoe, said, and I should like to associate myself with the questions that he put to the Government on this subject. I think that Perim obviously raises strategic questions of a high order. It commands the Straits of Bab-el-Mandeb. If it was occupied by the Egyptians, it would be possible for them, in control of Perim, to exercise the same sort of control over the Straits of Bab-el-Mandeb as they exercised until fairly recently over the Straits of Tiran at Sharm el Sheikh. It is all part of a larger problem. If they were to re-exercise their control over the Straits of Tiran, it would not make any difference whether they exercised control over the Island of Perim or not. It is only in the event of their not being able to exercise control at Sharm el Sheikh that, in theory, it would be possible to close the access of Israel to the Eastern World by blocking the Straits of Bab-el-Mandeb to Israeli shipping. But there is a danger that some improper use might be made of the island of Perim. Therefore, if it is humanly possible to internationalise it, under the United Nations or by other means, we should all surely be in favour of it.

The only question that arises is how could this be done under the United Nations. If it is going to be the Constitution of a new United Nations mandate (and here the noble Lord, Lord Rowley, will no doubt confirm what I am going to say) it will have to be by agreement in the Security Council, in the first instance, between the five Permanent Members. As things are at present, it does not seem very probable that the Russians, the Americans and the French, for instance, will all agree on the nature of an international régime to be set up on the island of Perim. However, I think we should make great efforts, and no doubt the noble Lord, Lord Caradon, with his great influence and eloquence, may be able to do something. I am quite certain that we ought to push vigorously in this direction if we possibly can. That is all I have to say on the subject of the offshore islands, and I now approach the specific case of Aden.

Whatever one's views about the reason why the present situation has arisen, I think that few, in this House, at least, would dispute that in the crisis in which we now find ourselves the Government were right in deciding to grant independence to the South Arabian Federation on a definite date—namely, on January 9 next—and to withdraw British Armed Forces from the Federation by that date. I am sure we all think that that decision was right. Nor do I suggest that there is really much opposition—here, anyhow—to the proposal that British forces should be available for a limited period after the granting of independence, for the purpose of repelling in the newly established Federation aggression from without, if, indeed, that should take place—which is not certain—and be capable of being dealt with by air power, which again is probably a little doubtful.

I know that there is great apprehension in the South Arabian departments, and among other Arabs, that the Egyptians might attack in force from South Yemen and perhaps use such indefensible and scandalous means as poison gas. It is not certain that they will, and if they did it is conceivable that we might be able to check them by action from the air. However, it is doubtful whether they would attack, and it is also doubtful whether we could check them in those circumstances. Still less is there any opposition to the general plan now advanced by the Government—

LORD SHACKLETON

Share

My Lords, may I interrupt the noble Lord? There is only one way of checking air attack, and that is to attack the airfields from which the attack comes. We may as well face what the purpose is. This is a deterrent against aggression, which is the basic role of air power, whether it is land-based or sea-based.

LORD GLADWYN

Share

Yes, my Lords. I have no doubt that is so, and if we could eliminate the aeroplanes and their bases from the Yemen that might put an end to the poison gas theory. But they might send a number of irregular troops across the frontier, who might be indistinguishable from the locals, and it might be difficult to bomb one side without bombing the other. There are also difficulties in ensuring peace by bombing action, as I think the Americans have found in Vietnam.

However, as I say, I do not think there is any opposition here to the general plan to install if possible a broad-based caretaker Government over the whole area of the Federation when we leave, and for this purpose, if possible, to enter into prior negotiations both with FLOSY and the N.L.F. who seem to have come together—

LORD SHACKLETON

Share

No.

LORD GLADWYN

Share

I understood from the Press and other reports that they may have come to some agreement between themselves. If not, so much the worse; if so, so much the better. However, it should be possible to enter into prior negotiations with these characters, so that such a broad-based caretaker Government should be representative of all existing tendencies, whether reactionary or revolutionary.

Naturally, of course, that would be the ideal, but we must also be prepared for the possibility, and some might even say the likelihood, that all this just will not work, and that what is much more probable is some struggle for power which will end in Aden's being dominated either by FLOSY or by the N.L.F., or by both, and in the other component parts of the Federation continuing to exist as a kind of loose association of Emirates, no doubt with some kind of special relationship with Saudi Arabia. As early as August 31, 1962, my noble friend Lord Ogmore said:

> “"This is not the time to federate the Colony of Aden with the surrounding Emirates. Aden should become self-governing first, so that it can determine its own future."”

In the light of hindsight, these were obviously words of great wisdom.

So it seems to us on these Benches that we should be well advised, while continuing to strive for the installation of some broad-based Coalition Government when we leave—and I suppose that this might just be achievable if the Arabs, whether reactionary or revolutionary, are still bound together in some common hatred of Israel—to have an alternative or "fall-back" policy which might consist of recognising a separate Aden with only a tenuous relationship, or perhaps even no relationship, to the Federation as such—a sort of "Singapore" solution, which though unsatisfactory, of course, might at least prove tolerable and in any case prevent a blood bath when the last British soldier leaves. During the last debate on this subject in another place the Liberal Party tabled an Amendment, which was not called, to the effect that there might be a referendum in Aden on this point before we left. I imagine that this is still a possibility which might be considered by the Government; and, anyhow, perhaps they could let us know what they think.

Some may say, and do say, that if we ever went for an independent Aden which would undoubtedly come under some kind of "revolutionary" control, we should be playing into the hands of President Nasser, who would then proceed virtually to annex the port and perhaps the district of Aden. I am not so sure. However revolutionary they may be, local régimes seem to have a marked aversion to being annexed. It might even be that an independent Aden, as a member of the United Nations, would be as little inclined towards union with Egypt as Singapore is towards union with China. However, that is just a thought which I should like to drop into the common pool. But even though it may not be possible or indeed desirable, to pronounce in favour of an independent Aden before we leave, it would no doubt be desirable to do nothing which could stand in the way of such a solution after our departure.

The Leader of the Liberal Party in another place has already drawn attention to the fate of many Federations which we established before withdrawing from ex-colonial territories, and it is certain that the prospects of a Federation between such dissimilar entities as the various Emirates or Sultanates in South Arabia and the town and district of Aden are, on the face of it, much less rosy than those in, say. East Africa, where there were, after all, many common interests and ways of life and, in any case, no external threat against a potential Federation which might be used for disruptive purposes. In summing up, Mr. Thorpe said specifically that we should be well advised not to regard the present federal system as a durable political entity—I think I am in order in quoting what he said—

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SEVERAL NOBLE LORDS: No.

LORD GLADWYN

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The substance of what he said was that we should face that fact now, rather than prop up a situation, and then in two or three years' time have Questions put down about the safety of British subjects, the right of intervention on the part of the United Nations, and so on. I hope that this advice, generally speaking, might prove acceptable.

On May 31 last the Minister of Defence said that he failed

> “"to see how what is happening in May ... 1,000 miles to the north of Aden need affect our plans about what we do in Aden next year".—[OFFICIAL REPORT, Commons, col. 67.]”

I am afraid that what happened shortly after, in early June, may have had almost as unfavourable an effect on the Aden situation as it has had on Mr. Healey's prescience. The sad fact is that we are probably more unpopular generally with the Arabs now than we have ever been. No doubt we shall one day recover some of our popularity, though so long as we are overtly against the Israelis being slaughtered and being pushed into the sea we can hardly expect to rival the present popularity of, say, General de Gaulle. But the one sure way to get back to normal in our relations with the Arab world is to proceed resolutely with the planned evacuation of all our bases on their territory.

My Lords, if Mr. Chapman Pincher still speaks with any authority—and I am not quite sure, in the light of recent events, whether he does or does not—then we may shortly expect a pronouncement from the Government that they have now seen the light and are prepared to adopt the original Liberal policy which they repudiated with such emphasis when I first had the honour to propound it, your Lordships will recall, well over two years ago. Let us hope so. If the Liberal Party fulfils no other function, it can at least produce fruitful ideas which are taken up, usually too late, by the two major Parties.

3.51 p.m.

LADY KINLOSS

Share

My Lords, this is my maiden speech, and I beg to ask the usual kind indulgence that your Lordships so generously give to maiden speakers. In fact, it is my maiden speech in more senses than one, for it is the first speech I have ever made. It is also my duty, my Lords, to declare a personal interest in this Bill. Clause 4 refers to the Aden Widows' and Orphans' Pension Fund, to which my husband, as former Educational Adviser to the Aden Protectorate, has been a contributor. I have seen the papers that have been sent to the contributors; and the proposals for potential widows, including myself, and for the orphans of contributors seem to me wholly satisfactory. I can only say, my Lords, that, grateful as I am for the generous arrangements, I hope that it will be a long time before I need to take advantage of them.

My Lords, I lived in Aden from 1961 to 1963 as a very ordinary housewife. I was also able to travel both in the Federation and in the Eastern Protectorate; and I have very many happy memories of people of every

sort, both in Aden Colony and in many parts of the Protectorates. Having perhaps somewhat sharply attacked the Government in a letter to *The Times* on March 11 last year, no one is more delighted than I that some sort of defence arrangement of a temporary kind is being made for the Federation; and that we have promised to support the expenses of Government and its social services for a period following independence. In fact the Federation has no resources of its own and it would collapse without aid.

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I am glad, too, that we are to support the Hadhrami Beduin Legion; but I trust this will not be done in such a manner as to force the three Eastern States—Qaiti, Kathiri and Mahra (which includes the island of Socotra)—into the Federation. The towns of the Wadi Hadhramaut, especially Tarim, Saiun and Shibam, the latter with its seven-storey white-washed skyscrapers, have a more sophisticated character, as do the seaport towns of Mukalla and Shihr, by comparison with the more tribal society of the Federation outside Aden Colony. Both the easternmost State, the Mahra State and the Kuria Muria Islands—which form part of the subject of this Bill—do not use Arabic in daily speech: they have their own language, Mahri, a Semitic language of very different character, and, except for some contiguity, have nothing in common with the other areas. Although it is true that there is much disenchantment throughout the Middle East with the United Nations at the present time, I hope that the quite short

intervals that have been agreed can be used to negotiate some kind of United Nations' guarantee of their frontiers. Perhaps this could be done in conjunction with Muslim Powers that have not been too deeply involved in recent conflicts, such as perhaps Turkey and Pakistan.

My Lords, in *The Times* Women's Page recently the noble Baroness, Lady Phillips, was reported as having said that the speeches of women Peers were shorter than others. I have tried to take this to heart and wish to mention only one other topic. If there is one common characteristic in the whole of this area, in Aden and the Islands, in the rest of the Federation and in the eastern States, it is poverty. Every now and then I shudder in this House when I hear reference to rich sheikhs. In Aden itself there is terrible poverty; and outside Aden, except in very rare instances, I never saw anyone who could truly be described as rich. There is an Arab author who described a certain sheikh as "rich only in pride and ancestry", and this goes for the great majority.

The basic reason for this is appallingly simple: the land is so barren, so rocky and so lacking in natural resources that only 2 per cent. of the whole land surface can be cultivated. In Aden itself, before the recent troubles that have brought so much to a standstill, we could be proud that we had achieved universal primary education, almost universal secondary education, and an efficient medical service. Outside great progress has been made in agriculture, especially in Lahej, the Abyan plain and in the Hadhramaut. In these areas, too, there has been great progress both in medical and educational services; but it has been inhibited to some extent by a lack not only of funds but of trained men. To mention but one group of expatriates, although unhappily at this moment we do not have diplomatic relations with the Republic of the Sudan, I venture to think, my Lords, that it would be lacking in generosity to omit to pay tribute in this debate to the work of Sudanese teachers who have played such an important part in educational progress in so much of this area and to the unselfishness of the Sudan Government in sending them when they were short of teachers themselves.

It will be a very long while before this whole area can dispense with outside support in funds and in expatriates, especially in medicine and education. In supporting this Bill, I am venturing to hope that our promises to sustain the work of Government in South Arabia as a whole, even if at the moment they are limited in time, will be thought of again in the future within the whole context of world poverty; and that we shall be generous enough to continue to support those who are in genuine need after the period of help expires, if they should then ask for it.

3.56 p.m.

LORD SEGAL

Share

My Lords, it falls to me to congratulate the noble Lady, Lady Kinloss, on her excellent maiden speech. I am sure that is a sentiment in which the whole House will readily join. As we have heard, she speaks about the territory of Aden not only with very deep knowledge but with warm human sympathy; and

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although it may be somewhat trite to express the hope that we may be privileged to hear her on many future occasions, may I say that in her case, with her especially deep knowledge not only of Aden but of so many parts of Africa, this House will extend rather more than the usual warm welcome to her whenever she chooses to participate in our debates.

My Lords, first of all, I should like to say one or two words about what I regard as the wholly inadequate tribute that has been paid so far to the gallantry of our troops in this Aden fighting. As one of those who have been to Aden—and, although I cannot claim as many years of residence in Aden as the noble Lady, Lady Kinloss, I did have twelve months in Aden during the early period of the war—perhaps I may say that our troops have shown the most extraordinary restraint under almost inhuman provocation. Very few of us realise the conditions under which they are fighting to-day in Aden. They are fighting almost literally with their hands tied behind their backs; and when my noble friend comes to reply to this debate I should like to ask him whether he will confirm some of these facts: whether our troops in Aden have been fired on from the tops of minarets and from the roofs of mosques, and have not been allowed to fire back; whether it is a fact that stores of arms are known to have been accumulated in mosques and our troops have not been allowed to enter; and whether it is also true that many instances have occurred of

Moslem women coming through the check points at Sheikh Othman being known to have large numbers of hand grenades in their flowing black robes and yet our troops have not been allowed to search them.

In what I saw of Aden on a visit paid just recently, a matter of eight months ago, I was impressed more than anything by the extraordinary restraint that our troops were showing in conditions under which I think troops of no other nation would have conducted their campaign. I believe these facts ought to be known not only to this House but to the country at large, and that they highlight our weaknesses in the Middle East whenever we find ourselves dealing with a Moslem population which is engaged in open combat with Britain as a Middle East Power. Having said that, I feel that we ought to extend our good wishes to the new caretaker Government, and hope that it will succeed in bringing peace and stability to the whole of this area. But, despite the extraordinary efforts that have been made by the leader, Mr. Bayoomi, in attempting to form a caretaker Government, I must confess to having very serious misgivings as to what may be the future of the South Arabian Federation, if, after withdrawal, despite all the precautions we may take to maintain order, this caretaker Government becomes an "under-taker" Government, and has to bury the whole idea of federation in that area. I would ask the Government whether they have already devised an alternative policy which they are able to carry out in case the South Arabian Federation proves not to be viable.

I have no misgivings about the sheikhdoms of the Protectorate; but I am not at all happy about the relationship between these sheikhdoms and the population of Aden itself. We all know to our cost that in many parts of the world federation has proved an unnatural policy, a policy which has failed. It failed in East Africa; it failed in Central, Africa; it failed in the Caribbean, and it failed in Malaysia. We can only hope that it will succeed in South Arabia. May I ask my noble friend who is to reply this question? Has he sufficient confidence in the future State to feel assured that it really is viable? I have sometimes thought that it may have been merely the brain-child of some British official in Whitehall. Has there been any spontaneous demand for federation in South Arabia? From what quarters did that demand arise?

Also, as I have said, I have misgivings about our influence in the whole area. What right have we to ask the fiercely feudal sheikhdoms of the South Arabian Protectorate to federate when we ourselves—with all our traditions and our experience of government, with all our record as an Imperial Power—have failed to federate in Europe? We have reached some form of federation within these Islands; but only after a struggle of hundreds of years—and, even after achieving union in these Islands, the Irish Free State fought against it and finally decided to opt out. I am not too happy that the idea of federation can be successfully brought to this area of South Arabia.

We have, quite rightly I think, decided to fall back upon the United Nations to exercise some control, perhaps at least over the island of Perim. But I know of no territory—and I have travelled over at least 12 different countries in the last year—where the United Nations has suffered so severe a loss of prestige as in South Arabia. When I was there in October, 1966, the mere suggestion of a United Nations force was regarded by the then chiefs of the South Arabian Government as an abandonment of their future right to independence. Never, I think, has the prestige of the United Nations sunk so low as I found it to be in the

South Arabian Federation. I am sorry to have to dwell on these facts, but in my opinion these are facts, and we do no good either to ourselves or to the United Nations to impose on the United Nations tasks which, unfortunately, they will find themselves unable to carry out. An example of this was given when the United Nations Mission arrived in Aden. Almost immediately a general strike was declared; and it persisted until the United Nations Mission decided to withdraw.

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My Lords, after many years of living in the Middle East and of close contact with the peoples of the Middle East, I long ago came to the conclusion that it is only Moslems who are able to understand Moslems. That is why I gladly support the suggestion made by the noble Lady, Lady Kinloss, that it is the Moslem States to-day who should come to the help of Aden—States such as Turkey and Pakistan which she mentioned; and to which I would add Tunis and Iran which are peace-loving States and loyal members of the United Nations. If the great nations of the world will not share their responsibility for the future peace of this territory, I feel the United Nations itself ought to appeal to these Moslem States to do what they can to ensure it.

I am glad that the Government have undertaken to leave Aden peaceful and well ordered. I feel myself it was quite wrong of us to undertake single-handed the burden of ensuring the future of Aden. The noble Lord, Lord Gladwyn, spoke of the French having no say in the future of the territories of Aden or of the Persian Gulf. Of course, it is far easier for any country to stay out of that area than to leave it once having been in. As noble Lords know, we have been in Aden since 1839; for more than 120 years. I think there is a great deal to be said for the control of the island of Perim by the United Nations—except that my sympathies go out to any United Nations official who may have to live on the island.

May I say that, after what has happened in the Middle East, I think any Arab State (certainly any State that may find itself in control of the island of Perim) would think twice to-day before it started interference with Israeli shipping. After the recent events, I now believe that that danger may be greatly overestimated. Furthermore, I have grave doubts now, after five years of war, about what Nasser hopes to gain by continuing his presence in the Yemen—except perhaps to march into the South Arabian Federation once we have withdrawn. Nasser, I think, can only hope to gain any advantage by occupying Aden; for the Protectorate will yield him no dividends whatsoever, but merely liabilities; and even Aden itself, once we have withdrawn, may become a rapidly dwindling asset because the trade of the port is bound to decline. In fact, it is only by our influence there that it has not greatly declined already. Having made these somewhat casual passing remarks, may I say, finally, that I extend a wholehearted welcome to the Bill; and I should like to express the hope that all our good wishes for the future prosperity of this new State may be realised to the full.

4.10 p.m.

LORD SHACKLETON

My Lords, I should like to join with the noble Lord, Lord Segal, in congratulating the noble Lady, Lady Kinloss. I must say that it is only with the utmost difficulty that I find it possible to believe that this is the first speech that she has ever delivered because not only was it very acceptable to your Lordships' House but I thought it a pretty professional job for a maiden speech. The noble Lady added a very real sense of feeling to this debate. She has certainly stirred me to say something which I had thought of saying before, but have not said, and that is how deep is the fascination of South Arabia.

So many people think of South Arabia in terms of just Aden until they have been outside Aden, and particularly to the Eastern Aden States, especially that most attractive area, the Wadi Hadhramaut. When I was first told I was being posted to Aden I thought that at least I should be able to see whether the Wadi Hadhramaut is as wonnderful as people said it was. And it is a marvellous country, with an ancient civilisation going back in parts longer that our civilisation in Britain. I remember talking to the Governor in Shibam, that wonderful walled city, and he reminded me that they had been civilised since before Christ. I said to him, "You mean that you have been civilised longer than the British?", and he said, "Well, I was trying to find a more tactful way to express that."

Of course, although there is enormous poverty in South Arabia, and so much of the land is barren,

burning rock and sand, there are areas, of which the Wadi Hadh- is one—and there are other areas I have seen, in a State like Upper Aulaqi, which is on the edge of one of the great deserts—where, if there were resources to get the water, which is already present, out of the ground, it could blossom. As I flew down the Wadi Hadramaut to Sai'un there was actually water in the Wadi at the time. There is an abundant supply of water in certain areas if only resources could be applied to its use. It is, however, an area of great variety of civilisation. There is Mahra, in the East, where the tribal council has only just been formed; and the first and, to their mind, the most important law they passed was that there should be no political parties. This, they told me, when I met the tribal council, I should count for gain, and, to a certain extent in certain parts of South Arabia, one can say that; but when it comes to matching it with the different levels of sophistication we have a very great problem.

The noble Lord, Lord Gladwyn, put his finger on the point in relation to Aden. The fact that his noble friend Lord Ogmore may have been right in 1962 does not mean that he is right in 1967. The noble Lord, Lord Gladwyn, is one of the extremists in this House, but I regard the noble Earl, Lord Jellicoe, as a moderate, and I was astonished that he had—I would almost say the effrontery to criticise the short-

comings of the present Government's policy when one remembers the almost ineffable folly of the policy which the Party opposite followed in South Arabia in the past.

LORD GLADWYN

Share

My Lords, would the noble Lord please say in what respect he regards me as "extremist"?

LORD SHACKLETON

Share

My Lords, I was rather concentrating on the Conservative Party at that moment. I would not identify the noble Lord, Lord Gladwyn, with FLOSY, although there are equally civilised men there.

My Lords, reference has been made to the way in which the Federation has been formed. I want to say very little about this, because we are faced with a certain situation. Of one thing I am certain—and I went out to South Arabia with a very open mind: that, in the long run in South Arabia, irrespective of other areas of the world about which I shall not comment, the idea of a continuing base and a continuing defence treaty creates a degree of provocation; and the only policy left to the British Government was to announce, not only that we should leave by the due date but that there would be no British presence afterwards. We have taken a number of steps. It is difficult for me to criticise the noble Earl, Lord Jellicoe, because of the kind things he said about me and about such contribution as I have been able to make. But, my Lords, this is a matter that has been under continuous study by the Government. My noble friend Lord Beswick spent a long time there something over a year ago, and he was very conscious of the dangers and difficulties. As I said before, it is no good our pretending that there are easy solutions.

May I say, with the greatest respect, to my noble friend Lord Segal, whose knowledge of these countries is very great, as I know from the many conversations I have had with him, it is no good thinking now that we ought to have an alternative policy up our sleeve. We have to pursue the policy we have adopted and make it a success; and the proposals contained in the speech of my right honourable friend in another place were designed to make that policy more effective. But let me emphasise that it is clear that there is no continuing British presence. May I say to your Lordships that I think it is sometimes not appreciated that, however admirable, however gallant and however restrained may be the behaviour of our troops, in fact they are inevitably, in a situation such as exists in Aden, something of a provocation. At least they are a target. As a very distinguished General said to me, we have no place in the long run in this area, and that is why the Government have decided to withdraw.

My Lords, I do not want there to be any misunderstanding regarding the intentions of Her Majesty's Government. It is unfortunate that there has been some misunderstanding, even at the United Nations,

because the Bill relates only to Aden, Perim and the Kuria Muria Islands; and there is fear (which I should not have expected) that we are going to give independence only to those. As is made absolutely clear, and as I know your Lordships understand very well, it is the firm intention of the Government that all parts of South Arabia for which they are at present internationally responsible shall become independent. In that connection, the noble Earl asked me about the future of the Eastern Aden Protectorate States and the extent to which they would enjoy protection in the interim. One of the major parts of this package deal to which I referred was that we should continue to give support for a reasonable time, until such time as it was possible to judge whether they should come into the Federation or, conceivably, form some other Federation.

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LORD SEGAL

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My Lords, I hesitate to interrupt my noble friend, but he has more than once referred to this package deal. May I ask: if the package has a leakage, will the package be withdrawn?

LORD SHACKLETON

Share

My Lords, the noble Lord is getting almost too esoteric for me. Obviously there is a great danger of there being a hole in the package, but that package was intended to stop up certain holes which already exist. I must say to the noble Lord that not even this Government can guarantee the invariable success of every policy that they follow, although we are making a much better job of it than our predecessors with regard to South Arabia. We are doing the best we can in very difficult circumstances. The Government have a certain degree of optimism, but that may just be because, like the noble Lady, Lady Kinloss, I am fascinated and, indeed, deeply concerned about the future of South Arabia. But, from my judgment of the people there and of the circumstances, with energy and good will (there are still six months to go; and there is something to be said for fixing a timetable in which to arrive at solutions rather than letting things drag on) we may turn this into success. But there cannot be any guarantee.

My noble friend referred to the fact that Federations do not always work. If your Lordships' House in the days of Gladstone had not refused a limited measure of Home Rule to Ireland, they would still be in the Federation of the United Kingdom. It was the obstruction of the Liberal Party of the day that was responsible. So it is conceivable that we might have had a successful Federation of the British Isles which was not possible to achieve under Union. Despite the pressures imposed on Federations and the forces that tend to divide them—and nowhere are they greater than in South Arabia—I do not think we should stress that federation must necessarily fail.

I wish I could give a guarantee of the stability and prosperity of every country in the world. There are other areas where dangers exist, both in unitary and federal States. The fact that Mr. Bayoomi has been charged by the Federal Government with the formation of a new Government does not denote a perpetuation of the Federal Government. His task is to form a provisional Government in anticipation of the introduction of the Constitution for the independent Republic of South Arabia. I do not want this to be misunderstood. I am inclined to try to get away from the words "Federal Government", and to talk about it as the South Arabian Government. But that means that there is a change from the existing Federal Supreme Council. If Mr. Bayoomi is successful in forming a Government which will be more broadly based than the Federal Government, his Government might carry South Arabia 'forward into independence. But it is our hope that it will be possible to reach agreement on the formation of a central caretaker Government in accordance with United Nations resolutions, and one which would be all-embracing, politically and geographically. In this event, Mr. Bavoomi will have carried out a useful task in making possible the formation of a more broadly based Government. But the difficulties are great. I can only say that I admire his courage.

In this context the noble Earl asked me more about meetings with FLOSY and the N.L.F. Let me say that FLOSY and the N.L.F. have not buried their conflict; they are still very much opposed to each other. Except to say that Lord Caradon has not met Mr. Makawee, as we had hoped he would. I cannot say

anything about such meetings. With negotiations for the formation of a new Government under way, and with meetings taking place in New York between the U.N. Mission and Mr. Makawee, it would be better for me not to tell the noble Earl, who I am sure will accept it from me, that the subject is sensitive, and I think publicity could only do harm. It is clear that this is a moment when we hope that people are taking stock and approaches may be possible. But it is not possible to do this always in the most public fashion. I mentioned in my opening speech the difficulty of either of the extremist organisations (and, again, I do not refer to the noble Lord, Lord Gladwyn) appearing to be more flexible than the other. In these circumstances, I would ask your Lordships to allow me to give no further information on the subject.

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EARL JELLICOE

Share

My Lords, I do not wish to press the noble Lord on that specific point, but I should like to job back to an earlier question which I posed to him as to the precise degree of protection which is to be afforded to the three unfederated States of the Eastern Protectorate. I think the noble Lord was in the process of saying

something about that when he became involved with a long and interesting disquisition on Irish politics. I wonder whether he can tell me what precise protection those three unfederated States will enjoy, apart from benefiting from the financial assistance which we are going to give.

LORD SHACKLETON

Share

In the short term, the Eastern Aden Protectorate States will be in a position to provide their own protection. They are not likely to be directly invaded. The crucial element in their security, which is primarily internal, will be the Hadhrami Beduin Legion, the Mukalla Regular Army and various State forces. But certainly military conversations are likely to go on between the Federation and the Eastern Aden Protectorate States. I will only say that I take the noble Earl's point. I cannot say anything about it today beyond the fact that we hope that, in the long run, there will be a degree of agreement and understanding between the areas which ultimately will lead to federation. But clearly the big factor in giving support to these States was to ensure that they were not subject to destruction in one way or another. Obviously this is important in protecting the eastern flank of the Federation. I hope that I have said enough to give the noble Earl an indication that there is an awareness and a thinking about this problem.

The purpose of the naval force is to deter external aggression, obvious open aggression, against the independent South Arabia, and not to perpetuate—and this, again, seems to have been misunderstood; it has been misunderstood both in the Labour Party and at the United Nations—any notion of British military dominance in the area. The air support from the naval force and the V-bombers stationed at Masirah will be given only at the request of the independent South Arabian Government. The decision whether or not to accede to the request must be one for Her Majesty's Government alone. I am well aware, and so are Her Majesty's Government, of the sort of grey area that is involved, and the fact that the risk might be in the form of a national liberation army of some kind infiltrating across the border. Quite clearly the V-bombers, and, for that matter, the aircraft carrier, would be no effective deterrent against that. But this is where the other forces, including the greatly increased air support which the Federal Army will receive from its own air force and from the Hunters that have been given to it, will be of use.

The noble Earl asked me whether there would be any possibility of the carrier force remaining after six months. On present plans, there is none. The limitation is in the size of the carrier force which his Government bequeathed to the present Government. There is, in fact, only a limited capability to remain on station. But I do not wish to press this matter any harder. It is essentially the fact that this will make very heavy demands on the Royal Navy.

EARL JELLICOE

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My Lords, I do not wish to press the specific point much further myself, but may I take it that the Government do not consider six months absolutely sacrosanct? Will there be a degree of flexibility, if necessary, in the Government's planning on this matter?

LORD SHACKLETON

Share

My Lords, let me say that they do consider it so, but I will take careful note of what the noble Earl has said. I cannot go any further than that. In certain circumstances it is always possible to make changes, but I certainly would not give an undertaking or hold out any hope of a change. Of course, the important point is the deterrent against aggression, which on the whole we think is not very likely.

Now I should like to press on to further points, and let me first deal with the military position. I should like to make it very clear—and I am grateful to the noble Earl for raising this point—that there has been

no political or other dictation as to what weapons are to be used by our Forces. I think the noble Lord, Lord Segal, referred to this point, too. This is a matter, as always, for military judgment and military command. One of the first things I did when I went out to Aden was to ask not only the G.O.C. but other military commanders, whether they in fact had any impediment of a political kind in the use of force or weapons in fulfilling what they considered to be their duty, and in every case the answer was "No". It was a matter for judgment as to what particular weapon should be used in any particular case. It is certainly true that troops have been fired on from minarets and mosques; and troops have fired back when they have been fired on from those places. That has happened on only one or two occasions and I know of no other such incidents. Certainly the British troops have not entered mosques when arms have been suspected of being hidden in them. In those circumstances the Federal troops have carried out the searches; and the British military authorities are satisfied that this is the best arrangement.

The problem of searching Arab women is not one that I can give an easy solution to. I am sure that the noble Lord, Lord Segal, was not really suggesting that this was such a problem. I personally know of no complaints or dissatisfaction on the part of the British military authorities in relation to this matter. There are women members of the military police stationed in Aden to assist in such searches. But I suspect that one of the difficulties is that weapons and arms enter Aden through a variety of channels, and I would rather not be drawn on what those particular channels are; but they come in in a quantity much greater than could be concealed about the persons of Arab women.

LORD SEGAL

Share

My Lords, I had at first intended to ask a supplementary question for further information, but, on second thought, I think the subject is rather too delicate to press at this juncture.

LORD SHACKLETON

Share

My Lords, I am much obliged to my noble friend. May I say a few words about the present internal security situation? I think I have made clear—and I hope the noble Lord will accept it—that there is absolute discretion with the military with regard to the use of heavy weapons, and it is for their commanders to judge in the particular circumstances. As noble Lords in the Army will know, you do not give a definite right in all circumstances to use heavy weapons; and it may be there is a delay, anyway, in deploying them. There were times when perhaps it might have been useful. But there was certainly no restraint; and I deny, with a good deal of irritation, stories that have been published in the Press, some of which have got back to the troops out there, that there was any political interference of that kind.

EARL JELLICOE

My Lords, may I make my own position clear? Certainly I was not pressing that troops should have an automatic right to use heavy weapons, but merely—and the noble Lord has answered this—that commanders on the spot should have discretion.

LORD SHACKLETON

My Lords, I confirm that commanders on the spot have complete discretion, and they do not have to go to the High Commissioner to ask for permission. This is a proper exercise of command. I have been struck by the degree of anxiety on the part of the military commanders to stick to the doctrine of minimum force; and I must say that I think it is likely to pay off in a big way in preserving, and ultimately guaranteeing, peace in South Arabia and minimising loss of lives, both Arab and British.

In Crater recently there has been a slight lull in incidents, though a tendency for casualties among the security forces to increase. In Crater they have consolidated their control of the main commercial area and access roads into the town, although not all of Crater has been entered, and British infantry control the high ground dominating Crater. There is a need to re-establish the self-confidence of both the Aden State police and the Armed Police. They are vital in maintaining security duties, both now and after independence; and for these reasons, regardless of the inquiry into the alleged mutiny—and I say "alleged" because it is properly a subject of inquiry—every effort must be made to ensure their co-operation. That is why the G.O.C. took the salute at the Armed Police parade on July 13. Here again the military, like the political leaders out there, are having to exercise the most delicate judgment. As to the tragedy that took place in Crater a few weeks ago, this is at present a matter of a most rigorous inquiry. The preliminary results of it are leading to further investigation.

Perhaps I ought to say that one of the anxieties at the moment has been the difficulty in operating Aden Port owing to a boycott of military supplies. There is a threat here, and the Services may have to provide additional Service personnel. I hope I have dealt with most of the military questions, but if there are any that I have missed I shall be glad to try to answer them. I might mention that the evacuation of Service dependants is now complete, and the further evacuation of the families of officials, which was announced rather later, is going on very rapidly and should be complete by the end of July. And perhaps I might mention that the banks in the commercial centre of Crater, which suffered some damage but no casualties, have now reopened for business.

Let me deal with the two remaining points. First of all, there is the question of a separate date for Parliamentary control over the Order in Council fixing the date of independence for South Arabia and for the relinquishment of sovereignty. I can only say to your Lordships that if we were to make it a requirement that it should be determined by Affirmative Resolution, or even the Negative Resolution procedure, it would introduce a certain amount of loss of flexibility. It would be something we had never done before. This is not an argument for not doing it in special circumstances, but here the circumstances are such that I think it would be a mistake to do so, even if it had been the practice to do it in the past. It is not because I should myself wish to deny Parliament an opportunity of scrutiny; and if Parliament is sitting it will of course be perfectly open to Parliament to take such measures as it wishes to discuss the matter and to criticise the Executive. But I cannot hold out any hope of a variation in the Government's attitude in regard to this.

Now may I turn, very briefly, to the islands? First of all, Perim. The noble Lord, Lord Segal, did not attach as much importance to this aspect as I had expected, because I know that he has been very interested in this. I am inclined to agree with him that, if I understood him correctly, Perim is not so important as a general settlement. In any case, I should have thought the straits were capable of being blocked from the Yemeni mainland, which is only two miles away from Perim. This is not to suggest that if the United Nations took over Perim, that might not play a valuable and stabilising part. Therefore my right honourable friend, in deference to the pressure which came particularly from the Opposition in another place—and I support their initiative in this—has undertaken to make the strongest efforts to try to bring

this about. I ought not to underestimate the difficulties. The Federal Government have declared their very firm opposition to this proposal and said that Perim is an inseparable part of South Arabia; and the Yemeni republican authorities have similarly objected. This is not, in fact, the present constitutional position. Perim is a separate Colony, and is not constitutionally part of South Arabia, but the whole matter is to be discussed at the United Nations.

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I can say very little, I fear, about the intentions with regard to the other islands. Consultations will take place, but I am afraid I cannot tell the noble Lord in what way they will take place. I will see whether I can find out a little more about that before the Third Reading. My own view is that it is probably better to postpone these consultations a little and watch the progress of Constitution-making in South Arabia. I am hopeful that things are beginning to move rather more encouragingly. This may be false optimism on my part, but I still cannot conceive that, with the elements there for establishing a successful, independent South Arabia, men of good will, and showing enough energy, will not be able to bring South Arabia to independence peacefully. At any rate, Her Majesty's Government have made it clear that they are determined, at very heavy cost to the British taxpayer—and let us not minimise this cost—to make the greatest contribution they can to that end.

LORD GLADWYN

Share

My Lords, would the noble Lord by any chance like to comment on the major suggestions that I made; namely, that we might conceivably have a fall-back position involving an independent Aden and a separate Federation?

LORD SHACKLETON

Share

My Lords, I am obliged to the noble Lord. I did not really want to give him another dusty answer. I do not know whether he has studied the constitutional position. Although, as I said to him, the noble Lord, Lord Ogmore, might have been right before Federation, the noble Lord, Lord Gladwyn, is not necessarily right now. We should be involved in a breach of treaty if we attempted to take Aden out. We have no power to do this under the treaty arrangements entered into by the previous Government. Aden cannot withdraw before 1969: and we are bound by the legal requirement. Nor, I think, would anyone wish it to-day. No one—none of the Nationalist leaders—is advocating it; and I do not believe that at this stage it would be possible. It was one of the things at which I looked most carefully, and I am sure my noble friend Lord Beswick did, too; but we came to the conclusion that it was not realistic to do this. There are also one or two points raised by the noble Earl, Lord Jellicoe, which I fear I have not answered.

On Question, Bill read 2[a] , and committed to a Committee of the Whole House.

Bermuda Constitution Bill

4.46 p.m.

Order of the Day for the Second Reading read.

LORD SHEPHERD

Share

My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Bermuda Constitution Bill, has consented to place Her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

THE PARLIAMENTARY UNDER SECRETARY OF STATE FOR COMMONWEALTH AFFAIRS

(LORD BESWICK)

My Lords, I beg to move that this Bill be now read a second time. The purpose of the Bill is important, but quite simple. It is to enable Her Majesty's Government to establish by Order in Council a new Constitution for Bermuda. There is also provision for future amendment, if necessary, of that new Constitution. This new Constitution will follow the full outline decided by the Bermuda Constitutional Conference which was held in London last November. The details can be found in Appendix A to the published Conference Report.

In recent months, we have been legislatively concerned with a number of Colonies and Protectorates. Each has had its own characteristics. Bermuda shares with others with which we have dealt an abundance of sunshine and a long history of association with Britain, but its special feature is the seniority of its Parliament. Representative government was introduced in 1620, and the Parliament of Bermuda is the oldest in the Commonwealth outside the United Kingdom. However, the best friends of Bermuda could scarcely claim that her Constitution throughout the centuries has kept pace with the

times. The present Constitution is the sole surviving example of the type found in the original American Colonies.

Prior to 1963 the franchise was based entirely on property, and property owners could vote in every parish in which they owned land. In 1963, when the present House was elected, the franchise was extended to all over 25 years of age, and the property owners were restricted to a single additional vote. In 1966, following the recommendations of the Joint Select Committee, the additional property vote was abolished and the voting age was reduced to 21.

Looking at these constitutional developments, some would say that the rate of reform in the last four years has been astonishingly rapid. On the other hand, there are those who are inclined to dwell on the extraordinary sloth displayed in the previous three centuries. Something of the same difference in standpoint has led some in the Colony to say that the proposed new Constitution goes too far, and others to declare with equal convic- tion that it does not go far enough. The probability is that the present pace of reform is about right, and, as my honourable friend in another place has emphasised, this proposed new Constitution is, after all, part of a process of development which will not come to an end with the passing of this Bill or the adoption of the proposed Order in Council. Moreover, the Minister of State has given an undertaking that if, after the 1968 Election, any of the Parties in Bermuda press for further changes in the Constitution, Her Majesty's Government here will be ready to consider their proposals.

I have spoken of the almost imperceptible political growth until very recent years, and it is only right for me to emphasise the extremely successful economic growth which has taken place over the same period. Bermuda is one of the most prosperous communities in the world. Moreover, it is a multiracial society, with some consequential controversy, I agree—For example, controversy over the issue of boundary lines; controversy over the question of qualification of political candidates—but it has been controversy without strife, and I am sure we all hope that it will remain that way. I read that Admiral Sir George Somers, while leading a group of colonists bound for Virginia around the year 1609, was wrecked on the island. It was Sir George who first sent out to the world favourable reports of Bermuda's attractions. Since then the travel agents have avidly emphasised the truth of what he said, and the airlines, particularly of the United States and Britain, have made what was always an attractive holiday, one that is practically available for thousands of people. I am sure that all in this House will share the hope that, with the proposed new constitutional step forward which this Bill will make possible, social and economic progress will continue to go forward hand in hand. With the degree of ability possessed and the tolerance shown by members of both the minority and majority political parties, and with the political sagacity of the present Governor at their disposal, we can have every expectation that this hope will be realised. I beg to move.

Moved, That the Bill be now read 2[a] .—(*Lord Beswick*.)

4.52 p.m.

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EARL JELLICOE

Share

My Lords, I am grateful to the noble Lord, Lord Beswick, as I am sure your Lordships are, for the way in which he has introduced this Bill to your Lordships this afternoon. I rather suspect that your Lordships will decide to approve it. For my part, it makes a very pleasant contrast to the Bill we have just been discussing, the Aden Bill. We are dealing here with one of the balmiest and loveliest islands in the world, with a people who enjoy a remarkably high standard of living and who lately have made very marked economic progress. They, of course, receive no aid from us. In fact, Bermuda makes a not inconsiderable contribution to our hard-won currency reserves, and therefore is able to look us in the economic eye. Not least, we are dealing here with a bi-racial community where, at least until now, the races, coloured and white, have contrived to co-exist in a very high degree of harmony. We are also dealing with one of the oldest Constitutions in the Commonwealth, second only in antiqiuity to ours.

I recognise, of course, that even in the most beautiful of all islands man may not have yet succeeded in devising the best of all possible constitutions, and I have of course noted the criticisms which have been voiced about this Constitution in another place. The fact that they were voiced on behalf of the Bermuda Progressive Labour Party, P.L.P., by Left-Wing members of our unprogressive Labour Party, the U.L.P. if I may so call it—and the constitutional adviser of the P.L.P. is Mr. Bing, of Ghana fame—does not of itself of necessity rob those criticisms of all validity. There have been criticisms of the fact that the new constituencies proposed by the recent Boundary Commission will still be unevenly drawn and possibly weighted in some cases against the poorer voters. But I think I am right in saying now that in the worst case the disproportion has been reduced from a factor of something like ten to a factor more like three. There has been criticism of the system of registering voters, the voluntary system as opposed to our more automatic procedure. There has been some criticism of the fact that public servants in Bermuda are not able, or have not been able, to stand for election, although I understand that under the most recent proposals industrial employees, bus drivers and the like, will now be able to present themselves for election. If so, it removes what seems to me at least to be an obvious anomaly, and one which, of course, is to the disadvantage, very possibly, of the coloured community in Bermuda.

There may be deviations in this proposed new Constitution from the strictest possible application of the pure doctrine of "one man, one vote". Nevertheless, it represents, as the noble Lord, Lord Beswick, has said, a very large measure of advance, and as such it is to be welcomed. It is also, as I understand it, about the most which the existing bridge between the parties in Bermuda will bear at present. It seems to me that, in these neo-colonial and post-colonial days, we must choose our stance very carefully when we are considering colonial Constitutions. We can reject the opinion on the spot and impose a solution, or we can seek the best possible compromise, and this is, as I understand it, what has been done in this case. I think I am right in saying that much of the credit for the compromise goes to the wisdom and assiduity of the Governor. It may go a little against the grain for me to say this, but I should be less than frank if I were not to make it clear that in this case—I admit it is a very rare case—the present Government have acted wisely. That being so, I am glad to advise my friends on this side of the House to support this Bill.

4.57 p.m.

LORD OGMORE

Share

My Lords, I, too, am grateful to the noble Lord, Lord Beswick, for the concise manner in which he moved the Second Reading of this Bill. We on these Benches support the Bill, believing it to be, as the noble Lord, Earl Jellicoe, has said, a step forward—not a very big step perhaps, but still a step; and for this reason we support it. Bermuda, as your Lordships know, consists of a series of islands which are the summit of an extinct volcano. It has a population of about 40,000—that is the last Census figure I have seen. The islands were mentioned in *The Tempest* when Shakespeare talked about the "still vexed

Bermoothes", the Elizabethan way of describing Bermuda. The main exports are lilies and lily bulbs, and the main imports are United States tourists and those who object to paying high taxes, whether individuals or companies.

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These islands were uninhabited when they were discovered, in the way described by the noble Lord, Lord Beswick, so there is no problem here about some small group who are regarded as the aborigines. There are, in fact no aborigines: the inhabitants are all either immigrants of a wealthy nature or sons of immigrants, or grandsons or great-grandsons, not nearly as wealthy as the others. I was rather surprised to hear the noble Lord, Lord Beswick, describe this place as one of the most prosperous countries in the world. I should have thought that the prosperity did not go all the way down. It is true that there is a group which can be described as highly prosperous, but I should not regard the prosperity as being by any means universal.

I am rather, not surprised but concerned, at the curious timing of this Bill that it should have been introduced in the same week as another measure of Her Majesty's Government. A few minutes ago, on the Aden Bill, the noble Lord, Lord Shackleton referred to the famous speech of Mr. Gladstone at the Dalkeith Cornmarket in, if my memory is right, 1886, when he began the Midlothian campaign and proposed a United Kingdom Federation—England, Scotland, Wales and Ireland. The noble Lord, Lord Shackleton, appeared to bemoan the fact that this has never come into being. It is odd that only this week, so different from the treatment of Bermuda, which is getting a very considerable advance—is really getting domestic self-government to a vast degree—the British Government, the Labour Government, in their Local Government in Wales proposals, not only decline any domestic Parliament but propose only a nominated Advisory Council for my nation of 2½ million people of ancient stock. Bermuda is going forward; and quite rightly. But Wales is going back, because 400 years ago we had a nominated Council with executive powers. Now the Labour Government are proposing a nominated Council without executive powers. How many hundred years more must we wait even for a nominated Council with executive powers? I hope in the next Session to give your Lordships a chance to remedy that situation.

To revert to Bermuda, may I ask the noble Lord, Lord Beswick, first of all, whether Bermuda is still a paradise for those gentlemen, and perhaps ladies—and companies too—who object to paying high taxation? If so, are there any grants, taxes, loans or Exchequer subsidies paid by the United Kingdom Government, in other words, by the United Kingdom taxpayer, to this delectable island, to finance those who do not wish to pay any tax there? Next, can the noble Lord tell us what defence arrangements are proposed, either external or internal? Only a few weeks ago we passed a similar Bill with regard to another territory, a group of islands in the Caribbean, and already an appeal has been made by the Prime Minister there for British troops to go to his aid in trying to subdue some of his people in one of the islands, which wants to break away from him and his Government. So I think it is important to know what defence arrangements are being made by Her Majesty's Government, and what defence arrangements are being sought.

Thirdly, is there any suggestion that there is going to be a large administrative headquarters—a Governor, I presume, with a number of Ministers, with a large number of civil servants, all to administer a territory of the size and population of an English market town? I have previously suggested to your Lordships that in these places they tend to put on a very small horse an enormous amount of harness, so that eventually the horse staggers and falls under the weight of the harness. I take it to be true that Bermuda will not have any representative at the United Nations; so that there will not be any Cadillacs from Bermuda floating around New York. This happens in so many cases where small independent, non-viable territories have become members of the United Nations.

Then what is the position of the United States base which in 1940 we traded to the United States in exchange for a large number of obsolete destroyers? They were extremely handy at that time. But what is the position to-day? Is this base still in existence? If so, what arrangements have been made for the transfer of sovereignty over the base to the Bermuda Government?

Finally, are any improvements suggested with regard to social services in Bermuda? We know already that certain suggestions have been made by the Progressive Labour Party; but, quite apart from those, I am sure that a number of social services are needed in Bermuda. The people there are like people in

most parts of the world. They need far more social services than they have at present. I think it would be interesting and valuable to Members of this House if the noble Lord could give an indication that more money will be spent on social services in Bermuda, even if it means that taxation is, for the first time, levied there. I see no reason at all, in this day and age, why rich people should be able to go from this country and from other countries to Bermuda, to get out of paying taxes here and in other countries, where they would have to pay heavily for social services and defence and other necessities. They do not pay a penny piece there, and the poor people in Bermuda are, in consequence, deprived of social services.

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If I am wrong, the noble Lord will tell me. But I have over the years put Questions about Bermuda. I have spoken on Bermuda. The Bahamas are another example. I think that before we in this House pass this sort of legislation we should try to find out from the Government what the situation is going to be in circumstances which, to my mind, are not completely satisfactory. I wish the people of Bermuda well. I hope that they will exercise in a proper and responsible manner their duties and their privileges under the new Constitution, and I trust that Her Majesty's Government and the people of Britain will continue to

enjoy as friendly an association with the good people of Bermuda as they have done for the last three centuries.

5.5 p.m.

LORD BESWICK

Share

My Lords, I would thank the noble Earl and the noble Lord, Lord Ogmore, for the general welcome which they have given to this Bill. The noble Lord, Lord Ogmore, qualified his welcome by, I thought, a tinge of jealousy when he compared the alleged discrimination against his own country of Wales with the degree of independence which is given to the people of Bermuda. I am not certain whether the noble Lord has thought through sufficiently deeply the implications of the criticism he made. If we are going to have a Bill for Wales similar to that which we are now considering for Bermuda, it may well mean that the noble Lord may be deprived of the right he has to come and order our affairs in England. I am not at all certain that the remainder of his fellow citizens would like to give up the dominating position which they now hold in English politics.

The noble Earl was good enough to say that Her Majesty's Government have been right in doing what they propose to do with Bermuda. I can only hope that his other playful and irrelevant remarks about certain members of the Labour Party made it easier for him to be so kind in his general welcome. The noble Earl indicated, quite fairly, the points of difference that remain so far as the' constitutional progress of Bermuda is concerned. Some progress has been made, even since the Constitutional Conference of last November, in closing the gap as between those who feel that we should be going a little faster and those who feel that we have not gone fast enough.

The Select Committee under the chairmanship of Sir Henry Tucker, whose recommendations had extended the franchise in the period between 1963 and 1966, have recently made further recommendations which have been under consideration. I understand, from information received by telephone this afternoon, that the House of Assembly in Bermuda have agreed recommendations made by this Select Committee which will have the effect of improving the situation so fax as the critics are concerned. For example, I gather that the House in Bermuda will be meeting one full day instead of three half-days a week, and that there will be a payment of £10 a sitting instead of 24s. as previously.

The acceptance of the recommendations also means that Government-employed teachers may stand for election and need resign only if elected, although they will then have no guarantee of reemployment. So far as Government industrial employees are concerned, they also may stand; but neither the Select Committee Report, nor the debate which took place on Friday last, has made it clear whether they will have to resign if elected. This is a point which the Colonial Secretary in Bermuda is endeavouring to clarify.

EARL JELLICOE

Share

My Lords, may I interrupt the noble Lord to ask, on that last point, whether they will have any guarantee of re-employment if they are not elected?

LORD BESWICK

Share

My Lords, if we have not yet established whether they are required to resign, then the further question probably does not arise. But I will certainly see that I get the information and pass it to the noble Earl. He made some reference to the complicated question of constituencies. I think that we all accept that it is possible, if one thinks hard enough, to make some criticism about alleged unfairnesses in the drawing of boundary lines. But I am sure everyone will agree that the changes that have taken place so far have

had the effect, as the noble Earl rightly said, of reducing apparent unfairness; and, as I have already indicated, if there are requests for further reviews of constituency boundaries there is no reason why the requests should not be considered.

I was asked a number of detailed questions by the noble Lord, Lord Ogmore. I can assure him, as was indicated by the noble Earl, Lord Jellicoe, that there are no loans or subsidies payable from this country to Bermuda, although there has been a minute amount of technical assistance. He asked me about the possibility of Bermuda being a tax haven. Certainly no income tax is payable there, although provisions have recently been introduced for the collection of a property tax. The noble Lord also asked me about defence commitments. The position is that there is no specific commitment in regard to Bermuda, except the general commitment which we have to protect all the dependencies of the United Kingdom. The position of the American base is not changed at all by this Bill, nor will it be changed by the proposed new Constitution. As the noble Lord will know, the base was leased for a period of 99 years as from 1941, and that tenancy remains unaffected.

The noble Lord made his usual very wide remarks about not putting too much harness on any particular horse. One of the criticisms which has been made of Bermuda is that too much of the work of Government in the past has been left to voluntary workers, and even now the possibility is that part-time service will be the order of the day. I do not believe that the noble Lord's doubts in this matter will be realised as regards Bermuda. The noble Lord also asked me about social services. I see that in recent years Bermuda has spent very considerable sums on education and health, and although State social security falls short of the standard in this country a Workmen's Compensation Act is now in force; a Social Insurance Bill providing for old age and widows' pensions is under consideration, and a comprehensive health insurance scheme is being studied.

LORD OGMORE

Share

My Lords, may one take it that at the moment there is virtually no Welfare State in Bermuda, and no social services as we know them? They have not even got to 1911—the date of Lloyd George's National Insurance Act.

LORD BESWICK

Share

My Lords, the absence of a great social reformer like Lloyd George has been marked in Bermuda. It is a fact that, by our standards, the social services are inadequate, but, as I have indicated, there is a growing realisation that this is so. I hope that the movement towards a better system of social services will be stimulated by the remarks which have been made by the noble Lord.

On the subject of education, one of the gratifying features of the educational system in Bermuda is that there is absolutely no discrimination on racial grounds in Government-aided schools. Compulsory schooling is to be extended this year until age 15, and the amount spent on education has gone up from £982,000 in 1965 to £1,183,000 in 1967. So it can be seen that in education, as well, things are moving. I hope that, with those probably inadequate answers to questions that have been raised, your Lordships will find it possible to give this Bill a Second Reading.

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On Question, Bill read 2[a] , and committed to a Committee of the Whole House.

National Insurance (No 2) Bill

5.15 p.m.

Order of the Day for the Second Reading read.

LORD BOWLES

My Lords, I beg to move that this Bill be now read a second time. The central provision of the Bill, which will affect the financial position of well over 9 million people, is the proposed increase of 10s. in the standard weekly rate of National Insurance benefits for a single person and of 16s. in the rate for a married couple—giving new rates of £4 10s. and £7 6s. per week respectively. The increase applies to retirement pension, widow's pension, widowed mother's personal allowance, unemployment and sickness benefits and maternity allowance. The proposed rates of benefit are set out in detail in Schedule 2 to the Bill, and the old and new rates are shown side by side in Appendix I of the Explanatory Memorandum on the Bill. Noble Lords will be aware that the great majority of people affected by these increases are retirement pensioners, of whom there are currently 6½ million; and the number is steadily rising.

The purpose of the proposed increase is to maintain the substantial improvement in real standards that we achieved in 1965. In that year, National Insurance benefits were increased by 12s. 6d. for a single person and by 21s. for a married couple. Thus, during their first three years of office, the Government will have increased benefits by £1 2s. 6d. for a single person, and by £1 17s. for a married couple. The real value of the increases in the basic rate since October, 1964, in terms of purchasing power, is 15s. 4d. for a single person, and £1 5s. 5d. for a married couple. And while this does not give cause for complacency, it is true to say that we have effected a considerable improvement in the position of pensioners and other beneficiaries. Price changes affect us all; but the cost-of-living index is a matter of personal day-to-day experience for the many people who are largely dependent on contributory State benefits. Whatever the future may bring by way of changes in the structure of National Insurance—and some important changes have already been made—the Government will con- tinue to honour its obligation to these people.

My Lords, in addition to the increase in the basic retirement pension we propose to reduce the number of contributions needed to earn an increment to such pension. Increments are earned by those who, on reaching retirement age, are able and willing to continue to work. To the flat-rate retirement pension, to which their contributions have already entitled them, there is added at present, an increase of 1s. a week for every twelve further contributions they pay. The Bill reduces the number of qualifying contributions to nine. This means that in future people will be able to increase their pensions by as much as 29 shillings, as against the present maximum of 21 shillings. The Bill also increases the death grant from £25 to £30. The rate has not been changed since 1958, and although the grant is not intended to cover the full cost of a funeral it is intended to provide a substantial contribution towards this inevitable and comparatively heavy expense.

I will now turn to the Industrial Injuries scheme. The Bill increases both the main Industrial Injuries benefits. Injury benefit, which is paid during initial incapacity, will be increased by 10s. to £7 5s. and the disablement pension for an assessment of 100 per cent. will be increased by 17s. to £7 12s., with proportionate increases for lower assessments. The Bill also increases disablement gratuities and the

supplementary allowances payable with disablement benefit. These are special hardship allowance, unemployability supplement, constant attendance allowance, and the additional benefits payable for dependants. The standard rate of Industrial Injuries widow's pension is increased by 11s., from £4 10s. to £5 1s. These changes in Industrial Injuries benefits will provide increases for about 350,000 people.

Noble Lords who take a special interest in social security matters will recall that in 1965 the Government increased the old "10s. widow's" pension (a reserved right from pre-1948 insurance) to £1 10s. On this occasion it is proposed to increase the £ 1 pension for the younger childless industrial widow, which has remained unchanged for some years, to £1 10s. This has been done without prejudice to the Government's general review of the provisions for widows, including widows who are bereaved at a comparatively early age. Improvements comparable to the increases in the main Industrial Injuries scheme will be made in the current benefits of those whose disablement dates from the pre-1948 Workmen's Compensation days—the men descriptively, if inelegantly, known as "old cases". Clause 3 of the Bill also makes a slight though, for those affected, important extension in the scope of compensation for malignant diseases which originated from an industrial cause before 1948.

Increases in benefit, of course, require corresponding increases in contributions. The flat-rate contribution for an employed man is increased by 2s. a week, with an increase of 2s. 3d. in the matching contribution paid by his employer. In the case of an employed woman, the increases are 1s. 9d. and 2s. respectively. The self-employed man's contribution goes up by 2s. 4d. Graduated contributions are not affected. A number of elements go to make up the contributions, and it may be helpful to refer to Appendix II of the White Paper for a detailed picture of the contribution rates. The cost of the increases to the National Insurance and Industrial Injuries Fund will be £219 million and £10½6 million, respectively, in the first full year of operation. The Exchequer Supplement to the Funds will be increased by £53 million and £1½8 million respectively.

The Report on the Circumstances of Families has just been published and is likely to be widely read with both interest and concern. Parents will not need to be reminded what a heavy responsibility children are, as well as being a great joy in favourable circumstances. Their welfare is a community responsibility as well as a family one, particularly where family resources are inadequate because of misfortune or low wages. The Government have promised to announce later this month their proposals for family endowment. There has been much discussion over the question of family poverty, but it is a problem to which there are no immediate or simple answers. The Government are seeking special and temporary power in this Bill, as it may be desirable to make an interim increase in family allowances to coincide with the increases in other benefits at the end of October. Without this special power, any such increases would be impossible because of the imminence of the Summer Recess.

My Lords, a few minutes ago I mentioned costs, and noble Lords on both sides may have felt, "Ah! Here is the snag." Concern has been expressed, both in public debate and in another place, that so much money may be receiving too wide a distribution, and that it is going to those who do not need it, while those who are in real need are passed over. Since resources are not unlimited, such debates inevitably raise the issue of a choice between universal benefits and selectivity based on some test of need. My right honourable friend, the Minister of Social Security, has said, in reply to questions in another place, that she does not see the issue in terms of two mutually exclusive alternative solutions. It is surely right that people who have contributed to the National Insurance Scheme throughout their working lives should be able to look forward to the benefits for which they feel they have paid, in the expectation that the value of those benefits will not be eroded progressively by rising costs.

It is quite misleading to suggest that there are large numbers in receipt of State benefits who could manage without them. A substantial proportion are at or near the supplementary benefit level—which is intended as a basic acceptable standard. The question one must ask of those who speak in favour of selectivity is: do they mean that the increases proposed in this Bill should not be given, or should be given only to those whose resources can be established to be inadequate? This is tantamount to freezing pension rates and letting them progressively decline in value, while extending means testing to all contributory benefits. I am bound to say that there is a great deal of very understandable reluctance among our critics to give a straightforward answer to the question.

The Government are very much aware of what remains to be done, although much has already been achieved. Since the Government took office in 1964, they have been carrying on a continuous review of the full range of social security provisions. The problems are being tackled in turn, and improvements have been introduced as soon as possible; for example, the supplementary benefits scheme, earnings-related short-term benefits, and redundancy payments. Work is continuing on the earnings-related pension scheme, and on consideration of provisions for the disabled and for widows. My Lords, as a Socialist I am an idealist, but I hope that I am also a realist, and it seems to me that ideals are not very fruitful when they become detached from reality, while reality is not very palatable when it becomes separated from ideals. This Bill is a realistic step towards the fulfilment of the ideals which I am sure all of your Lordships share. I hope that after the debate, to which my noble friend Lord Sorensen has kindly agreed to reply, the Bill may be given a Second Reading. I beg to move.

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Moved, That the Bill be now read 2[a] .—(*Lord Bowles*.)

5.27 p.m.

LORD DRUMALBYN

Share

My Lords, I should like to thank the noble Lord not only for having explained the purposes of this Bill, but for taking the opportunity to go into the Government's philosophy; and, I think it is true to say, the philosophy which has guided successive Governments in this matter. I do not think it would be appropriate on this occasion to debate that issue. After all, this is a rates Bill, and apart from Clause 5 it does little else besides altering the rates benefit to take account of changes in the value of money and the general standard of living in the country.

It is widely expected by the public that the precedents established during the 13 years of Conservative Government and since will be followed. In that period rates were adjusted every two to three years, and of course during that time it was always justifiable, because of rising national prosperity, to provide increases which were more than was required, simply to restore the value of the benefits to what they were at the time of the last increase.

But this time the circumstances are somewhat different. We are told that the amount required to restore the value of the single standard benefit to what it was at the beginning of 1965 is 6s. 11d. The increase which it is proposed to bring into effect at the end of October is 10s. Meantime wages are likely to rise, and it seems probable that the cost of living will increase within the next three months. So it may well be that by the end of October the value of the new rates will not greatly exceed the value of the present benefits when they were brought into effect. In any case, it is always a good thing, if possible, to bring in new rates at the start of winter, and also to leave a little margin for further decline in the purchasing power of the pound.

In a word, for my part I welcome the increases as appropriate in the circumstances, but I must add that the country was led to expect, by what was said by the Party opposite at and before the last two General Elections, that we would by now have had before us a rather different kind of Bill, which would not just have been a rates Bill. We are once again told by the Minister that work is continuing—and I noticed that the noble Lord used the same phrase as was used in another place—on an earnings-related pension scheme to replace the existing scheme, and on improved provision for widows and the long-term sick and disabled.

In the light of my experience I readily admit that I was not surprised that the scheme is not yet ready to bring to Parliament, for I know how much study is required before a new scheme can be formulated that will be fair as between contributors, and which will be financially viable. And the Labour Government now know that, too. We said that it would take a long time, and it certainly has. Meanwhile, I for one believe that it is right that the value of benefits should be readjusted, so that the reasonable expectations of the 6½ million retirement pensioners, not to mention the widows, the sick and the unemployed, should not be disappointed.

We have, of course, the Government Actuary's Report on the financial consequences of the Bill. It is

perhaps a little unfortunate—I do not blame the Government for this—that we have not got the Annual Report of the Ministry to assist us. It is always dated July, but I am afraid it is generally towards the end of July before it appears. In a full year, as the noble Lord said, this Bill will mean an increase of £208 million in contributions, plus £53 million in Exchequer supplements; that is, £261 million in all. In fact the benefits are expected to cost only £219 million, so that the real cost to the Exchequer for the next three years will be only some £11 million to £15 million a year. What has aroused most criticism, as the noble Lord has said, is the increase in the flat-rate contributions—I think he said 4s. 3d. for each employed person; 2s. for the employee and 2s. 3d. for the employer. It certainly would have been possible for the Government to reduce the burden on the lowest-paid workers. They could, for example, have raised the upper limit of income subject to graduated contributions, as was done in 1963. I readily agree that this is not an easy operation, for first of all it would in many cases mean adjustments in occupational schemes, and would certainly mean an increase in what is known as the "equivalent pension benefits". It would also involve an increase in the contracted-out contributions, which could bear heavily on those in the lower-income groups who contract out.

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Provided, therefore, that the new scheme promised by the Government is not going to be too long delayed, it is reasonable in my view not to raise more through graduated contributions at this moment. I would make one strong plea to the Government. If they really are going to put forward a new scheme, let us have it as soon as possible, with plenty of time for the country to study it, think it over and debate it. I hope that we shall not be presented with a ready-made scheme which we are told cannot be altered, which will be forced through Parliament by the crack of the Whips.

In preparation for this I would ask the noble Lord to consider one suggestion. I wonder whether a comparison has been made between the value for money that a lower-paid worker receives for his National Insurance contribution and what he would have to pay in other countries and what he would get in return there. One reads O.E.E.C. and other overall comparisons, and I am bound to say that I do so with very considerable reserve. It is little use comparing baskets of goods: one wants to know exactly what is in the basket. I suggest that it would be a good thing if the Government could get out some kind of comparative statement. I know how difficult it is, but I think it would bring home to people what the position is in this country, and what improvements we might look for; and in my view it will be found that our social security arrangements are better than they look on paper in comparison with other countries.

There is one aspect of this measure on the handling of which I do not think the Government are entirely to be congratulated. I suppose it would be generally admitted that the worst poverty is to be found among those who at the present time are not covered in any way by our social security arrangements. I am not referring, and I do not intend to refer to-day, to those old people who were too old to enter into the National Insurance Scheme and who are now unwilling to ask for supplementary benefits. Noble Lords will know my views on this, and I shall not inflict them on your Lordships once again. Poverty, after all, is a relative term, and there must still be many surviving in circumstances severely reduced through no fault of their own. But there is also what might be called the absolute poverty of those with small wages and large families. As they are earning, they are not eligible for supplementary benefits; and I think that in some education authority areas, because they are not eligible for supplementary benefits, they are either not entitled to free school meals or, at least, they do not apply for them for their children. If they are lucky enough to have council houses, their rents may be reduced, but not otherwise. If they lose their jobs or fall sick, the supplementary benefits are limited by the wage-stop, so that the total benefit that they receive cannot exceed what they were earning.

My Lords, it is easy enough to be wise after the event, but in retrospect it was almost certainly a mistake in 1945 not to create a Ministry of Social Security then. This is not a Party matter, because study was given to this before the General Election. It was also a mistake that such a Ministry should not have full control over family allowances. I was very conscious of this myself when I was at the Ministry of Social Security, and I have no doubt that the present Minister is, too. I think this could have been done even although family allowances were not to be paid for out of the National Insurance Fund. According to the review that has just been published, I understand that there are something like 125,000 families where the fathers are in full employment, and where the total resources fall short of the minimum requirements according to supplementary benefit rates scales.

The Minister has said in another place—and the noble Lord has confirmed it—that family endowment proposals will be announced shortly. Is this the same thing as saying that the Minister is going to make an announcement about family allowances before the end of this month, or is that dealing with two different things? I should like to be clear about that. In Clause 5 the Minister is seeking power to make adjustments in family allowances by Order, which would come into force at the same time as the alteration in the National Insurance rates and the supplementary scale rates, which are also being altered by regulation. I should have thought that it would have been better if, along with this Bill, Parliament had been enabled to consider the proposed changes in family allowances. After all, we now have a Ministry of Social Security. It cannot be said that family allowances are not relevant: certainly the Government Actuary did not think so. He did not think they were irrelevant, because he referred to the cost of increasing them. I would ask the noble Lord whether he is able to say that the Order is likely to be laid before Parliament before the House rises, or whether there is to be only an announcement made. If it is only an announcement, then I hope that there will be time to debate it, because it will be the only opportunity before it comes into effect. My noble friend Lord Windlesham will be referring to other groups needing special help.

My Lords, there are four comparatively minor points I would mention before concluding. For the first time, I believe, industrial injury benefit, as distinct from long-term disablement benefit, is increased only by the same amount as the standard National Insurance benefit; that is to say, 10s. for the injured employee plus 6s. for the wife or other adult dependant. I would ask the Government to say what significance is to be attached to this change. It looks as if it is intended that the industrial injury benefit should in future increase by the same amounts and not by amounts proportionate to the increases in the standard rates. Schedule 4 deals with four changes which are not mentioned either in the Explanatory Memorandum to the Bill or in the White Paper (Cmnd. 3320) which are difficult to follow. I wonder whether the noble Lord could explain two of them.

The first is the relief from disqualification for sickness benefit through failure to give the prescribed notice of illness. The second is the provision which enables a widow to receive the maximum amount of retirement pension without making election between different courses open to her. Both of these changes seem worthy of support, but they are hard to understand. If they have been referred to the National Insurance Advisory Committee and have been reported on, perhaps the noble Lord will tell us when. Otherwise, perhaps he could let the House know about them, either now or on Committee stage, or in some other way.

Clause 4 is also beyond me. It certainly seems that there should be some means of informing your Lordships what such provisions mean. I think this is a point worthy of consideration. It is not necessary to go into details now, on Second Reading; but I think we should like to know what it is all about. As I say, it is very difficult to understand; and I do not think it has been referred to at any of the discussions that have so far taken place.

I come now to my final point. I welcome the improvement of one-third in the inducements to defer retirement. I would ask the noble Lord to say what will be the cost of this.

LORD SORENSEN

Share

My Lords, I did not quite hear what cost it was that the noble Lord wanted to know.

LORD DRUMALBYN

Share

The cost of alteration in the inducements to defer retirement. I think that perhaps the noble Lord has now got the point. The noble Lord, Lord Bowles, explained, as I understood it, that in future nine contributions will earn one shilling, instead of 12 contributions being required. As I said at the outset, I do not think this is the occasion for a wide-ranging debate on a rates Bill. I would only say, in conclusion, that, for what it is worth—and I think it will be worth a great deal—in keeping rates in line with the cost

of living, the Bill is to be welcomed.

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5.44 p.m.

LORD INGLEWOOD

Share

My Lords, I intervene to make only three very short points. They all arise out of the speech of the noble Lord, Lord Bowles, who moved the Second Reading of this Bill; and I make them in the hope that the noble Lord who is to reply will be able to say something, however briefly, about them, because I think they are relevant. Because this is a rates Bill, all the points, I am afraid, are fairly technical. The first concerns the Exchequer supplement, to which the noble Lord referred. We are all familiar with up-rating procedure, since it has happened a number of times since the war. There is a fairly familiar pattern under which the increased costs have been met between the employer, the employee and the Exchequer. The noble Lord referred to an increase in the Exchequer supplement of, I think, £53 million. That seems to

me to be a larger part of the increased cost that will fall on the Exchequer than we are familiar with. I wonder whether the noble Lord who is to reply could tell us whether the proportions are broadly the old ones or whether there has been any substantial change.

The second point concerns the old cases. This is a very complicated question. All I am going to ask is: Can the noble Lord tell us broadly how many of the old cases are still in payment? The third point concerns Clause 5, to which my noble friend referred. I think it is a new procedure whereby changes in the family allowances will be brought about by Order under the Negative Resolution Procedure. The noble Lord, like me, has served in another place and probably he, too, has grown to be suspicious of these Orders when they are introduced under the Negative Resolution Procedure. Subsection (2) seems to show that that is intended. I should have thought that an Order which concerns the rates of family allowances ought to be introduced under the Affirmative Procedure whereby the responsible Minister explains, albeit briefly, what the Govern- ment intend to do. If noble Lords will look at to-day's Order Paper they will see that we are later to be asked to approve the Hill Land Improvement Scheme 1967 and the Hill Land Improvement (Scotland) Scheme 1967, both under the Affirmative Procedure. Yet we are now being asked to approve the making of changes in the rate of family allowances under the Negative Resolution Procedure. I should have thought it ought to be the other way round.

5.46 p.m.

LORD TAYLOR OF MANSFIELD

Share

My Lords, I welcome this Bill, and there is a note of satisfaction to which I wish to give expression. It concerns the "industrial widow", by which term I mean the unfortunate woman who loses her husband either through industrial accident or disease. At present the widow who is left without dependent children and who is under 40 years of age receives a pension of 20s. a week. This rate was fixed in the original Act of 1948, and despite all the increases that have been made since that time this is one of the categories of beneficiary who has been left out. I am pleased to see that under this Bill the industrial widow's pension is to be increased from 20s. to 30s. Ever since 1951, on many occasions, both in the other place and in other spheres, I have argued and agitated that it has been less than generous that this type of beneficiary should be left out for so long. To me it is a great satisfaction to know that at long last this type of widow is to participate in an increase under the Bill.

5.48 p.m.

LORD WINDLESHAM

Share

My Lords, I shall be brief, but I do not think we should let this debate conclude without giving a little

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thought to the way in which our system of social security should develop in the future. There is now an increasing amount of discussion on the most appropriate forms of social provision for the 1970s. Much of it has been crudely presented as universalism *versus* selectivity; and the noble Lord, Lord Bowles, referred to this in his own speech. There are two reasons, I believe, for this upsurge of interest. The first is the growing cost of social security at a time when the economy as a whole is still weak; and the second is the growing concern with pockets of severe poverty, rather than with general poverty. The extent of child poverty in large families, for example, has now been documented, although it has taken a very long time to deal with. The problem is at any rate known and recognised. The circumstances of the very old and chronic sick and disabled are also much more widely known.

But, that having been said, it is sad, in spite of all the fine words of the Party opposite about their plans for "a far-reaching reconstruction of social security", that their main contribution towards the public debate so far has been to displace from office Mr. Douglas Houghton, the Minister responsible for the review of the social services. Ironically this has enabled Mr. Houghton to play a major part in stimulating wider public discussion in a series of thoughtful and highly informed papers and speeches, inside Parliament and outside. It is a paradox that it is only when he regains the freedom of a private Member

that someone with the experience and knowledge of Mr. Houghton can play a part in public discussion denied to him when he was a Minister with overall responsibility for the social services. Meanwhile, a number of piecemeal changes have been made, although several of them, including this Bill, perpetuate the system described by Labour in its Election Manifesto of 1966 as inadequate and in need of radical reconstruction. This Bill perpetuates that system. The comprehensive review of the social services, I understand, continues under Mr. Gordon Walker. But it is now two and a half years since the Party opposite came to power and we still wait for any indication of a long-term plan of real vision and promise.

The heart of the problem, recognised by thinking people in all Parties, is that Britain cannot conquer poverty until its social services become much more discriminate. At the present time there is a wide range of social needs which are sometimes, as Mr. Houghton has remarked, provided for unnecessarily by benefits as of right, and inadequately by benefits by need and discretion. The present system of indiscriminately distributed benefits for which full contributions have not been paid, and never will be paid, is becoming a barrier to progress in the social field as a whole.

Nor is the problem only a financial one. It is a commonplace to say that in many cases care is just as important as cash. Few social needs can be quantified solely in financial terms. Yet because the basic cost of universal provision is so high—about £220 million is the total of the increases proposed in this Bill—there are pitifully inadequate resources available for the training and paying of the additional social workers who are urgently needed to reinforce existing efforts. The present system is, I believe, preserved by two factors, both unfortunately highly emotive. The first is the rooted attachment to the so-called National Insurance principle, when in fact benefits have only been paid for to a small extent by the contributions of those receiving them; the short-fall being made up by the contributions of people currently at work and, to a certain extent, by Exchequer supplements. It was this system that *The Times* recently described as "a bath with no bathplug".

The second factor is the very understandable hostility towards the idea of means tests, with their unwelcome historical associations of indignity and personal humiliation. Yet both these stumbling blocks can be, and must be overcome if there is to be a real step forward in social strategy. The computer may provide the answer to finding an acceptable form of testing means by linking the payment of social benefits to the income tax system. The cost of collecting taxes and contributions from the public and paying them back again in social benefits has been calculated at about £200 million a year. So why should there not be a single computer system combining all cash dealings between the State and the citizen, particularly in the collection of income tax and National Insurance contributions, and the payment of social benefits? This is an idea which has been explored by, among others, Mr. Douglas Houghton in a pamphlet *Paying for the Social Services,* which was published by the Institute of Economic Affairs earlier this year.

To continue with our system of social security as it is, my Lords, is to run the risk of putting equality before humanity. Indeed, as Mr. Arthur Seldon has argued recently, even the virtues of equality are

suspect in this context, since equal treatment of people in unequal circumstances is inequality. This same point was developed by a Member of Parliament supporting the Party opposite, Mr. Brian Walden, in the *Sunday Times* of June 25. He said that,

> “"by refusing to be selective in the provision of services, equal treatment has been given to unequal needs".”

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These, I think, are some of the reflections which we must keep in mind when we talk about social security measures. I recognise, my Lords, that the difficulties are formidable, and I would not be so arrogant as to try to minimise them, or propose any easy answers this afternoon. I agree with my noble friend Lord Drumalbyn that this is a subject for a much more wide-ranging debate to which we might look forward in this House on a later occasion. But there is a really fundamental issue here, and it is one which I suggest we should do well to keep in mind when we consider the Bill.

5.56 p.m.

LORD SORENSEN

Share

My Lords, we have had a most interesting and humane debate in which noble Lords on both sides of the House have regarded this matter with sympathy, yet objectively. We are most gratified to note that this afternoon there have been no oppositional incantations (if I may so call them), such as those in which all Oppositions, including Labour Oppositions, engage from time to time. Instead, there has been this very humane approach, with many constructive proposals for probing inquiries. I confess that it is quite impossible for me to answer them all at this juncture. I have taken a note of them and I will see that all the questioners to whom I do not reply this afternoon will receive a written reply in due course.

I shall be, I hope, as brief as preceding speakers, partly because we want to get on to the remaining items of business, including the Criminal Justice Bill, and therefore if in my remarks I do not do justice to many of the valuable points that have been raised, I am sure that noble Lords will appreciate why. It will not be from any desire to evade the issue, but simply because I have before me such a pile of suggested answers to questions that if I started to give them orally to the House we should have to break off for supper somewhere about 10 o'clock.

My Lords, as is recognised, the Bill is an up-rating Bill and not a complete and comprehensive Bill. It is in no sense a substitute for the review which is now taking place of the whole question of our social security structure; but within the limits imposed there are certain real improvements, quite apart from the proportional improvement in the benefits now available. For instance, the death grant will be increased from £25 to £30. No such increase has, I believe, taken place since 1958. The income limit below which self-employed and non-employed persons can claim exemption from National Insurance contributions has been raised from £260 to £312. These are minor matters, if you like, but, within the limit to which I have referred, they mean small but substantial gains.

Many criticisms have been voiced this afternoon, but I think we can all rejoice in the fact that in the proposals made by the Government there is not just a proportional increase according to the cost of living, but an absolute increase. The figures I have before me, which of course may be open to analysis and criticism, are as follows: the increase in benefit provided by this Bill is a 12.5 per cent. increase. The increase in retail prices, according to the index, since October, 1964, is 10·7 per cent., and since January, 1965, it is 9 per cent. So there has been a substantial increase. The increase in the index of weekly wage rates for men since January, 1965, is 8·5 per cent., and from September, 1964, 10·2 per cent. I would draw particular attention to the fact that, according to the retail price index, the increase in the cost of living is substantially less than the actual benefit increase provided by this Bill. I know that that does not take account of what may happen in the months ahead, but even there, so I am informed, it is assumed that any increases will not make a very considerable inroad on the overall increases which are within this Bill. We shall have to see what will happen; but we hope not.

I would refer to one or two of the questions that have been raised. I forget which noble Lord asked the question, but I was asked the number of "old cases" currently in payment. I understand that these are

now some 18,000. Another question was in regard to increments. The cost will be only some £330,000 in 1968–69, but £2 million in 1970–71. The noble Lord, Lord Drumalbyn, asked a question in regard to Clause 4. This clause deals with two sides of what is a rather technical problem about dual entitlement to colliery workers' supplement and earnings-related benefits. It enables one benefit to be adjusted to take account of the other or treated as payable on account of the other, as appropriate. The two are not payable in full together. But this and other matters are highly technical and require consideration, and I will see that amplified information is sent to the noble Lord.

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A question was asked in regard to the comparison of the benefits paid in this country and those paid in others. I agree that this is a complex matter, because a great many factors have to be considered before an equitable comparison can be made: indeed, the noble Lord indicated this. But certainly some effort will be made to obtain the information, even though I cannot guarantee success in this respect. Then the noble Lord, Lord Drumalbyn, asked whether the Minister's reference to an announcement before the Recess about family endowment was to be taken as the same thing as an announcement relating to family allowances. It is not envisaged that any Order will be made under Clause 5 before the Recess.

Whether there will be an opportunity of debate on this matter is subject to the many arrangements that have to be made on business between now and the Recess.

The noble Lord, Lord Windlesham, also raised a point. On that I would say that the proper place of the Exchequer in the financing of National Insurance is something that will have to be considered in the context of the proposed general review of the scheme. Meanwhile, the Government have thought it right not to alter the existing formula, which in the case of an increase based on flat rate contributions produces an acceptable result for the time being. Under the proposals of the Bill, contributors will pay an additional £208 million in 1968–69, and the Exchequer an additional £53 million. This will increase the proportion of the total income of the scheme made by the Exchequer from less than 14·7 per cent.—the estimate for the current year, apart from the increase—to over 15·2 per cent. in 1968–69.

To come back to the noble Lord, Lord Drumalbyn, he asked about injury benefit and 100 per cent. disablement benefit. These have hitherto been at the same rate. On this occasion, however, injury benefit is being increased by the same amount as the increase in the standard National Insurance benefit—that is to say, 10s.—while disablement benefit is being increased by 17s. The reason is twofold. First, the introduction last October of earnings related supplement has altered the relationship between injury benefit and disablement benefit, as the latter does not attract earnings related supplement. Secondly, as a result of proportional increases over the years the gap between injury benefit and sickness benefit has widened considerably from what it was. The differential is now 50 per cent. higher than it was in 1948.

Those are replies to some of the questions that I have been asked, but I am conscious that I have been asked many other questions which I have not dealt with. Again I assure all noble Lords that I will see that replies are given in detail to the questions they have raised. I want to thank all noble Lords who have participated in the debate—the noble Lord, Lord Taylor of Mansfield, whom we did not expect, but who intervened, and equally the noble Lord, Lord Inglewood, and noble Lords opposite, respectively Lord Drumalbyn and Lord Windlesham. We are fully conscious that there are many defects and shortcomings in the scheme as it has evolved through the years. The Government are engaged in this task now and are making strong progress. But even within the two and a half years in which this has been taking place, rather than the 13 years that we might possibly have had, one can realise from the complex nature of the whole scheme that it demands very careful attention. But we have not waited for this before introducing certain minor improvements. These are being made because we feel that they can be done under the existing arrangements. But we are fully conscious that the whole structure needs the review that is now taking place and about which I hope a statement will be made in the not too distant future.

Again I thank all noble Lords for their sincere approach to this human question. It is gratifying that the whole country now accepts this moral responsibility for the sick, unemployed, injured and aged. To me this is a great advance in the sense of moral responsibility of the nation. Although in bygone days voluntary societies did great work philanthropically to ease the burden of people in this country, to me it is heartening and impressive that now the nation as a whole, and all Parties, are engaged in the task of

finding how they can improve the existing ways in which to serve the needs of the brethren in our midst.

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On Question, Bill read 2[a] , and committed to a Committee of the Whole House.

Criminal Justice Bill

6.7 p.m.

Order of the Day for the Third Reading read.

THE LORD CHANCELLOR

(LORD GARDINER)

Share

My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Criminal Justice Bill, has consented to place Her interest, so far as it is concerned on behalf of the Crown and the Duchy of Lancaster at the disposal of Parliament for the purposes of the Bill.

THE JOINT PARLIAMENTARY UNDER-SECRETARY OF STATE, HOME OFFICE

(LORD STONHAM)

Share

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

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

On Question, Bill read 3[a] , with the Amendments.

Clause 14 [*Disqualification of ex-prisoners from serving on juries in criminal proceedings*]:

THE LORD CHANCELLOR

Share

My Lords, this is a drafting Amendment to make it clear beyond doubt: first, that persons sentenced to borstal training fall within the ambit of the temporary disqualification from jury service provided by paragraph (*a*) of subsection (1) of the clause, and, secondly, that permanent disqualification from service, for which paragraph (*b*) of subsection (1) provides, extends to young persons sentenced to be detained during Her Majesty's pleasure. I beg to move.

Amendment moved—

Page 11, line 33, at end insert—

> “("( ) For the purposes of the foregoing subsection a person sentenced to borstal training shall be treated as if he had been sentenced for a term of more than three months, and a person sentenced to be detained for an offence during Her Majesty's pleasure or during the pleasure of the Governor of Northern Ireland shall be treated as if he had been sentenced to detention for life.")—(*The Lord Chancellor.*)”

LORD BROOKE OF CUMNOR

Share

My Lords, there is an exceptionally large number of drafting Amendments put down on Third Reading by the Government. I have examined them all and have nothing to raise on any of the drafting Amendments. May I say that, so far as I am concerned, and I think my noble friend also, if they are moved quite briefly we shall not demur, and will intervene only if there is any point to raise.

moved quite briefly we shall not demur, and will intervene only if there is any point to raise.

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On Question, Amendment agreed to.

THE LORD CHANCELLOR

Share

My Lords, the effect of this Amendment will be to require summoning officers to despatch the warning notice setting out the provisions relating to disqualification of jurors together with each individual summons that is sent out to prospective jurors. As your Lordships will remember, the noble and learned Viscount, Lord Dilhorne, raised a point on this, and I said in reply, on Report stage of the Bill, that it had always been the intention that the warning notice should be sent in the same envelope as the summons, but that as this was not made explicit in subsection (4) to Clause 14 I would undertake to consider the matter further and, if necessary, make the appropriate Amendment on Third Reading.

I am sorry that it has not proved possible to adopt the suggestion made by the noble Lord, Lord Rowley, that the warning notice should be printed on the summons. One of the difficulties about this is that there are 166 summoning officers, and they all at present have their own form of summons. Apart from the waste of money and effort, it is doubtful whether a reprinting on this scale could be completed sufficiently expeditiously to enable this clause to be brought in without undue delay. I hope, therefore, that the noble Lords who raised the point will feel that we have met them, so far as we could, by ensuring that at least the summons and warning notice are enclosed in the same envelope. I beg to move.

Amendment moved—

"Page 11, line 43, leave out ("to every person so summoned") and insert ("with every summons for that purpose").—(*The Lord Chancellor.*)"

VISCOUNT DILHORNE

Share

My Lords, may I thank the noble and learned Lord for meeting so completely the point I made.

LORD ROWLEY

Share

My Lords, perhaps, as I made the suggestion, I might say that, although my noble and learned friend the Lord Chancellor has not, apparently, for very good reason, seen fit to adopt the suggestion, I share the thanks expressed by the noble and learned Viscount, Lord Dilhorne. I would only ask my noble friend whether the warning notice would be attached in any way, because, presumably, some junior clerk might deal with the letters and there might be a number of them requiring the notice, to which importance is attached. Would my noble friend consider this a reasonable apprehension, or does he think there is not very much to it?

LORD AIREDALE

Share

My Lords, would it not be possible, at any rate when the summons forms are reprinted in due course, for the warning to be printed either at the foot or on the back of the summons? Because we want to take the very greatest care that nobody is in jeopardy of committing a criminal offence arising out of his being summoned to perform a public duty.

THE LORD CHANCELLOR

Share

My Lords, I should have thought that, if the statutory duty is placed on the summoning officers, we can rely on them to see that it is carried out. But I will undertake to see whether, when the forms are reprinted, it will be possible to reprint the summons and the warning on the same document.

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On Question, Amendment agreed to.

Clause 18 [*Restrictions on refusal of bail*]:

THE LORD CHANCELLOR

Share

My Lords, this is a drafting Amendment, designed to bring the wording of subsection (4) into line with that of subsection (5). I beg to move.

Amendment moved—

"Page 13, line 30, leave out ("be construed as requiring") and insert ("require").—(*The Lord Chancellor.*)"

On Question, Amendment agreed to.

Clause 22 [*Extension of power of High Court to grant, or vary conditions of, bail*]:

THE LORD CHANCELLOR

Share

My Lords, this is another drafting Amendment, necessary in order to make it clear that the High Court has power to vary the conditions of bail in cases where the inferior court has already released a person on bail but he is dissatisfied with the conditions of his bail. Without the additional words, the subsection could be read as confining the powers of the High Court to cases where the inferior court either had refused to admit to bail or had offered bail on terms which the person had refused to accept, with the result that he remained in custody.

Amendment moved—

"Page 15, line 21, after first ("so") insert ("or does so").—(*The Lord Chancellor.*)"

On Question, Amendment agreed to.

Clause 31 [*Extension of Costs in Criminal Cases Act 1952*]:

6.14 p.m.

LORD STONHAM

Share

moved, in subsection (1), to leave out all words after the first word, "proceedings" down to and including "discharge" and to insert instead:

""for dealing with an offender under section 6, 8 or 9 of the Criminal Justice Act 1948 (probation orders and orders for conditional discharge)"."

The noble Lord said: My Lords, I beg to move Amendment No. 3, standing in the name of my noble and learned friend the Lord Chancellor. In doing so, I would eagerly accept the invitation of the noble Lord, Lord Brooke of Cumnor, and invite your Lordships to agree that I should take this Amendment with 18 other Amendments: Nos. 4 to 8, 12, 14, 17 to 21, 23 to 25, and 27 to 29.

Although this is a drafting Amendment, I think I should briefly explain the point. The main purpose is to delete from the Bill the words "subject to a suspended sentence", which are thought to be somewhat ambiguous, because on a literal interpretation they could be taken to mean that a person ceases to be subject to a suspended sentence at the end of the period of from one to three years ordered by the courts. The words are used in this sense in, for example, Clause 40(2). But a person retains a liability

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under the suspended sentence after the period for which the sentence was suspended if during that period he commits another offence for which he was not brought to trial before the period had expired. In this sense, therefore, an offender is still "subject to a suspended sentence" after the period of suspension, and the expression is used to include such a person in, for example, Clause 39(2).

For the former sense, where the period ordered by the court is being described, the expression "operational period" has been introduced in the Amendment, and a definition of "operational period" is being inserted, subject to your Lordships' agreement, in Clause 38(1). As a consequence, it becomes unnecessary to use the expression "subsequent offence" in a technical sense, and the definition of this expression is therefore deleted from Clause 38 by Amendment No. 12. I beg to move.

Amendment moved—

> “Page 19, line 19, leave out from beginning to ("and") in line 21 and insert the said new words.—(*Lord Stonham*.)”

LORD BROOKE OF CUMNOR

Share

My Lords, I am not sure that the phrase "operational period" is an entirely happy one, but I think the Government are right in seeking to make the general change they are making by this series of Amendments, and I am glad the noble Lord took my hint. So far as I am concerned, I see no objection to these consequential Amendments being put in batches.

On Question, Amendment agreed to.

THE LORD CHANCELLOR

Share

My Lords, if it is the wish of the House, I will move Amendments Nos. 4 to 8 inclusive together. I beg to move.

Amendments moved—

Page 19, line 22, leave out ("subject to") and insert ("in respect of")

Page 20, line 8, leave out ("subject to") and insert ("in respect of")

Page 20, line 11, leave out ("while he was so subject") and insert ("during the operational period of the sentence")

Page 20, line 24, leave out ("and")

Page 20, line 26, at end insert ("and 'operational period' has the same meaning as in Part II of this Act.") —(*The Lord Chancellor.*)

On Question, Amendments agreed to.

THE LORD CHANCELLOR

Share

moved, after Clause 34, to insert the following new clause:

Examining justices

" . It is hereby declared for the avoidance of doubt that a magistrates' court before which a person is charged with an indictable offence begins to act as examining justices as soon as he appears or is brought before the court, except where before that time the court has determined under section 18 of the Magistrates' Courts Act 1952 to try him summarily."

The noble and learned Lord said: My Lords, this is a drafting Amendment, to make it clear that where a

The noble and learned Lord said: My Lords, this is a drafting Amendment, to make it clear that where a man is arrested for an indictable offence and is brought before a magistrates' court which remands him without hearing evidence about the offence the proceedings are proceedings before examining justices. The Bill was prepared on the basis that this is so, and, indeed, this view of the law is widely held. The difficulty is that the application of Clause 3 to such remand hearings depends on the proceedings being before examining justices. Newspapers frequently report the early court appearances of defendants in notorious cases, and it would be wrong to leave the restriction of such reports to rest on the argument that the justices are acting as examining justices, if there is any doubt about the validity of that argument. In Committee in another place at least one Member thought that remand hearings were not conducted by examining justices. Careful research has failed to discover anything which would establish the point conclusively, and it would be wiser to deal with the problem now by this declaratory Amendment, rather than to leave it to be decided later by the courts.

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Amendment moved—

"After Clause 34, insert the said new clause.—(*The Lord Chancellor.*)"

On Question, Amendment agreed to.

6.19 p.m.

VISCOUNT DILHORNE

Share

moved, after Clause 34, to insert the following new clause:

Proof of conviction of an offence to be conclusive evidence of guilt of that offence in certain subsequent proceedings.

" . Where a person has been convicted of an offence by a court of competent jurisdiction, that person shall not, save in proceedings by way of appeal from the conviction or on a reference by the Home Secretary to the Court of Appeal, be allowed to deny in any subsequent proceedings the rightness of the conviction and proof of the conviction shall, unless the conviction be quashed, be proof that that person was guilty of the offence of which he was convicted."

The noble and learned Viscount said: My Lords, this, I think, is an important proposal. I apologise to the Government and to the House for not raising it before, but, quite frankly, it had not occurred to me before; but a recent case has highlighted the point and I hope it will commend itself to your Lordships. In recent years we have had experience of persons who have been convicted of serious crimes and whose convictions have been upheld on appeal later instituting actions in which the propriety of the conviction is challenged. One thing that cannot be done after a lapse of many years is to try the case again as it was tried initially. Witnesses have forgotten certain events. Perhaps they have forgotten entirely all the evidence that has gone before, with the result that although under our system the conviction was proper, and so held by the Court of Criminal Appeal (as it was) and perhaps by this House sitting judicially, none the less the propriety of that conviction has been questioned in other civil proceedings many years afterwards; and if those civil proceedings are successful it has been promptly claimed that there has been a miscarriage of justice and that the person concerned was wrongly convicted. That may be widely reported and may lead some people to believe it to be so. I do not think that is at all satisfactory. I think the position should be that if a man has been convicted and his appeal against conviction has been dismissed, then that conviction must be treated as standing, and it should not be open to him (it may be many years afterwards) to contend in other litigation that he was not guilty of the crime of which he had been found guilty.

That is one category among the cases which this new clause seeks to deal with; but there is the other type. I do not know whether your Lordships read in *The Times* a report of a case tried very recently indeed where Barclays Bank were seeking to obtain judgment for a large sum of money of which they had been robbed at one of their branches and some of which had been paid into an account at another branch of their bank. To succeed in that claim Barclays had to prove that the customer at that branch who had the account was a party to the commission of the criminal act of robbing the bank. He had in fact been convicted of that offence, and that conviction stood, but it was not possible for Barclays to

say: "Here is the conviction; this is the guilty man. He has had the money and it is our money". After all those years they had to establish by evidence, based largely, as it was, on identity, that this was the man who in fact had done it. Is it not right to say that they ought to have been able to produce the conviction, to prove that he was the man named in that conviction, and say: "You were found guilty of this offence and that conviction has not been quashed"?

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I cannot help but believe that the change in the law recommended by this clause should be made without delay. I hope the Government will say that they will accept this new clause. It may be I shall be told that the matter is under consideration by a Committee which will report to the noble and learned Lord the Lord Chancellor. Of course I shall be glad to hear that, but I do not think that is enough now, in the light of these recent cases. We all know that a long interval may elapse between the report to the Lord Chancellor, the acceptance of that report and the changing of the law by a Bill. It may be years.

I think it would be better to make this change now, and then, if need be—and I personally cannot see that there will be any need—make some modifications later in the light of the report. It brings our administration of the law into contempt if somebody who is properly convicted can, years later, appear to get a reversal of that finding because the Crown or the other party to the case is not then in a position to produce all the witnesses who gave evidence at the trial, and the witnesses who can be produced cannot really remember what took place so many years ago and of which they testified when the convicted man was charged with that criminal offence. I have moved this Amendment as shortly as I can, and with apologies for not having raised it before, but I regard it as of considerable importance and I hope the Government will accept it. I beg to move.

Amendment moved—

"After Clause 34, insert the said new clause.—(*Viscount Dilhorne*.)"

6.26 p.m.

THE LORD CHANCELLOR

Share

My Lords, I would, of course, agree that there is an anomaly in our law, as the noble and learned Viscount has pointed out. There are quite clearly civil cases in which the fact that there has been a criminal conviction should be admissible as evidence. But it is not altogether a simple question. The Amendment would provide that in all cases it must be conclusive evidence. No doubt it would raise a *prima facie* case, but whether it should in all cases be conclusive is very much in question.

I may be proceeded against for some minor case of careless driving, and I may feel that instructing a solicitor and a barrister and all the expense involved is not really worth while; therefore I may plead guilty to save trouble. Or, for that matter, a man with previous convictions, asked whether he wants 15 other cases to be taken into account, although there are really 14 may say, "All right" to the 15, in order to get rid of the matter. If, in the accident case, I was subsequently sued for a large sum of money by a pedestrian or a motorist involved in the same affair, it may be open to question whether the fact that to save trouble I pleaded guilty when I thought no civil proceedings were going to be taken against me, should necessarily be conclusive.

The second question one has to consider is that the new clause treats foreign convictions as being exactly the same as English convictions. It would not be tactful to mention any particular countries, but I do not know whether our people here would necessarily agree that convictions in some countries one could think of should be final and conclusive against people in this country. Therefore there are a number of points which I think would need consideration. As the noble and learned Viscount has indicated, he himself, when Lord Chancellor, referred the question of civil law evidence to the Law Reform Committee, and when the cases to which he referred took place last year I asked that Committee to consider what was the right solution to this problem.

While I think of it, I might mention that there is a third point also which the Amendment does not cover. The Amendment covers only the man who is convicted, and his conduct being in question in proceedings to which he is a party, and his not being able to deny it. It is open to question whether it ought not to extend in some cases to the conviction being at least prima facie evidence in proceedings to which an

extend in some cases to the conviction being at least *prima facie* evidence in proceedings to which an accused is not a party. For example, if my house is burgled and proceedings are taken by the police against the burglar and the burglary is established, and the burglar is convicted and sentenced, if there is then a dispute between me and the insurance company it seems rather extraordinary that the fact of the burglary having taken place and having been proved in a criminal court does not constitute *prima facie* evidence that there was a burglary, and that I should have to start all over again to prove the whole thing against the insurance company, if they are disputing it. So there are a number of points to be considered.

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The Law Reform Committee are at the moment settling the final draft of their Report. This does relate, after all, to the civil law of evidence. This is a Criminal Justice Bill. I do not know whether the Long Title would include it or not, but I would suggest to the noble and learned Viscount, with his experience, that if one is going to call on the time of busy judges, barristers and solicitors to sort out a matter like this and advise us what is the right thing to do, it really would be extremely discourteous, just as they are in process of drafting their final report, having spent a lot of time on it and taken a lot of trouble, if the Government were to say: "We are not going to wait for you; we are going to go straight ahead". That Committee have already given me, and there has been published, a very valuable Report on the reform of the law of hearsay evidence, and I am hoping in the not too far distant future—I only say that because we are approaching the time of year when everybody wants to know what is in the Queen's Speech, so I cannot be more precise—to introduce a Bill to give effect to their Report on hearsay evidence. And I should certainly wish to give effect at the same time, if their recommendations are accepted by the Government, to what is contained in their Report. I hope on all those grounds the noble and learned Viscount will be satisfied with that assurance and will withdraw his Amendment.

VISCOUNT COLVILLE OF CULROSS

Share

My Lords, I do not know what my noble and learned friend will do, but I think on one point, with respect, the noble and learned Lord the Lord Chancellor must be wrong. He said that this Amendment would cover cases which are taken into consideration when somebody was being convicted for another offence. But cases that are taken into consideration, so far as I know, are not convictions at all. They are certainly not based upon any sort of statutory provision, and so far as I know they never officially enter into the category of being convictions. So I do not think those cases are covered by what my noble and learned friend has said.

THE LORD CHANCELLOR

Share

My Lords, I think the noble and learned Viscount may be technically right. It was one of a number of cases that occurred to me where to the man who pleads guilty it may appear a small thing. The noble Viscount may be quite right in saying that technically they would not be covered.

LORD CONESFORD

Share

My Lords, it seems to me that the proposal put forward by my noble and learned friend is of the greatest importance, and anybody who read even the shortened versions that appeared in the Press of the judgment of Mr. Justice Paull, I think as recently as last week, will have no doubt about that. Some of the things that can take place under the law as it stands are absurd; in fact, the learned judge used very emphatic language about it. I think, therefore, that my noble and learned friend has performed a very useful service in putting this proposal forward.

On the other hand, let me admit at once that the noble and learned Lord on the Woolsack put forward very important considerations, and I have no doubt that my noble and learned friend would not wish to press his Amendment on this occasion, but would very much wish to be satisfied, as I think from what the noble and learned Lord on the Woolsack said he can be satisfied, that, when the Report is forthcoming,

the matter will be treated with some urgency. If that is the case, while thanking my noble and learned friend for his proposal, I am sure he will adopt the suggestion made by the noble and learned Lord the Lord Chancellor.

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VISCOUNT DILHORNE

Share

My Lords, I am grateful to the noble and learned Lord the Lord Chancellor for what he has said. So far as the convicted person is concerned, I think proof of the conviction should be conclusive. I hope that the noble and learned Lord will give careful consideration to that, because if it is only *prima facie* then you will get into all the difficulty of calling evidence years after the conviction to rebut that presumption. With regard to evidence of conviction in proceedings to which the convicted person is not a party, I should have thought myself that the same would apply.

The noble and learned Lord the Lord Chancellor criticised the drafting of this Amendment. I am always very unlucky in my drafting attempts. So far as pleading guilty to careless driving and things of that sort are concerned, rather than fight the case in the magistrates' court, I think there is force in that, although it is very limited. I think that if I had drafted this clause as "a court of record of competent jurisdiction" that would have met that point. Unfortunately, this being Third Reading, I cannot move a manuscript Amendment to that effect. It certainly was not my intention that this should apply to convictions abroad. I think this should apply only to convictions by courts of record of competent jurisdiction in this country. My noble and learned friend Lord Colville of Culross referred to cases taken into consideration. If I may say so, I do not think there is any risk there, because of the care taken to get the document signed by the accused person agreeing to the list of cases to be taken into consideration, and if he does not agree he just strikes out one.

I am very glad to hear that we shall soon see the final Report of the Committee. They have had, I know, a very formidable task to undertake. I am glad that I have raised this to-day, because I hope that by pressing the Government on this I may assist the noble and learned Lord the Lord Chancellor in his efforts to get into the programme for next year a Bill to implement some of these proposals to deal with this problem. And in the hope of assisting him further in that direction, may I say that I shall without doubt press him further on this matter, in the hope that I can give some strength to his elbow to do that. But for to-day I beg leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause 38 [*Suspended sentences of imprisonment*]:

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 11, and with it I would ask your Lordships to deal with Amendment No. 13. These are both drafting improvements. At present subsection (2) as it stands says in effect that a court shall not pass a suspended sentence for one offence if it makes a probation order for another offence. The Amendment turns the subsection round to say that a court which passes a suspended sentence for one offence shall not make a probation order for another. Another point is that subsection (2) as it stands places a restriction on the power of courts to pass a suspended sentence, and this makes necessary the words "subject to the next following subsection" in subsection (1). Subsection (2) as amended will not in form place any restriction on the power of courts to pass a suspended sentence, and those words therefore become unnecessary. I beg to move.

Amendment moved—

> “Page 25, line 6, leave out ("subject to the next following subsection).—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

My Lords, I beg to move.

Amendment moved—

“Page 25, leave out lines 14 and 15 and insert ("'operational period', in relation to a suspended sentence, means the period so specified").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

My Lords, I beg to move.

Amendment moved—

“Page 25, line 16, leave out from ("court") to ("a") in line 18 and insert ("which passes a suspended sentence on any person for an offence shall not make").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

My Lords, I beg to move.

Amendment moved—

“Page 25, line 24, leave out ("he commits a subsequent offence") and insert ("during the operational period he commits an offence punishable with imprisonment").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

6.40 p.m.

LORD STONHAM

moved, in subsection (4), to leave out "on being convicted of an offence". The noble Lord said: My Lords, I beg to move Amendment No. 15, and with it would like to deal also with Amendment No. 16. The reason for Amendment No. 15 is that a person could be sentenced to borstal training otherwise than "on being convicted of an offence". For example, suppose a person is convicted of an offence and is conditionally discharged, and he then commits a further offence and is given a suspended sentence. The court which conditionally discharged him then hears about the second conviction and has him up and sentences him to borstal training for the original offence. In a case like that the offender would not have been sentenced to borstal training "on being convicted of an offence". Accordingly, the Amendment deletes those words from Clause 38(4).

The second Amendment is consequential. If a person subject to a probation order or an order for conditional discharge commits a further offence or a breach of the probation order, and is then sentenced for the original offence, that sentence results from a finding that the offender has breached the probation order or has committed a further offence. The Amendment therefore inserts a reference to a finding along with sentence and conviction. I beg to move.

Amendment moved—

“Page 25, line 27, leave out ("on being convicted of an offence").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

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LORD STONHAM

Share

My Lords, I beg to move.

Amendment moved—

"Page 25, line 29, leave out ("conviction or sentence") and insert ("sentence or any conviction or finding on which it was passed").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Clause 39 [*Power of court on conviction of further offence to deal with suspended sentence*]:

LORD STONHAM

Share

My Lords, I beg to move this Amendment, and I should be glad if we could accept the invitation of the noble Lord, Lord Brooke of Cumnor, to take with it Amendments Nos. 18, 19, 20 and 21.

Amendments moved—

Page 26, line 4, leave out from ("of") to ("a") in line 5 and insert ("an offence punishable with imprisonment committed during the operational period of")

Page 26, line 16, after ("under") insert ("subsection (1) of")

Page 26, line 28, leave out from ("sentence") to ("shall") in line 29.

Page 26, line 33, leave out ("him") and insert ("the offender").

Page 27, line 7, leave out ("his detention") and insert ("the detention of the offender").—(*Lord Stonham*.)

On Question, Amendments agreed to.

LORD STONHAM

Share

moved, after subsection (5), to insert as a new subsection:

""( ) In proceedings for dealing with an offender in respect of a suspended sentence which take place before a court of assize or quarter sessions any question whether the offender has been convicted of an offence punishable with imprisonment committed during the operational period of the suspended sentence shall be determined by the court and not by the verdict of a jury.""

The noble Lord said: My Lords, this is a technical Amendment. Under the Bill as it stands, if there was a dispute at a court of assize or quarter sessions about whether an offender had been convicted of an offence punishable with imprisonment committed during the operational period of a suspended sentence, the issue might have to be determined by a jury. The position in the Bill as it stands is not entirely clear, and it is desirable to avoid any possibility of doubt. The Amendment accordingly provides that the issue shall be determined by a court and not by the verdict of a jury. There is a corresponding provision in relation to probation and conditional discharge in Section 11(4) of the Criminal Justice Act 1948. I beg to move.

Amendment moved—

"Page 27, line 9, at end insert the said subsection.—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

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My Lords, I beg to move Amendment No. 23.

Amendment moved—

“Page 27, line 18, leave out from ("cases") to end of line 21, and insert ("any such order made by a court shall be treated as a sentence passed on the offender by that court for the offence for which the suspended sentence was passed").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

Clause 40 [*Court by which suspended sentence is to be dealt with*]:

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 24. Perhaps with it we might deal also with Amendment No. 25. I beg to move.

Amendments moved—

Page 27, line 29, leave out from first ("offence") to first ("a") in line 30, and insert ("was committed during the operational period of")

Page 28, line 1, leave out ("relation to") and insert ("respect of").—(*Lord Stonham*.)

On Question, Amendments agreed to.

LORD STONHAM

Share

moved to leave out subsection (4), and insert:

“"(4) For the purposes of this and the next following sections a suspended sentence passed on an offender on appeal shall be treated as having been passed by the court by which he was originally sentenced."”

The noble Lord said: My Lords, I beg to move Amendment No. 26 and should be grateful if with it we could consider Amendment No. 30 also. Subsection (4) of Clause 40 and subsection (6) of Clause 41 provide that, for the purposes of those clauses, a suspended sentence passed by the Criminal Division of the Court of Appeal or by the House of Lords on appeal from that Division shall be treated as having been passed by the court of assize or quarter sessions from which the appeal was brought. The object of these subsections is to provide that, if the offender commits a further offence, the suspended sentence shall be dealt with by the court from which the appeal was brought to the Court of Appeal. It would be inappropriate for the Court of Appeal or the House of Lords to have to have the offender up and deal with the suspended sentence. I beg to move Amendment No. 26.

Amendment moved—

“Page 28, line 8, leave out subsection (4) and insert the said new subsection.—(*Lord Stonham*.)”

VISCOUNT DILHORNE

Share

My Lords, I want to raise two points with the noble Lord, Lord Stonham. I see his explanation for this Amendment, but if you are going to treat a suspended sentence passed on an offender by the Court of Appeal as passed by the court of quarter sessions or assize, does that not mean that the person who has this suspended sentence will have the right of appeal from that court again to the Court of Appeal?

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LORD STONHAM

Share

My Lords, the point and the purpose of the two Amendments was to ensure that the appeal would not be brought to the Court of Appeal or the House of Lords. We are dealing not only with this level, because the same considerations would apply where a suspended sentence has been passed by quarter sessions on appeal from a magistrates' court. In such cases, it is better that the magistrates' court should have the responsibility for dealing with suspended sentence if the offender commits a further offence. That is why the Amendment to Clause 40(4) extends the application of the subsection to all suspended sentences passed on appeal. I hope that that makes it perfectly clear to the noble and learned Viscount.

VISCOUNT DILHORNE

Share

My Lords, I must say, before the noble Lord sits down, that it is not perfectly clear to me. I should have thought you would have wanted some provision to show that there should be no right of appeal from the sentence which is treated as the sentence passed by the inferior court. But I will leave it at that; I have raised the point.

On Question, Amendment agreed to.

Clause 41 [*Discovery of further offences*]:

LORD STONHAM

Share

My Lords, I beg to move this Amendment, and with it I hope that the House will consider Amendments Nos. 28 and 29.

Amendments moved—

Page 28, line 17, leave out from ("committed") to ("in") in line 19 and insert ("during the operational period of a suspended sentence and that he has not been dealt with").

Page 28, line 40, leave out ("while he was subject to") and insert ("during the operational period of").

Page 29, line 18, leave out ("relation to") and insert ("respect of").—(*Lord Stonham*.)

On Questions, Amendments agreed to.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 30.

Amendment moved—

“Page 29, line 24, leave out subsection (6).—(*Lord Stonham*.)”

On Question, Amendment agreed to.

Clause 49 [*Supplementary provisions as to payment of fines, etc.*]:

LORD STONHAM

Share

My Lords, I beg to move Amendment 30A, which is a drafting Amendment. It is designed to make it clear that under the new higher court fines procedure, higher courts will be able to order young defaulters to

that under the new higher court fines procedure, higher courts will be able to order young defaulters to be detained in detention centres rather than in prison. Higher courts, like magistrates' courts, have this power under the present law. I beg to move.

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Amendment moved—

"Page 36, line 32, at end add ("and in section 5(5) of the Criminal Justice Act 1961 (construction of references to terms of imprisonment) the reference to section 14 of the Criminal Justice Act 1948 shall be construed as including a reference to section 46 of this Act").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Clause 56 [*Social inquiry report before sentence*]:

LORD STONHAM

Share

moved, after subsection (2), to insert:

""( ) No sentence shall be invalidated by the failure of a court to consider a social inquiry report in accordance with rules under subsection (1) of this section, but any other court on appeal from that court shall consider such a report in determining whether a different sentence should be passed on the appellant from the sentence passed on him by the court below.""

The noble Lord said: My Lords, subsection (1) of Clause 56 empowers the Secretary of State to require courts in certain cases to consider a social inquiry report before passing a custodial sentence. If in such a case a court failed to consider a report, and passed a custodial sentence, there would be some doubt about the validity of the sentence and consequently some doubt about the propriety of continuing to detain the offender. But to let the offender go scot free would give him an undeserved benefit, and in some cases the sentence might be for a long term in order to protect the public. The appropriate course would seem to be that an appellate court should repair the omission of the sentencing court. The Amendment accordingly provides that failure to obtain a statutory social inquiry report shall not invalidate the sentence but that on appeal the appellate court shall consider such a report in determining whether to substitute a different sentence. I beg to move.

Amendment moved—

"Page 43, line 10, at end insert the said subsection.—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Clause 61 [*Revocation of licences and conviction of prisoners on licence*]:

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 31A, which is a drafting Amendment.

Amendment moved—

"Page 48, line 13, leave out from beginning to ("commit").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Clause 63 [*Supplemental*]:

6.50 p.m.

LORD STONHAM

Share

moved to add to the clause:

“"(2) The following powers, that is to say—

- (*a*) the power conferred on the Secretary of State by section 59 of this Act to insert or include conditions in the licence of any person released under that section after being transferred to either part of Great Britain from another part of the United Kingdom, the Channel Islands or the Isle of Man;
- (*b*) the power conferred on the Secretary of State by section 61 of this Act to revoke the licence of any such person and recall him to prison;
- (*c*) the power conferred on a court by the said section 61 to revoke any such licence;

shall be exercisable notwithstanding anything in section 26(6)(*a*) of the Criminal Justice Act 1961 (exclusion of supervision of persons so transferred)".”

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The noble Lord said: My Lords, I beg to move Amendment No. 32. The purpose of this rather lengthy Amendment is to ensure that the release on licence provisions of the Bill may be applied to a prisoner in England and Wales, or Scotland, whose sentence was imposed in Northern Ireland, the Channel Islands or the Isle of Man. It was always envisaged that such a prisoner would be treated for release purposes, as for other purposes, in the same way as a prisoner sentenced here, but Section 26(6)(*a*) of the

Criminal Justice Act 1961 might unintentionally have been an obstacle. The Amendment puts the matter beyond doubt. I would add that the authorities of Northern Ireland and the Islands concerned have agreed to the Amendment.

Amendment moved—

“Page 49, line 31, at end insert the said subsection.—(*Lord Stonham*.)”

On Question, Amendment agreed to.

Clause 71 [*Power of magistrates to issue warrants for arrest of escaped prisoners and mental patients*]:

LORD STONHAM

Share

My Lords, with Amendment No. 33, I should like to take Nos. 34 and 35. All three are drafting Amendments. Nos. 33 and 34 are designed to make subsection (1) clear; and the third, Amendment No. 35, remedies the omission of a reference to detention in the specification of the powers conveyed by the Mental Health Acts. I beg to move.

Amendment moved—

Page 52, line 17, leave out ("that—

“(*a*) any person is")”

“and insert ("alleging that any person is—”

“(*a*) an offender").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move.

Amendment moved—

“Page 52, line 22, leave out ("any convicted mental patient is") and insert ("a convicted mental patient"). —(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

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My Lords, I beg to move.

Amendment moved—

“Page 53, line 4, leave out ("or kept") and insert ("kept or detained").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

Clause 73 [*Supplementary provisions as to legal aid orders*]:

THE LORD CHANCELLOR

Share

moved, in subsection (10), to leave out all words after "for an offence and", down to and including the words "before that magistrates' court", and insert:

“"under a duty to appear or a liability to be brought before a magistrates' court in respect of that offence".”

The noble and learned Lord said: My Lords, with Amendment No. 36 I should like also to mention Amendments Nos. 37 and 44. These are drafting Amendments.

Clause 73(10) extends the power of magistrates' courts to grant legal aid under clause 72(2) to cases where a person has been arrested or summoned for an offence but has not yet come before a magistrates' court. As soon as such a person comes before a magistrates' court his case falls within Clause 72(2). It is unnecessary, therefore, to cover in Clause 73(10) the case of a man "appearing or brought" before a magistrates' court and these words are omitted from Clause 73(10) by Amendment No. 36. Where a person has been summoned the summons will specify the magistrates' court before which he is to appear. That court is clearly the right court to grant legal aid, and it is unnecessary to provide for regulations to specify which court is to grant legal aid. Accordingly, Amendment No. 37 limits the provisions in Clause 73(10) about regulations to the cases of persons who have been arrested but have not yet come before the court. It is necessary to mention both "appeared" and "brought" to cover cases where the defendant has been granted bail at the police station as well as cases where he is remanded in custody. Finally, Amendment No. 44 omits the reference to regulations specifying which magistrates' court may grant legal aid. The power to make regulations is perfectly general and there is no need to duplicate the reference in Clause 73(10) to regulations on this subject. I beg to move.

Amendment moved—

“Page 56, line 21, leave out from ("and") to ("and") in line 23 and insert the said new words.—(*The Lord Chancellor.*)”

On Question, Amendment agreed to.

THE LORD CHANCELLOR

Share

My Lords, I beg to move.

Amendment moved—

“Page 56, line 24, leave out from ("shall") to ("be") in line 25 and insert ("in the case of a person arrested for an offence who has not appeared or been brought before a magistrates' court").—(*The Lord Chancellor.*)”

On Question, Amendment agreed to.

Clause 74 [*Circumstances in which legal aid may be given*]:

THE LORD CHANCELLOR

My Lords, Amendments Nos. 38, 39 and 40 are drafting Amendments. The Amendments to Clause 74 are consequential upon the Amendment to Clause 75(2), which enables references to a contribution towards costs to be construed throughout Part IV as including repayment of the whole amount of legally-aided costs. As at present drafted this interpretation applies only to references subsequent to Clause 75(2) because, as your Lordships can see from Clause 75(2), it begins

“"In the following provisions of this Part of this Act …"”

My Lords, I beg to move.

Amendment moved—

“Page 57, line 19, leave out ("or repayment") and insert ("towards costs").—(*The Lord Chancellor.*)”

On Question, Amendment agreed to.

THE LORD CHANCELLOR

Share

My Lords, I beg to move.

Amendment moved—

“Page 57, line 24, leave out ("or repayment").—(*The Lord Chancellor.*)”

On Question, Amendment agreed to.

Clause 75 [*Liability for contributions*]:

THE LORD CHANCELLOR

Share

My Lords, I beg to move.

Amendment moved—

“Page 57, line 40, leave out ("the following provisions of").—(*The Lord Chancellor.*)”

On Question, Amendment agreed to.

Clause 76 [*Means inquiry by the Supplementary Benefits Commission*]:

THE LORD CHANCELLOR

Share

My Lords, this is a drafting Amendment, which is intended simply to make the clause easier to read and understand. I beg to move.

Amendment moved—

“Page 58, line 33, leave out from ("into") to ("to") in line 35 and insert ("his means and the Commission shall comply with the request and report on his means").—(*The Lord Chancellor.*)”

On Question, Amendment agreed to.

THE LORD CHANCELLOR

Share

My Lords, the effect of this Amendment is to require a court which receives a report from the Supplementary Benefits Commission after it has made a contribution order to reconsider the terms of

the order in the light of the report. The altered wording is more consistent with the terms of Clause 76(2) which requires a court which receives a report from the Supplementary Benefits Commission before making an order to have regard to the report. I beg to move.

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Amendment moved—

"Page 58, line 42, leave out ("may vary the order") and insert ("shall reconsider the order and may vary its terms").—(*The Lord Chancellor.*)"

On Question, Amendment agreed to.

Clause 78 [*Supplementary provisions as to payment of contributions*]:

THE LORD CHANCELLOR

Share

My Lords, this is a drafting Amendment which makes it clear which of the seven subsections of Clause 80 is referred to in Clause 78. I beg to move.

Amendment moved—

"Page 59, line 24, after ("80") insert ("(1)").—(*The Lord Chancellor.*)"

On Question, Amendment agreed to.

Clause 82 [*Regulations*]:

THE LORD CHANCELLOR

Share

My Lords, as I mentioned when dealing with Amendment No. 36, Amendment No. 44 is consequential on that. I beg to move.

Amendment moved—

"Page 63, line 31, leave out from first ("of") to end of line 33.—(*The Lord Chancellor.*)"

On Question, Amendment agreed to.

Clause 84 [*Prohibition on possessing or acquiring a shot gun without a certificate*]:

7.0 p.m.

LORD STONHAM

Share

moved, in subsection (2), to leave out all words after "granted" down to "any person," and to insert instead:

""by the chief officer of police unless he has reason to believe that the applicant—

- (*a*) is prohibited by the Firearms Act 1937 from possessing a shot gun; or
- (*b*) cannot be permitted to possess a shotgun without danger to the public safety or to the peace;

and a shot-gun certificate may be revoked by the chief officer of police for the area in which the holder resides if the officer is satisfied that the holder is so prohibited or cannot be permitted to possess a shot gun as aforesaid."

"(2A) A shot-gun certificate shall—

- (*a*) be in the prescribed form;
- (*b*) be granted or renewed subject to any prescribed conditions and no others; and
- (*c*) specify the conditions, if any, subject to which it is granted or renewed.

”

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“(2B)".”

The noble Lord said: My Lords, I beg to move Amendment No. 45, and would ask your Lordships' agreement that with it we deal with Amendments Nos. 46, 47 and 49. The purpose of these four Amendments is to meet two points raised by the noble and learned Viscount, Lord Dilhorne, on Report stage. The first point was that the criterion of "unfitness to have a shot gun" was too wide and ought to be limited to factors having a relationship to the prevention of crime and criminal activities. The noble and learned Viscount also objected to the words "intemperate habits" as being concerned with safety and not with criminal activities. The second point gave rise to a considerable debate. It arose from the way in which subsection (3) of Section 2 of the 1937 Act is applied to shot-gun certificates by subsection (5) of the clause which we are now considering. The noble and learned Viscount and other noble Lords feared that the effect might be to permit shot-gun certificates to be used to control the sale and possession of shot-gun ammunition.

The four Amendments together meet the point about unfitness and intemperance by substituting the criterion of "danger to the public safety or to the peace." This, we believe, sets an acceptable criterion which the public will expect an authority to have in their mind when issuing certificates for the possession of lethal weapons. It also brings in the concept of criminality, and as regards criminality it looks to the present rather than to the past. We have cleared up the ammunition point by not applying subsection (3) of Section 2 at all, but instead have rewritten it altogether in relation to shot-gun certificates. We believe that this makes it clear beyond any misinterpretation that a shot-gun certificate can apply to shot-guns only, and cannot therefore apply to ammunition.

The words "danger to the public safety" and "danger to the peace" already appear in Section 2 of the 1937 Act and the meaning here will be the same. I do not think that chief officers of police will have any difficulty in interpreting "danger to the peace", and without being too dogmatic about the meaning of an existing Statute I think that "danger to the public safety" would include such things as subversion, unlawful drilling, gun-running for political reasons and activities of that kind, where the danger to the peace, although lurking, is perhaps less immediate. I hope that the noble and learned Viscount, Lord Dilhorne, will agree that in meeting his ammunition point on subsection (3) of Section 2 of the 1937 Act we have really dealt with the corner stone of the ammunition argument. Having met the point there, and particularly having regard to the marked contrast now between subsection (2A) of the Amendment and subsection (3) of the Act, we think that it must now be beyond argument that this clause and the shot-gun certificates granted under it have nothing to do with ammunition, and leave it clear that the present position of shot-gun ammunition is completely untouched by this Bill. I beg to move.

Amendment moved—

“Page 65, line 21, leave out from ("granted") to first ("any") in line 24 and insert the said new words.—(*Lord Stonham*.)”

VISCOUNT DILHORNE

Share

My Lords, I am grateful to the noble Lord, Lord Stonham, and to the Government for taking such trouble in considering the points which I raised in Committee and on Report, and in meeting me in this way. I think the position is made much clearer, by re-writing subsection (3) of Section 2 of the Firearms Act, and I think that the circumstances in which a certificate can be withheld are now made as clear as possible. I thought that the noble Lord was very wise in not seeking to define more closely the wording which has been taken in this new subsection from the Firearms Act 1937, because it is not easy to define what is meant by "danger to the public safety" as contrasted with "danger to the peace". Speaking as one who has had the misfortune of once being shot by a neighbouring gun, luckily without sustaining any injury, I shall not put to the noble Lord the question whether my being shot in those circumstances would constitute a danger to the public safety. But if it did, and if on that account a certificate could be withheld from anyone who was a dangerous shot, then I do not think that that would be at all a bad thing.

thing.

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Having said that, I should like to ask the noble Lord just one question. The new subsection (2A) says:

“"A shot gun certificate shall—

- (*a*) be in the prescribed form;
- (*b*) be granted or renewed subject to any prescribed conditions and no others; and
- (*c*) specify the conditions, if any, subject to which it is granted or renewed."

”

When one looks at the Bill, one sees in lines 22 and 23 that the conditions have to be,

“"prescribed by rules made by the Secretary of State under the Firearms Act 1937",”

Those words have been left out of this Amendment and I could not find (I may have missed it) where that condition is laid down in the Bill. I do not know whether the noble Lord has seen that, but I wanted to raise that point. Maybe the answer is there and I have not detected it.

The only other point I want to make—though I do not want to raise this question about ammunition again—is that ammunition is referred to in a number of other sections mentioned in Clause 84(5), and I think that in each of those sections it is expressed to be "ammunition to which this Part of this Act applies". It is perhaps rather unfortunate to incorporate those sections containing the word "ammunition", when ammunition is meant to have no application to shot-gun certificates. However, I do not think that has any practical effect, and I again repeat my gratitude to the noble Lord for meeting me so completely on these matters.

LORD STONHAM

Share

My Lords, I am most grateful to the noble and learned Viscount for all that he has said. The answer to the first question which he asked is that the provision is in Clause 88 of the Bill. May I now answer him on the other point, which has really given me a very great deal of concern, in particular, Section 11 of the 1937 Act which mentions ammunition. The reason why we accepted the noble and learned Viscount's strong advice on Report stage to take out subsection (3) of Clause 2, was because this had a particular application, or so it appeared to us, with regard to ammunition and this does not apply to the others.

Perhaps I may discuss, quite briefly, the Section 11 point, which I think is the main one that will concern the noble and learned Viscount. As we see it, subsections (1) and (3) of Section 11 of the 1937 Act prevent anyone, notably a registered firearms dealer from selling, repairing or testing any Part I firearm or any Part I ammunition, except on production by a customer of a Part I certificate. Part I firearms and Part I ammunition have no necessary relationship with each other. Ammunition for a Part I firearm is not necessarily Part I ammunition, and Part I ammunition includes certain rare kinds of shot-gun ammunition. But the effect of subsection (5) of Clause 84 of the Bill is to apply Section 11 to shot-guns and shot-gun certificates as it already applies to Part I firearms and to Part I certificates. There is no mention, either in the Bill or in Section 11, to ammunition other than Part I ammunition. Accordingly, registered firearms dealers and other persons will be as free to deal in and test ammunition, other than Part I ammuni- tion, as they are at present. On the other hand, a person wishing to purchase Part I ammunition will still have to produce a Part I certificate authorising him to purchase ammunition of that kind, because a shot-gun certificate will not and cannot authorise the possession of anything but a shot-gun.

My Lords, we have considered this matter very carefully and, so far as I am concerned, very painfully. We are satisfied that this is the effect of the Bill, and the effect of the legislation which the Government intend. I hope that what I have now said will not only satisfy the noble and learned Viscount but will put the position beyond question in case there should be any doubt on the point which the noble Lord, Lord Hawke, raised on Report stage.

On Question, Amendment agreed to.

LORD STONHAM

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My Lords, I beg to move.

Amendment moved—

“Page 65, line 37, leave out ("to (4) and (7)") and insert (", (4) and (8)").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move.

Amendment moved—

Page 66, leave out lines 3 to 11 and insert—

“("( ) the reference in section 2(4) of that Act to the foregoing provisions of that section shall be construed as including a reference to subsection (2) of this section.")— (*Lord Stonham*.)”

On Question, Amendment agreed to.

7.12 p.m.

VISCOUNT DILHORNE

Share

moved, in subsection (5), after paragraph (*b*), to insert:

“"( ) In section 6(2) of that Act for the words 'the constable may seize and detain the firearm or ammunition and may require that person to declare to him immediately his name and address', there shall be substituted 'the constable may require that person to declare to him immediately his name and address and to undertake to produce the certificate within seven days at a named police station, and, if that person refuses to give his name and address or fails to satisfy the constable that the name and address he gives is genuine, the constable may seize and detain the gun'."”

The noble and learned Viscount said: My Lords, this Amendment brings us back to a point which I raised at a previous stage and on which I moved an Amendment. I have now put down a slightly altered form of Amendment which I hope the Government will be able to accept. Under Section 6(2) of the Firearms Act, if you have not got your certificate upon you a constable can seize and detain the firearm and require you to give your name and address immediately. He has the power to do that. I think that that is really too draconian a power to give in relation to shot-guns, so I have attempted to put down an alternative form; that is to say, that a constable may require a person who does not produce his certificate on demand to give him his name and address and to undertake to produce a certificate within seven days at a named police station, and that only in the event of a refusal to give the name and address or of a failure to satisfy the constable that the name and address is genuine can the constable seize and detain the gun. I think that that is a reasonable proposal, and I hope the Government will say that they can accept it.

It is argued that this power to seize a gun when a man has not got a certificate might be useful if one found people armed with shot-guns going over one's land. I do not think that this certificate procedure ought to be used as a pretext, in those circumstances, for seizing a gun. It may be that, if it does not exist already, there ought to be the power to seize guns when people are found committing armed trespass; but, as I see it, you really cannot justify a seizure forthwith, when they are committing armed trespass, by the fact that they do not produce a certificate.

It would lead to this anomalous situation. If people living in some part of London get shot-gun certificates and are then found going on the estate of my noble friend Lord St. Aldwyn with shotguns in

certificates and are then found going on the estate of my noble friend Lord St. Aldwyn with shotguns in their possession, engaged in criminal activities of one kind or another, you cannot rely, or ought not to rely, on this certificate procedure for removing their guns from them; because in all probability when the local police constable comes up to them he will find that they are all armed with certificates issued in London. So it seems to me to be nonsense to give a constable the power of seizure in all cases. But he certainly should have the power of seizure if he is not satisfied that the name and address given to him is genuine.

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I have worded this Amendment rather carefully for this reason. Sometimes one finds a provision that police constables have certain powers if there are reasonable grounds for their exercise. I have not put on the police constable that burden of showing that there are reasonable grounds for the exercise of this power. I would leave it to the discretion of the police constable to say that he was not satisfied that the name and address were genuine, when he would be able to keep the gun. But I would not give the police power in all cases, including a case where a man finds that he has left his firearms certificate at home, to seize the gun forthwith because of that reason. I beg to move.

Amendment moved—

"Page 66, line 11, at end insert the said subsection.—(*Lord Dilhorne.*)"

LORD STONHAM

Share

My Lords, the effect of this Amendment would be to prevent a constable from seizing a shotgun when he found someone with it without a shot-gun certificate and when that someone was unable to demonstrate that he was within an exemption. The noble and learned Viscount feels that it would be enough if the person gave his name and address and undertook to produce the certificate at a named police station within seven days unless the constable had grounds for believing that the name and address were false.

VISCOUNT DILHORNE

Share

My Lords, with great respect, that is not so. The noble Lord has got it wrong. It is not, "unless the police constable has grounds for not believing him". The onus is the other way. It will be for the person who has the gun to satisfy the police constable that he has given a genuine name and address. That is a very different thing.

LORD STONHAM

Share

I am sorry I misrepresented the noble and learned Viscount; it was quite unintentional. But I am very glad he has emphasised that point so clearly, because in our view that is one of the main objections to the Amendment. It is an Amendment with which one is in sympathy. We do not want to be draconian about these things, but at the same time we do want to protect the countryside, and particularly the estate of the noble Earl, Lord St. Aldwyn, from the depredations of hooligans and other people. The machinery proposed by the noble and learned Viscount is somewhat similar to that in the road traffic law. But as to the point about the name and address, there will be plenty of occasions when a constable coming up to a hooligan who is in possession of a shot-gun will know his name and address only too well because he is a frequent nuisance in the village. Of course he knows his name and address, and of course the constable ought to be in a position to seize the shot-gun if he feels that the man has been doing wrong. If we accepted the noble and learned Viscount's Amendment the constable would find himself unable to do anything but say, "Hallo, Billy Brown", because he would know what his name and address was. Therefore, this is a weakness.

Then, again, perhaps it is not that particular case but the case of someone who the constable has reason to believe, perhaps by his conduct, his appearance or in some other way, is not respectable and

ought not to be there shooting. So the constable says, "Give me your name and address", and he is given a name an address. If it sounds reasonable and he concludes he has got to accept it, and if, eventually, it is found that the address is false, the court cannot act because the person is not there; therefore they cannot seize the gun because it cannot be brought before the court.

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There is also a technical objection to this Amendment. The noble and learned Viscount mentioned just now that he was unlucky in his drafting. I never make much of technical objections, but they do militate against the acceptance of Amendments. The technical objection is that the undertaking contemplated by the Amendment would be quite unenforceable; because it is not an offence to fail to produce a certificate, whether in pursuance of an undertaking or otherwise. In the Government's view—and I think I said this on Report stage—this matter of when the power of seizure should or should not be exercised is best left to the good sense and training of the police. Any attempt to limit the power can result only in a complexity—and a complexity, moreover, as between one class of firearms and another—which no policeman, however well trained, can be expected to carry in his head. The interaction of this Amendment with subsections (6) and (7) of Section 5 of the Firearms Act 1965, which relates to powers of

constables in relation to the seizure of firearms, would tax the understanding of anybody—as, in the earlier stages of this Bill, this particular clause more than taxed our understanding.

I think the crux of the matter is whether or not you trust a police officer to carry out his duties in this matter sensibly. I think any of us who have had the good fortune to live for any number of years in the country will say: "Yes, you can trust a policeman in this matter." We also want the countryside to be protected from depredation by hooligans, who have been able at times to move about with impunity and have been quite a menace to farmers. We believe, therefore, that in this particular clause of the Bill we have given powers to the police which, reasonably used—and they will use them reasonably—can be useful. I hope, with that and with what I have said about the Amendment, the noble and learned Viscount will feel able to withdraw it.

VISCOUNT DILHORNE

My Lords, the argument about hooligans walking about the countryside does not seem to me to be a very strong one for this reason: hooligans may or may not have certificates in their possession; and if they have certificates you cannot take the gun from them. The real answer to that particular provision is to give a power (if there is not that power already) to take away guns found in the possession of people who are guilty of armed trespass. That is a different matter. You cannot, or ought not to, use the certificate procedure for that particular purpose; although that purpose is desirable. When you try to use it you will find that a lot of people on land with guns have had certificates issued a long way away. It may be true that the police constable knows the name and address of the hooligan; and he finds him without a certificate in his possession. It may be that you will want a further Amendment to deal with that. But I do not think that is any answer to the Amendment I put before the House.

The strongest argument against the Amendment is the one the noble Lord advanced last, that because of the Firearms Act 1937 a police constable would have different powers depending on whether it is a rifle or a shot-gun. I think there is force in that argument. I think the provision in the Firearms Act 1937 is really unsatisfactory; but while it remains there in relation to rifles it would also be unsatisfactory perhaps to have a different procedure with regard to shot-guns.

While I am going to ask leave to withdraw the Amendment, I impress on the noble Lord, Lord Stonham, that the right way to deal with the people he talks about, the armed hooligans, is to amend the general law so that their weapons can be taken from them if they are found guilty of armed trespass, and not to try to reply on this certification procedure; and also to bear in mind that it might not be possible for the local chief of police to refuse these people called hooligans a certificate because he might not be able to say that possession by them of a shot-gun would be a danger to public safety or to the peace. It is a difficult thing to tell in advance. Having said that, I ask leave to withdraw the Amendment.

Amendment by leave withdrawn.

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LORD STONHAM

Share

My Lords, I beg to move Amendment No. 49.

Amendment moved—

"Page 66, line 13, leave out ("the Firearms Act 1937") and insert ("that Act").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

7.25 p.m.

LORD INGLEWOOD

Share

moved, in subsection (8), to leave out from the first "of", to the end of the subsection, and to insert:

""land or a person entitled to exercise sporting rights over land and use the shot gun on such land.""

The noble Lord said: My Lords, on Report stage the noble Lord, Lord Stonham, moved an Amendment permitting someone not in possession of a shot-gun certificate to borrow and use a gun in certain specified circumstances. I understand it was his intention to meet a point raised at an earlier stage, and to do it in a helpful way. While all of us would deplore the indiscriminate borrowing or lending of a gun—finding that quite unacceptable—I do not think he had any wish to make it impossible for a responsible person to be forbidden to borrow a gun in all circumstances. There was a short debate on this point, and doubt was cast on the choice of the word "occupier" in this context; because if the occupier was the occupier of agricultural land he would often only have limited rights under the Ground Game Acts; and if he were an occupier of land which did not rank as agricultural land, he might have no right to shoot at all.

I submit that the use of the word "occupier" is too limited, and that what we had in mind, and no more, is covered by the addition of the words now proposed. The noble Lord, Lord Stonham, knows that I have no objection to the addition of the words "in the presence of" which were in his Amendment, although I should think it would be better without them, because they appear only to elaborate what is really a simple thing. I beg to move.

Amendment moved—

"Page 66, line 28, leave out from ("of") to end of line 30 and insert ("land or a person entitled to exercise sporting rights over land and use the shot gun on such land.").—(*Lord Inglewood.*)"

VISCOUNT COLVILLE OF CULROSS

Share

My Lords, I do not suppose this Amendment can be altered now because it is Third Reading, so either we must deal with it as it is or not at all. I wonder whether the noble Lord, Lord Stonham, could tell me one thing about this. There is this difficulty about the occupier, mentioned by my noble friend Lord Inglewood. But is it quite certain for these purposes that "private premises" is the same to all intents and purposes as "land"? Is the distinction intended to be made between all private land and any place to which the public has access—there is the difficulty of footpaths and the like which may have to be taken into account. The Government produced this Amendment at the last stage of the Bill. I do not disagree with it; I want just to see the extent to which it goes. I wonder why it is "private premises" as opposed to "land" or some other slightly more familiar phrase in this general context. If the noble Lord could tell me that I think it would be helpful.

So far as the rest of the Amendment is concerned, I suppose it could be a little difficult on occasion for any policeman who came up to question the person who was shooting without a certificate to make

certain that the excuse that he was shooting there with the permission of the person entitled to exercise sporting rights was a valid one. I think this might be rather a large loophole on some occasions, because by the time the policeman has gone to check the information, the person who is shooting may have disappeared. It may be that that is a flaw in this particular Amendment which cannot be put right. If, at any rate, the noble Lord can help about "private premises" and "land" I should be much obliged.

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LORD STONHAM

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My Lords, to deal first with the noble and learned Viscount's point, he will remember that on Report stage I moved an Amendment that "premises" included "land", and I think that answers his point. It is occupiers of private land we are dealing with, so far as this Part of the Bill is concerned. The noble Viscount was also correct in thinking that this Amendment could not now be amended; and in this form it is not acceptable. But I always prefer to discuss the sense of a particular Amendment rather than to stand pat on technicalities.

Lord Inglewood's Amendment appears, on first sight, attractive, desirable and not unreasonable, but its effect, as I shall try to explain, would go far wider than I think the noble Lord has in mind, and far wider than he would desire. Its effect, as he said, would be to permit a person to shoot over someone else's land without a shot-gun certificate, so long as he had borrowed the shot-gun he used from the person occupying the land or having sporting rights over it. One difficulty is that under the noble Lord's Amendment there is no requirement that the borrower should be accompanied by the occupier—which we think extremely important—or by anybody else; and the occupier or the owner of the sporting rights might not even be in the country. I would point out to the noble Lord that the loan does not have to be made in person. One can lend by an agent, which broadens the field considerably.

I have tried to make clear at the various stages of this Bill that the policy behind Part V is that all shot-gun owners and regular shot-gun users should have a shot-gun certificate. The Amendment would provide wide freedom to shoot regularly for persons who do not have a certificate and who, indeed, might have been refused a certificate by the police for reasons provided in the Bill. The exemptions from the shot-gun certificate system which have been made in Part V are specific and admittedly narrow. Overseas visitors, for example, are not exempt for more than 30 days in any period of 12 months. Special approval is required from the police for people without a certificate to shoot at artificial targets at any particular times and places.

Subsection (7), with which we are dealing, refers to another limited case, that of the non-shooting visitor staying in the country who goes out with his host on the spur of the moment. In that situation the lawfulness of what is occurring can be established and the control, therefore, is not seriously weakened. I put it to the noble Lord that if all that is required is that a landowner or the person holding shooting rights should have lent the gun, control is capable of evasion on a widespread and organised scale. And that would go a long way to create the impression that, provided the gun is borrowed, no firearms certificate is ever required. After all, if the occupier does not have to be present, why should not this exemption apply to any borrowed gun? If this were so, the whole impact of Part V of the Bill would be undermined.

So far as the police are concerned in administering this, it would mean that any person, or groups of persons, however suspicious they might seem, could claim that they had borrowed their weapons from the occupier. Groups of hooligans, who already cause considerable damage by irresponsible shooting in the country, could in that way escape scot-free. They could say that just one of them had a certificate, and the whole gang could borrow guns from him. For the exemption to be practicable, enforcement has to be kept in mind which requires the occupier of the land to be present when the person without the certificate, his guest, has the shot-gun, since he is the only person from whom the police officer on the spot can reasonably expect to get satisfactory information. He, as the host, as owner of the gun, is the only person who could be reasonably expected to exercise any control.

My Lords, another major difficulty about the Amendment is that it is not possible to define in legal terms what are sporting rights. I have no doubt that almost every noble Lord could tell us what he means by

sporting rights, but it is a very difficult thing to put it in a Statute. You could, for example, pay the owner of the land so much per week, per month or per year. Or you could knock on any farmer's door and ask permission to shoot a few pigeons. If he said, "Yes", you would have sporting rights, and under this Amendment you would be able to shoot with impunity, without a certificate. We have already tried to meet noble Lords in this matter and have made a number of exceptions. I appreciate the thought that the noble Lord, Lord Inglewood, had in mind, and we have pushed the door ajar. In view of what I have said, I hope that he will agree that if we accepted his Amendment, we should be at risk of opening it so wide that we should destroy the safeguard altogether. In the light of that, I hope the noble Lord will feel able to withdraw his Amendment.

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LORD INGLEWOOD

Share

My Lords, I thank the noble Lord, Lord Stonham, for replying to my Amendment at such length and showing me the weaknesses of it—and there certainly are weaknesses. And if I admit that, I hope that the noble Lord will admit that I have shown the weaknesses of his wording. Whereas my Amendment may be too wide, his wording is so tight that it will hardly ever be used. It will simply be a subsection in a Bill filling up so much space. But as my Amendment could do harm, I think it better that we should prefer the noble Lord's which would do neither good nor harm. Accordingly, I ask leave to withdraw the Amendment.

Amendment, by leave, withdrawn.

Clause 85 [*Restrictions on gifts of shot guns*]:

LORD STONHAM

Share

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

Amendment moved—

“Page 67, line 11, leave out from ("committed") to ("as") in line 12.—(*Lord Stonham*.)”

On Question, Amendment agreed to.

Clause 86 [*Power of court to order forfeiture of firearm, etc.*]:

7.36 p.m.

LORD STONHAM

Share

My Lords, I beg to move to leave out Clause 86.

The effect of this Amendment would be to delete from the Bill an additional provision relating to forfeiture inserted by an Opposition Amendment on Report stage. I do not think I shall be held to be exaggerating if I say that at that moment during the Report stage, for a variety of reasons which there is no need to explore, the House temporarily lost the fine edge of its alertness and the Amendment was accepted and duly incorporated in the Bill. We have now had time for cooler reflection as, no doubt, has the noble Viscount, Lord Colville of Culross.

There are already forfeiture provisions for Part I firearms and ammunition in Section 25 of the 1937 Act, and for air weapons and ammunition in Section 3 of the Air Guns and Shot Guns, Etc., Act 1962. Clause 85(2) and Clause 88(2) of this Bill provide similar forfeiture provisions for shot-guns and shot-gun ammunition. The salient feature of the provisions in this Bill, which I have mentioned, and in the other

two Acts, is that the power of the court to order the forfeiture of a weapon is conditional upon a conviction for a relevant offence. This is the great point of difference from Clause 86 which I now seek to remove from the Bill, because in that clause the power of forfeiture is exercisable in the absence of any conviction at all. It is not necessary to have a conviction for a court to order forfeiture of a weapon. I am sure your Lordships will agree that this would indeed be a novel provision in the criminal law. There is no indication as to the principles on which the court should exercise this rather startling and novel power.

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A very strong case would have to be made out for allowing the forfeiture and destruction of property—which might, in the case of a shot-gun be very valuable—without proof that any offence had been committed by anybody. In the opinion of the Government, Clause 85(2) of this Bill and the 1937 Act provide together sufficient powers in relation to forfeiture. Accordingly, we recommend the deletion of the clause as being excessive. If I may I will put to the noble Viscount, as an additional reason for trying to secure his agreement that we should delete this clause, that as the text stands the drafting is not satisfactory. It leaves a number of procedural problems wholly unresolved. I think we all know how this happened to creep in, and I think we should all agree that it should now creep out. I beg to move.

Amendment moved—

"Leave out Clause 86.—(*Lord Stonham*.)"

VISCOUNT COLVILLE OF CULROSS

Share

My Lords, while accepting that at the time (and I regret that I was not here) chaos reigned supreme in this House, and this particular clause was put in without much consideration, I think slightly scant respect has been paid by the noble Lord to the reasoning behind it. May I say at once that I shall shed no tears if it is taken out, but I am surprised that the Government have not understood the point of it. Perhaps I can tell them what it is, and make sure that the noble Lord appreciates it.

I do not think that the circumstances in which this clause was to operate are in the least obscure. It was really my second barrel, if I may put it like that in this context. I was proposing, and the House accepted in Clause 85, that a child under 14 should no longer be a criminal if he was given a present of a shot-gun and he accepted the gift. Hitherto in the Bill that had been a criminal offence. The situation now is that the person who gives the gun or the ammunition is still a criminal, or liable to be a criminal if he is convicted, but the child who accepts it is not.

The question then arose in my mind as to what was to happen to the gun. If the child was not guilty of an offence, then, as the noble Lord, Lord Stonham, has quite rightly said, the powers of forfeiture and disposal which are available in the Firearms Act, and also in the Air Guns, Shot Guns, etc. Act 1962 would not be able to be used. I therefore did my best to concoct a power for the courts so that where the child had been given the gift and was under 15 they could, if they thought fit, order forfeiture of the gun or, I suppose, in extreme cases, destroy it. The principle seems to me, on reading the clause—and it relates specifically to the offence of children receiving gifts—to be perfectly clear.

I hope that the noble Lord will not be in any further doubts about the reason why I put my Amendment down. If the drafting is faulty, I of course accept that in Amendments of my own concoction. Is the noble Lord satisfied that, in cases where a child has a gun, under the relevant age, which is different for various weapons, and is prosecuted for an offence for having the gun, the firearm or ammunition in his posession, the court has sufficient power under the existing Acts or under the other parts of the Bill? If so, then I am certain that this ought to be left out. This was the only contingency that I was attempting to deal with, and if the noble Lord is satisfied about that, my moment of glory is over and my clause must come out of the Bill. Perhaps I have now explained the point to the noble Lord.

LORD STONHAM

Share

My Lords, I am grateful to the noble Viscount for explaining this so carefully. I share his regret that he

was not present on Report to explain it then, and even more am I sorry that I was not here to hear the explanation he did not give. But to answer his question immediately, we are completely satisfied that subsection (2) of Clause 85 contains that power, where it says:

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> “"and the court by which he is convicted may make such order as to the forfeiture or disposal of the shot gun or ammunition in respect of which the offence was committed ..."”

We are quite confident that this gives the necessary power of forfeiture which the noble Viscount wants.

I know we are talking about a case where the child has the gun, and it is not possible for the child to have committed an offence by reason of the Amendment which was accepted by the House on Report. I read this clause carefully, and so carefully that I underlined a section of it in ink. I am talking about Clause 86(1), where appear the words:

> “"if the Court is of opinion that, in addition to or instead of dealing with the person so charged, an order should be made as to the forfeiture or disposal of the firearm, air weapon, shot gun or ammunition in respect of which the charge has been brought the Court may make such order in that respect against the person to whom the gift of the firearm, air weapon, shot gun or ammunition was made ..."”

I interpreted that—and I think it was a correct interpretation—that the forfeiture could be made without a conviction, and that it is expressly provided there. This was, in my belief, a novel and unacceptable piece of jurisdiction and one that, on reflection, we should not want to have in the Bill. It was for that reason that I moved the deletion of the clause, to which I hope noble Lords will agree.

On Question, Amendment agreed to.

Clause 87 [*Power of court to order forfeiture of firearm etc.*]:

VISCOUNT COLVILLE OF CULROSS

Share

moved, in subsection (5), to leave out paragraphs (*a*) to (*c*) and insert:

> “("(*a*) for subsection (2) there shall be substituted the following subsection:—
>
> > ‘'(2) No person shall make a gift of or lend any firearm or ammunition to which Part I of this Act applies to any person under the age of fourteen.''
>
> ”

> “(*b*)—(i) for the words in subsection (1) from 'to any other person' to the end; and”

> “(ii) for the words in subsection (3) 'to any other person whom he knows or has reasonable ground for believing to be under the age of fourteen years',")”

The noble Viscount said: My Lords, since the noble Lord has now said that he is satisfied for the purposes of Clause 85 that the child who receives the gift, though not guilty himself of an offence, may in suitable cases have the shot-gun or the ammunition taken away from him as a result of having been convicted for some other offence, as I understand it there seems to be no reason now why we should not assimilate, as I had intended to do on Report stage if I had been here, the new wording of Clause 85(1) with the equivalent provisions that relate to firearms and ammunition for them, and to air weapons and ammunition for them.

The House accepted that children should not be guilty of a criminal

offence in accepting shot-guns or ammunition, and precisely the same arguments apply to the acceptance by children of these other weapons. If it is a ridiculous concept to suppose that a child under 14 should be able to quote the provision of the criminal Statute against the would-be donor in the case of a shot-gun, then it is just as ridiculous in the case of other weapons. That is why I have reverted to my Amendment No. 54, which is intended to have this effect so far as Part I firearms are concerned, and I hope that in the circumstances the Government may see fit to bring this provision into line with what is already in the Bill in relation to shotguns. The Amendment looks complicated, but the provisions in paragraph (*b*)(i) and (ii) are only the provisions that already appear in the Bill, re-arranged so as to

paragraph (b)(i) and (ii) are only the provisions that already appear in the Bill, re-arranged so as to take account of my re-writing of the relevant portion of the 1937 Act. I beg to move.

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Amendment moved—

"Page 68, line 21, leave out paragraphs (*a*) to (*c*) and insert the said paragraphs.—(*Viscount Colville of Culross*.)"

LORD STONHAM

Share

My Lords, I gather that the noble Viscount is also asking the House to consider Amendments Nos. 55 and 56 at the same time.

VISCOUNT COLVILLE OF CULROSS

Share

If the House pleases.

LORD STONHAM

Share

Then we can consider them together, my Lords. It will be in the recollection of the House that we had an interesting discussion on this point when the Amendment was pressed to a Division and carried. As the noble Viscount has pointed out, we are now in a position of inconsistency where, so far as shot-guns are concerned, it is not an offence, and so far as the Firearms Air Guns and Shot Guns etc. Act is concerned, it is an offence. In those circumstances, the Government had a choice. We could have opposed the present Amendments for the sake of consistency and left it to another place to disagree with us on the Amendment which was carried on Report, or we could, as the noble Viscount has suggested, accept the Amendment that he now proposes and achieve consistency in that way. The three measures would then be in line with regard at least to the principle of the offences committed by children. Clearly, we cannot have a different rule in this respect between shot-guns, on the one hand, and air-guns and Part I firearms, on the other.

In considering this position, I think we must take into consideration what I regard as the feeling of the House on that occasion, quite apart from the way the vote went. But certainly I had the feeling that a number of my noble friends who were then sitting behind me voted, as it were (to put it rather crudely), with their posteriors by remaining sitting. Therefore, in these circumstances I think we should achieve consistency, levelling up, by recommending to your Lordships that the noble Viscount's Amendments should be accepted.

VISCOUNT COLVILLE OF CULROSS

Share

My Lords, I am very much obliged to the noble Lord. I do not think I ought to take the credit for this, except in that perhaps, for once, I have the drafting right. The originator of this point was, I think, my noble friend the Duke of Atholl, and to him should be accorded the glory of having put this matter correctly into the Bill. But I am glad that the noble Lord has seen fit to recommend to the House in this way. Of course, I am very grateful to those noble Lords, particularly on that side of the House, who agreed with the arguments put forward. I think that the noble Lord himself must agree now that to make it an offence for a small child in these circumstances to accept a gift really is taking it a bit far, particularly when there are the other offences with which he can, if necessary, be charged on suitable occasions. I am therefore, as I say, very grateful to the noble Lord, and to the Government, for accepting these Amendments.

On Question, Amendment agreed to.

VISCOUNT COLVILLE OF CULROSS

Share

My Lords, I beg to move Amendment No. 55.

Amendment moved—

Page 69, line 15, at end insert—

“"( ) For subsection 1(1) of the Air Guns and Shot Guns, etc., Act 1962 (Restrictions upon the use and possession of air weapons) there shall be substituted the following subsection:—”

“'(1) No person shall make a gift of any air weapon or ammunition for an air weapon to any person under the age of fourteen'.")—(*Viscount Colville of Culross*.)”

On Question, Amendment agreed to.

VISCOUNT COLVILLE OF CULROSS

Share

My Lords, this Amendment is consequential. I beg to move.

Amendment moved—

“Page 69, line 16, leave out ("Air Guns and Shot Guns, etc., Act") and insert ("said Act of").—(*Viscount Colville of Culross*.)”

On Question, Amendment agreed to.

Clause 97 [*New provision as to appeal against sentence passed at assizes or quarter sessions*]:

7.54 p.m.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 57. This is an Amendment of substance, which adds a new subsection to Clause 97 to extend the powers of the Court of Appeal under subsection (7) of that clause. It is rather complicated. I should be pleased to explain it to your Lordships if you feel it necessary otherwise, I will move it formally.

Amendment moved—

Page 76, line 37, at end insert—

“("( ) The power of the Court of Appeal under the last foregoing subsection to pass a sentence which the court below had power to pass for an offence shall, notwithstanding that the court below made no order under section 39(1) of this Act in respect of a suspended sentence previously passed on the appellant for another offence, include power to deal with him in respect of that suspended sentence, where the court below—

- (*a*) could have so dealt with him if it had not passed on him a sentence of borstal training quashed by the Court of Appeal under paragaph (*a*) of the last foregoing subsection; or
- (*b*) did so deal with him in accordance with paragraph (*d*) of the said subsection (1) by making no order in respect of the suspended sentence.")—(*Lord Stonham*.)
”

On Question, Amendment agreed to.

LORD STONHAM

Share

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My Lords, this Amendment, No. 58, remedies an omission in Clause 97(8). It replaces a reference to Section 5(1) of the Criminal Appeal Act 1907 in that subsection by a reference to Section 5 of the Act. I beg to move.

Amendment moved—

"Page 76, line 39, leave out from ("under") to end of line 41 and insert ("section 5 of the Criminal Appeal Act 1907) (special powers of Court on appeal against conviction)").—(*Lord Stonham*.)"

LORD BROOKE OF CUMNOR

Share

My Lords, the explanation of the noble Lord, Lord Stonham, seems to be perfectly clear, but the Amendment appears to me to be ambiguous. As I read line 39 of page 76, the word "under" occurs twice. I think we ought, if we are sending this Amendment to another place, to make it clear beyond question what we mean. I am perfectly ready to move a Manuscript Amendment, so to speak, to leave out the words from the second "under", if that indeed is correct. I think that that will accord with the noble Lord's explanation. But I would urge that, unless there is something which has escaped my notice, we should specify, in passing this Amendment, which "under" we mean—that is to say, in line 39 the second "under".

LORD STONHAM

Share

My Lords, I am most grateful to the noble Lord. It is quite obvious that nothing whatever escapes him. I should be grateful to your Lordships if you would accept the suggestion of the noble Lord, Lord Brooke of Cumnor, that the Amendment should read "... leave out from second 'under' ...".

THE LORD CHANCELLOR

Share

My Lords, may I take it that there has been a manuscript Amendment, so that the Amendment now reads to "leave out from second 'under'..."?

On Question, Amendment, as amended, agreed to.

Clause 98 [*Amendment of enactments relating to criminal appeals*]:

LORD STONHAM

Share

moved to add to the clause:

""(7) In the Criminal Appeal (Northern Ireland) Act 1930, sections 13A(5) and 17 of the Courts-Martial (Appeals) Act 1951, the Administration of Justice Act 1960 and Schedule 1 to the Criminal Appeal Act 1964 any reference to an enactment of the Parliament of Northern Ireland shall include a reference to an enactment corresponding thereto and for the time being in force in Northern Ireland.""

The noble Lord said: My Lords, I beg to move Amendment No. 59, and I shall be grateful if we consider with it Amendments Nos. 63, 66, 68, 71, 77 and 77A, which are all consequential. This Amendment adds a new subsection to Clause 98. Its object is to facilitate consolidation of the enactments relating to criminal appeals in Northern Ireland and to courts-martial appeals. These Statutes refer to enactments of the Parliament of Northern Ireland, notably the Mental Health Act (Northern Ireland) 1961. Some of these references do, and others do not, include a reference to any corresponding future enactment of that Parliament or of the United Kingdom Parliament legislating for Northern Ireland. Other references (for example, those in Acts passed before 1961) refer to earlier Acts of that Parliament or in general

(for example, those in Acts passed before 1961) refer to earlier Acts of that Parliament or in general terms of enactments corresponding to particular enactments applicable to England and Wales. This Amendment and also Amendment No. 66, in Schedule 4, provide a uniform definition applicable to all Northern Ireland enactments and bring up to date references to such enactments which are not now in force, having been replaced by a subsequent Act. I beg to move.

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Amendment moved—

"Page 78, line 14, at end insert the said subsection.—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Clause 100 [*Regulations, rules and orders*]:

LORD STONHAM

Share

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

Amendment moved—

"Page 78, line 22, after ("orders") insert ("other than orders under section 69(1) of this Act").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 61A, which is of a technical nature, and adds to the Bill a provision that has become common form. It enables orders under the Bill to be varied or revoked. I beg to move.

Amendment moved—

Page 78, line 26, at end insert—

"("( ) Any order made under any provision of this Act by statutory instrument may be varied or revoked by a subsequent order made under that provision").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Clause 106 [*Short title, extent and commencement*]:

LORD STONHAM

Share

My Lords, this Amendment extends to Scotland such transitional provisions as are needed for clauses of the Bill which may apply to Scotland. I beg to move.

Amendment moved—

"Page 80, line 32, at end insert ("and paragraphs 7, 10 to 12 and 14 of Schedule 5").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 63.

Amendment moved—

"Page 81, line 9, after ("98(6)") insert ("and (7)").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 64, and with it I should like to move Amendment No. 65. These are drafting Amendments consequential to Amendment No. 72 in Schedule 4. I beg to move.

Amendment moved—

"Page 81, line 12, leave out ("and").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move.

Amendment moved—

"Page 81, line 13, at end insert ("and section 16 of the Criminal Justice Act (Northern Ireland) 1966").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Schedule 4 [*Miscellaneous amendments of enactments relating to criminal appeal*]:

8.0 p.m.

LORD STONHAM

Share

My Lords, I beg to move.

Amendment moved—

Page 123, line 32, at end insert—

"(". In section 17 (removal of prisoners for purposes of appeal from courts-martial) the following shall be substituted for paragraph (*f*):—"

"'(*f*) section 13 of the Prison Act (Northern Ireland) 1953'.")—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 67 and with it I would discuss Amendment No. 76, in Schedule 7. These are drafting Amendments. I beg to move.

Amendment moved—

Page 124, line 7, at end insert—

"("( ) For section 3(3) there shall be substituted the following subsection—"

"'(3) Where an appellant who is not in custody appears before the criminal division of the Court of Appeal, either on the hearing of his appeal or in any proceedings preli- minary or incidental thereto, the Court may direct that there be paid to him out of local funds the expenses of his appearance; and any amount ordered to be paid to him under this subsection shall be ascertained as soon as practicable by

the registrar of criminal appeals.'").— (*Lord Stonham*.)"

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On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move No. 68.

Amendment moved—

"Page 125, line 21. leave out from ("1961") to end of line 23.—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, this is another drafting Amendment. I beg to move.

Amendment moved—

"Page 126, line 28, leave out ("be ascertained") and insert ("except where it is a specific amount ordered to be paid towards the costs as a whole, be ascertained as soon as practicable").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, this Amendment provides that paragraph 29 of Schedule 4 shall apply to England and Wales only. It deletes a reference in Section 9(3) of the Administration of Justice Act 1960 to rules of court authorising a defendant to be present on the hearing of an appeal to the House of Lords or of any preliminary or incidental proceedings. The change effected by paragraph 29 is not required for Northern Ireland. I beg to move.

Amendment moved—

"Page 126, line 32, after ("appeal)") insert ("as it applies to England and Wales").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move Amendment No. 71.

Amendment moved—

"Page 127, line 46, leave out from ("1961") to end of line 48.—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, this Amendment, which applies to Northern Ireland only, includes a further provision in Schedule 4. The effect is to add a new subsection to Section 16 of the Criminal Justice Act (Northern Ireland) 1966. This is a technical Amendment which corresponds to that effected in Section 3 of the Criminal Procedure (Insanity) Act 1964 by lines 24 to 28 on page 128 of the Bill. The change ensures that where an appeal is allowed against a verdict of not guilty by reason of insanity there is an automatic

amendment of the record of the trial court. I beg to move.

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Amendment moved—

"Page 129, line 15, at end insert— "

("THE CRIMINAL JUSTICE ACT (NORTHERN IRELAND) 1966 (c. 20)

At the end of section 16 (provisions relating to disposal of appeal against verdict of not guilty on the ground of insanity) there shall be added the following subsection—

"'(5) An order of the Court of Criminal Appeal allowing an appeal in accordance with subsection (4) shall operate as a direction to the clerk of the Crown and peace acting for the court before which the appellant was tried to amend the record to conform with the order'").—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Schedule 5 [*Transitional provisions and savings*]:

LORD STONHAM

Share

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

Amendment moved—

Page 131, line 39, leave out paragraph 14 and insert—

"("14. Section 93 of this Act shall not apply to a term of imprisonment to be served by a defaulter which has been fixed or imposed before the commencement of that section.")—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Schedule 6 [*Minor and Consequential Amendments*]:

LORD STONHAM

Share

My Lords, this is a drafting Amendment to Section 98 of the Magistrates' Courts Act 1952. I beg to move.

Amendment moved—

Page 134, line 36, at end insert:—

"("18. In section 98(2) and (3) (constitution and place of sitting of magistrates' court) for the words section 70 of this Act' there shall be substituted the words 'section 43 of the Criminal Justice Act 1967'").
—(*Lord Stonham*.)"

On Question, Amendment agreed to.

Schedule 7 [*Enactments Repealed*]:

LORD STONHAM

Share

My Lords, this is a drafting Amendment to eliminate an unnecessary repeal in Section 21 of the Criminal Appeal Act 1907. I beg to move.

Amendment moved—

"Page 138, leave out lines 13 to 16.—(*Lord Stonham*.)"

On Question, Amendment agreed to.

LORD STONHAM

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Share

My Lords, I beg to move.

Amendment moved—

“Page 139, line 14, column 3, leave out ("Section 3(3)").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, the words in Section 67(3) of the Mental Health Act 1959 which it is proposed to repeal enable legal aid to be granted to a person committed to quarter sessions with a view to the making of an order restricting his discharge from hospital. Clause 72(4) of the Bill will enable legal aid to be granted in these and other circumstances in which a person is committed to quarter sessions to be dealt with, and the provision in Section 67(3) of the Mental Health Act will therefore no longer be necessary. I beg to move.

Amendment moved—

“Page 140, line 45, column 3, at beginning insert ("In section 67(3), the words from 'and the Poor' onwards").—(*Lord Stonham*.)”

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I beg to move.

Amendment moved—

Page 141, line 9, column 3, at end insert—	
	("In paragraph 6 of Schedule 1, the words 'or any enactment of the Parliament of Northern Ireland amending or replacing the said Part III'").
	—(*Lord Stonham*.)

On Question, Amendment agreed to.

LORD STONHAM

Share

My Lords, I think there must be a misprint on the Marshalled List and this should be Amendment No. 77A. It is the last Amendment on the Marshalled List. I beg to move.

Amendment moved—

Page 142, line 25, at end insert—	
("1964 c. 43. The Criminal Appeal Act 1964.	In paragraph 6 of Schedule 1, the words 'or any enactment of the Parliament of Northern Ireland amending or replacing the said Part III'").
	—(*Lord Stonham*.)

LORD LEATHERLAND

My Lords, may I support this Amendment?

SEVERAL NOBLE LORDS: Order!

THE DEPUTY CHAIRMAN OF COMMITTEES

(LORD CHAMPION)

Share

My Lords, I think I had better put the Amendment first. The question is, That Amendment No. 77A be agreed to. I was rather expecting the noble Lord, Lord Leatherland, to make a speech upon this Amendment.

On Question, Amendment agreed to.

8.8 p.m.

LORD STONHAM

Share

My Lords, I beg to move that this Bill do now pass. On May 10, on Second Reading, I referred to the many improvements which had been made to the Bill in another place, where it had been considered in an atmosphere virtually free from Party, and I ventured to prophesy that your Lordships would consider it in the same atmosphere and that it was not unreasonable to assume that further improvements would be suggested. That assumption has not proved unreasonable. We have added 18 new clauses and one new Schedule, and have actually made a total of 301 Amendments, prior to consolidation, to the Bill we received from another place. This is just a little short of the post-war record of 309 Amendments which your Lordships made to the Town and Country Planning Bill in 1946–47. That was a monumental Bill, immortally associated with the name of my noble friend, Lord Silkin, not only because he was the responsible Minister but because he was reliably alleged to have understood it. We have exceeded also the number of alterations made to the London Government Bill, in which my noble friend, Lord Shepherd, gave a foretaste of the talents he has developed so fully in his present post.

But, most important, I think we have done a good job. The number of Amendments is significant only as evidence of three things; namely, the careful consideration we have given to the Bill, the willingness of the Government to consider constructive proposals, and the value to the country of the work of your Lordships' House. I believe that this Bill, whilst safeguarding the rights of accused persons, will simplify and strengthen the processes of justice and I am confident that the arrangements for parole and changes in sentencing policy will turn many criminals away from recidivism and will turn many minor deviants back to the paths of decent citizenship. If these hopes are realised we shall have made a major contribution to the wellbeing of society.

When so many noble Lords have helped, it would be invidious to particularise. I would therefore only say to those who have played speaking parts, thank you for your constant readiness to seek ways of reaching agreement and for the helpful spirit of our discussions, and to my noble friends who have turned up and stayed for long silent hours, often at considerable personal inconvenience, thank you for your indispensable presence which has played its part in work with which we have reason to be well satisfied. I beg to move that the Bill do now pass.

Moved, That the Bill do now pass.—(*Lord Stonham*.)

8.12 p.m.

LORD BROOKE OF CUMNOR

Share

My Lords, if the hour were earlier my speech would be longer, but I know that your Lordships have further business to complete this evening. I have no doubt, as the noble Lord, Lord Stonham, has said, we have done a good job. The criticism that I made on Second Reading still remains: that this Bill is a patchwork, and I hope that it will not be too many years before we see another Criminal Justice Bill with the foundations dug deep and a real philosophy of justice and punishment embodied in it. But there is no doubt, first, that this Bill as it reached us embodied a great many improvements on the present law, and secondly, that in the Amendments which we have passed here we have afforded yet further proof of the essential value of this House as a revising body. We have worked together on this, both sides of the House, and out of those 301 Amendments I do not suppose there is more than a handful that were settled on a Division; in almost every case the Amendment was agreed to without need for a Division.

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I, for one, feel that the most important thing now is to get this mass of Amendments back to another place, where I hope they will all be accepted, and the Bill come quickly into operation. When it does, may I express the strong hope that the Home Office will put in hand all the necessary research at once, so that future legislators will have a stronger body of research material on which they can judge the effect of what their predecessors have done? I know that when I became Home Secretary one of my

regrets was that much of the research on crime and punishment had been started only recently and therefore the results of it were necessarily not yet available. A number of the changes here need to be tested in the light of experience and only well-planned research will produce the necessary results.

Secondly, and no less important, I trust that we shall succeed in building up the Probation and After-care Service sufficiently. So much that we can do in this Bill by legislative action will depend for its practical effectiveness on the quantity and the quality of that Service. It is a Service which carries with it, I believe, the goodwill of all who care about these subjects of crime and punishment, people who care about human nature. If we have made a fault in our discussions of the Bill it is that we have not constantly enough referred to the necessity of building up that Service so that it can perform the tasks that we have placed upon it.

Finally, while the noble Lord said it would be invidious to particularise, I think the whole House would wish me to particularise in one respect. The noble Lord, Lord Stonham, has had single-handed to carry large parts of this Bill through the House. No one could have done it more courteously and more conscientiously, and I think, if I may respectfully say so, both the Government and the House have been superbly served by him in these proceedings.

8.17 p.m.

LORD AIREDALE

My Lords, I should very much like to associate myself with those last observations of the noble Lord, Lord Brooke of Cumnor. I would add that I think we ought not to pass this Bill without one final, brief word being said on the subject of majority verdicts by juries in criminal cases. Your Lordships will remember that in Committee the noble and learned Lord the Master of the Rolls, Lord Denning, pleaded with the Committee not to sweep away, without at least some preliminary inquiry, the 600-year-old practice of requiring juries in criminal cases to be unanimous. That Amendment, moved by the Master of the Rolls, was defeated by 74 votes to 8.

One of the charms about your Lordships' House is its unpredictability. I should have thought that the result of that Division was one of the most unpredictable things that had happened in your Lordships' House in recent times. I have sought the reason for the extraordinary result of that Division, and I wonder whether it possibly is because the noble Lord, Lord Stonham, in his speech on that debate, quoted some very headline-catching observations that had been made by Mr. Justice Lawton, who was then in the process of trying, with a jury, the celebrated torture trial case—observations with regard to certain attempts having been made to influence certain members of that jury.

There is a sequel to this story, and I wish to place it briefly on the record before this Bill is passed. The result of that torture trial was known two days after we debated in Committee in this House the

Amendment with regard to majority verdicts, and on the morning after the result of that trial was known *The Times* devoted a leading article to it, in the course of which the leader writer wrote this:

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> “"The witnesses and jury, for their part, showed great steadiness of nerve throughout what must have been a considerable ordeal. The argument that where a criminal ringleader is brought to trial some member of the jury will be bribed or bullied to return a false verdict has been seriously weakened. There could hardly have been a case in which the jury were reminded more terrifyingly of what intimidation means or in which it was more likely that attempts would be made to corrupt them. Yet they stood firm, and in doing so undermined the whole case for majority verdicts. What is especially ironic is that this dramatic vindication of the traditional virtues of the jury system came in the same week that the House of Lords rejected by a large majority an Amendment to the Criminal Justice Bill that would have retained the principle of unanimity for juries. All the advantages of that principle are to be jettisoned for the sake of a contentious argument that has just been shown to be alarmist in what could be regarded as a perfect test case."”

I do not blame the noble Lord, Lord Stonham, for having quoted Mr. Justice Lawton's observations in support of his argument against Lord Denning's argument when we were in Committee, but I think it

right that these words from *The Times* leading article the morning after the result of that trial was known should be added to the Record as a postscript to that matter.

8.21 p.m.

VISCOUNT DILHORNE

Share

My Lords, despite the lateness of the hour I should like, on the Motion, That the Bill do now pass, to say just a few words about this Bill. I should be the last one to discourage anyone from the Liberal Party from fighting causes that have been wholly and properly lost. But when the noble Lord, Lord Airedale, refers to what has been said in *The Times,* and expects us to accept what was said in *The Times* with regard to that particular matter as accurate, I can only say that it is a pity he did not carry his researches a little further and read a little more extensively in *The Times.* Because if he had done so he would have seen that there are people standing their trial now for attempting to influence jurors in relation to that case. I am quite certain that the change we have made with regard to majority verdicts is an improvement in the law, but it is not, to my mind, the main improvement that this Bill has made.

Looking at it as a whole, I welcome particularly the power to increase the rate of release of people on licence and the institution of the Parole Board and local review committees. I think that is going to prove to be perhaps the most important change made in this Bill. I only hope that it works well. We shall watch it with interest. Secondly, I regard as next in importance the accelerated procedure for committing cases. This provision will save a lot of time and trouble, and will improve the administra- tion of justice. Perhaps in dealing with a Bill like this one is apt to think mostly of crime and punishment, and not so much of the preservation of law and order and that side of the coin. In welcoming this Bill, I would urge that the Government be most reluctant further to restrict the powers of those who have to preside over courts, and especially their discretion as to what they should do.

I welcome this Bill, and I should like to join in what my noble friend, Lord Brooke of Cumnor, has said in regard to the way that Lord Stonham has carried the heavy burden—and it is a heavy burden—of a Bill like this, and for the way he has responded to some of the tiresome arguments that have been advanced by those who have not always seen eye to eye with him. I should also like to thank the noble and learned Lord the Lord Chancellor for the consideration that he has given to this Bill. I was glad that when the noble Lord, Lord Stonham, moved, That the Bill do now pass, he not only referred to the number of Amendments that had been made in this House, but also to the fact that this House had in this Bill once again demonstrated its value to the country. I think it is most important that that should be recognised. Now that we have made this close and detailed Study of this Bill, it makes one rather shudder to think what the consequences would have been if it had been enacted as it had left another place. They have a great burden of work to do, of course, and I am not criticising them. But we, too, have our part to play, and I think that we have all played a part in improving this Bill. I believe that it will leave this House

much better than it came in, and I only hope that it works as well as all of us, in all parts of the House, would desire.

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8.25 p.m.

LORD HAWKE

Share

My Lords, I should like to associate myself with everything said about the conduct by Lord Stonham of this Bill through the House; I think it has been wholly admirable. I only hope that it has not taxed his health too much, because it has been a heavy burden. I would remind the noble Lord, Lord Airedale, that I think I am right in saying that thousands of detective hours were spent in guarding that jury lest one man should be "nobbled". I do not know how much crime must have gone undetected in London as a result of having to put on that perpetual night and day guard on 12 people.

LORD AIREDALE

Share

Are not police man hours going to be spent to see that three jurymen are not "nobbled"?

LORD HAWKE

Share

My Lords, I would suggest that it is not so difficult to prevent three being "nobbled" as it is one. I will say only a few words now because my noble friend Lord Mansfield, who was particularly anxious to be present but has been unable to be here, wanted to make known the views of his Wild-fowlers Association on Part V of the Bill, he being the president. As the views of his Association and my views so closely coincide, I am pleased to put a few joint thoughts on the Record.

First of all, we believe that in enacting Part V the Government are prompted by a wholly erroneous chain of reasoning. Admittedly, crime involving firearms has been on the increase; but so has all forms of crimes of violence. To any ordinary person it would seem fairly obvious that the reason for that increase is the fact that criminals do not get caught nowadays. Once upon a time criminals did not go around armed; they were too frightened of making a mistake, of committing a murder, of being caught and being hanged. To-day, the chances of their being caught are much smaller, and if they do make a mistake and commit a murder and are later caught, they are no longer hanged. Therefore, they go around armed, because it is much easier to commit robbery and get away if you are armed.

That is a much more plausible explanation for the increase in crime with firearms than the one advanced in favour of the Bill; namely, that the shot-gun holders are not really properly registered. I do not believe that crime with shot-guns will be affected one way or the other by this Bill. After all, the underworld has never lacked pistols, or indeed passports, in spite of all the regulations there have been making it difficult to get them. But as a result of this highly theoretical approach to the subject, ordinary people are going to be put to a great deal of trouble.

My noble and learned friend, Lord Dilhorne, at various stages of the Bill, mentioned the case of the man with a pair of guns and a gun-maker. Surely, the man will often have a secretary to do the donkey work, and he will merely sign a form. But it is the small men who are going to suffer and be inconvenienced by this Bill. Forms and fees are all rather frightening things to these people. The particular association for which the noble Earl, Lord Mansfield, speaks comprises smallish people. But there are many smaller still —farmers, farm labourers and gardeners, nearly all of whom have guns. What with rabbits and pigeons, there is precious little they can grow unless they have guns. To these people, authority is always a little frightening, particularly when it concerns the police. There is not a soul among us who does not break the law from time to time. These people will not like having to go to the police for a certificate, even though Lord Stonham's Amendment No. 45 will make it a little better for them because the police will have to have a reason for the refusal of a certificate. But, so far as I can see, there is no duty on the police to disclose that reason, and in any appeal to quarter sessions it will be difficult for a person to

police to disclose that reason, and in any appeal to quarter sessions it will be difficult for a person to appeal if he does not know the grounds upon which his application has been turned down.

The British people do not like putting power into the hands of the police to grant permits when it is not in their hands at the moment. I do not know what the police think about it, but it will certainly increase the burden of paper work under which they are already bowed down. The Bill is practically law now, and I am quite sure that Part V will make no difference to crime. It will be a very great nuisance to a lot of people, and one can only hope that it will be administered in the most tolerant sort of way, so that people who have had a gun for years will not find themselves deprived of that right without any explanation.

8.30 p.m.

LORD LEATHERLAND

Share

My Lords, it seems that a few minutes ago I was rather too keen to pull the trigger before the bird had come into view. I welcome this Bill, and I do not on this occasion want to enter into discussion of its virtues and defects. As one who occupies one of the lowest ranks of the judiciary in this country, as a mere chairman of a bench of magistrates, I heartily welcome the rationalisation and liberalisation of our criminal law which this Bill will put on the Statute Book. On one or two occasions in your Lordships' House I have found it necessary to criticise the abstruse and complicated phraseology of some of the measures which come before us. I want to compliment my noble friends Lord Stonham and the Lord Chancellor, as well as the draftsmen in the "back room" at the Home Office, for a Bill which is very clearly written and simple to understand.

The only qualification I would make in the fulsome praise is in regard to the early clauses of Part V, which contain a good deal of legislation by reference. I only wish that the words could have been spelt out in their modern application rather than that the man when he goes out shooting should have to carry in his pocket a copy of *Stone's Justices Manual* or *Archbold's Criminal Pleadings* or some book of that kind. On the whole, I feel that the Bill is a great credit to the country. It is a great credit to your Lordships' House for all the time and attention which has been given to it—not merely in regard to details, but as to some of the fundamental provisions of the Bill. I think that it leaves your Lordships' House in a much better form than the one in which it arrived here. That is justification for the continued existence of your Lordships' House, and I feel that we have done a very good job on a very good Bill.

8.32 p.m.

LORD STONHAM

Share

My Lords, I am sure your Lordships will be in agreement if I say that the greatest disservice I could do to your Lordships at this hour would be to make a long speech. I should like to express my grateful thanks for the very kind words which were addressed to me by the noble Lord, Lord Brooke of Cumnor. I can only say that from the very first week—and I have had experience of the other place—it has always been a great pleasure and privilege to serve in this House. Never have the pleasure and privilege been greater than to serve on this Bill, a Bill which has a great many years of my life wrapped up in many of its clauses. I would remind the noble Lord, Lord Brooke of Cumnor, that as this Bill comes into operation—and he will appreciate that it will come into operation by stages—research will be built in from the very beginning and the results can be studied and compared so that we can profit from them. I would also agree with him in regard to the Probation Service. We will do everything we possibly can in that regard.

In regard to the speech of the noble Lord, Lord Airedale, curiously enough I was astonished by the extent of the majority on majority verdicts, and I am delighted to hear that, according to the noble Lord, Lord Airedale, it was a speech of mine which counted. He was quite right to put his views on record, as well as to express what happened two or three days afterwards. I know that he will forgive me for not going into that subject. I will take careful note of what was said by the noble and learned Viscount, Lord Dilhorne

that subject. I will take careful note of what was said by the noble and learned Viscount, Lord Dilhorne, about not further restricting the discretion of the courts. We have had some good discussion about that.

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With regard to the noble Lord, Lord Hawke, and the remarks he made on behalf of his noble friend, I would say that we have had consultations with interested bodies. We shall have further consultations with the interested bodies before my right honourable friend makes any rules, and I can only hope that the noble Lord's fears will not be realised but rather that the Government's hopes for this Part of the Bill will be realised.

I am particularly grateful to my noble friend Lord Leatherland for thanking the "back-room boys" for the clarity of the language in this Bill. They have indeed done a monumental job, from the time the Bill was first produced, through all its stages in another place and in your Lordships' House. It was an immense job which was done with patience, great skill and interest in the subject, and with great helpfulness in trying to meet the points and criticisms which were made. It is indeed fitting that my noble friend should have paid tribute to the "back-room boys" in that way. On their behalf, I thank him. This has been a very great experience and I will not detain the passing of the Bill one second longer.

On Question, Bill passed, and returned to Commons.

Anchors And Chain Cables Bill

8.38 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 Walston*.)

On Question, Motion agreed to.

House in Committee accordingly.

[The LORD CHAMPION in the Chair.]

Clause 1 [*Rules for testing anchors and chain cables*]:

LORD DRUMALBYN

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moved, after subsection (1), to insert:

> “"( ) The Board of Trade may from time to time make rules varying or revoking any of the rules referred to in the foregoing subsection."”

The noble Lord said: This Amendment seeks merely to give the Board of Trade discretion to vary or revoke any of the rules which it has a duty to make under Clause 1. It seems to me that this cannot be covered by the duty that is laid upon it by Clause 1. If the wording had been "The Board of Trade may make rules" instead of "shall make rules", then, of course, under the Statutory Instruments Act no doubt it would be possible for the Board also to amend those rules, as I am sure is the intention. But as we now have purely a duty and not a mere power, it seems that there is a necessity to enable the Board to amend the rules explicitly and not simply by implication. I beg to move.

Amendment moved—

> “Page 1, line 28, at end insert the said subsection.—(*Lord Drumalbyn*.)”

THE PARLIAMENTARY SECRETARY, BOARD OF TRADE

(LORD WALSTON)

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I am grateful to the noble Lord for his good will in moving this Amendment, but I assure him that it is unnecessary, because the point is already covered by the Interpretation Act 1889. That provides in

unnecessary, because the point is already covered by the Interpretation Act 1889. That provides in Section 32(3) that a power to make rules in an Act includes, unless the contrary intention appears, a power to revoke or vary the rules. That, I understand, covers the point completely. This applies to rules, regulations or by- laws, but it does not apply to order-making powers. Therefore it is usual, when giving powers to make orders, to add a power to vary or revoke the orders. But I understand that in this case it is completely unnecessary, and I therefore hope that the noble Lord will withdraw his Amendment.

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LORD DRUMALBYN

Share

I am very glad to hear that the Amendment is unnecessary. I beg leave to withdraw it.

Amendment, by leave, withdrawn.

Clause 1 agreed to.

Remaining Clause agreed to.

House resumed: Bill reported without amendment; Report received.

Hill Land Improvement Scheme 1967

8.42 p.m.

LORD WALSTON

Share

My Lords, I beg to move that the draft Hill Land Improvement Scheme, 1967, which was laid before this House on July 5 be approved. I suggest that, with your Lordships' permission, it will be convenient to consider the Scottish Scheme at the same time, that being on very similar lines. This Scheme is made under Section 41 of the Agriculture Act 1967, and provides for grants of 50 per cent. towards the cost of a range of improvements which will raise the productivity of hill land. There is also provision for making 10 per cent. supplementary grants for field drainage in the hills.

As your Lordships know, a large part of our total agricultural acreage consists of hill land, and altogether about 17 million acres out of a total of 48 million acres of agricultural land is hill land. So it is important, in order to help hill farmers to make the best use of their land, that there should be an Order on these lines. I think your Lordships will agree that special help is justified in this case, by reason of the special difficulties which hill farmers have to face. Their farms are remote; they are exposed; very often the soil is poor, and often, too, the holdings themselves are too small for efficient farming. The Agriculture Act 1967 provides for measures specially to help hill farmers, and it is under that Act that these Schemes are being laid before your Lordships.

Both of these Schemes are part of a comprehensive approach to give special encouragement to land improvements important to hill farming by providing grants of one-half of the cost. But buildings—apart from simple livestock shelters on the hills—are not included; for other types of buildings, grants at the high rate of 50 per cent. would tend to perpetuate the present imperfect farm structure, and that is the reason why they are excluded. But, of course, hill farmers will be able to put forward proposals under the Schemes concerning farm structure, which will shortly be laid in draft before your Lordships, and buildings which are needed as part of an approved amalgamation could qualify for a 50 per cent. grant under those provisions.

Under this Scheme we can give grants for all the land improvements set out in Schedule 1. The first item includes "the improvement of land by cultural operations", and this will cover, broadly speaking, all the operations which are carried out to make things grow; ploughing, discing, rolling, applying lime and fertilisers, sowing seeds, spraying with chemicals, and so on. The other items speak for themselves. The supplementary grant of 10 per cent. for field drainage is there because it is recognised as being of very special importance, particularly in this context.

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The land which is eligible for grants under this Scheme is defined in sub-paragraphs (2) and (3) of paragraph 2. This is the type of land which was eligible for grants under the Hill Farming and Livestock Rearing Acts. Schedule 2 specifies the areas of England and Wales in which hill land may lie. Sub-paragraph (3) of paragraph 2 is of special importance. Improvement of hill land is a slow business, and therefore if it is to succeed there must be a long-term policy. Farmers cannot be expected to improve their land if they are afraid that they will no longer be eligible for special help, merely as a result of the improvements which they themselves have made. On the Second Reading of the first Agriculture Bill on November 30, 1965, in another place, my right honourable friend the Minister of Agriculture said that we proposed to prevent this situation from happening; and this is what this paragraph attempts to do.

It ensures that land in hill areas which is considered inherently poor enough to qualify for these grants will remain eligible for the five-year period of this Scheme, even if improvement subsequently shows the land to be better than was thought. I hope that when the time comes to make the next five-year Scheme, the Government of the day, whatever Government it may be, will include a similar provision and in this way allow a period of ten years free from the fear of "improving out". If Ministers felt it necessary to exclude any farms on quality grounds after that, I hope that review of eligibility would take place during the second Scheme in good time for ample notice to be given to those farmers whose land had become too good to qualify.

Of course, farmers are also concerned about the income which they can expect from their improved land. If I may anticipate legislation which is shortly to be presented to the House, we propose to include a parallel provision in the Schemes governing the payment of hill sheep and hill cow subsidies for the next five years. I hope that arrangements similar to those for the improvement grants will be made in the next following Schemes also. I should perhaps add that under the definition of "hill land", the all-important factor is the suitability of the land for livestock-rearing purposes. If the land qualifies, the fact that the applicant is fattening sheep or carrying dairy cows will not disqualify him from grant.

An important difference between this Scheme and the grants which were previously given under the Hill Farming and Livestock Rearing Acts is that there is now no requirement that the improvement shall be "comprehensive". Farmers will be free to submit applications for one or more improvements and may submit any number of applications. The obligation under the old Livestock Rearing Acts to submit proposals for the comprehensive rehabilitation of the farm held back some small hill farmers from submitting schemes. Farmers may be unable or unwilling to embark on a comprehensive scheme, but may still carry out worthwhile improvements, and we want to encourage them to go ahead.

But we also want to see the farm structure in these hill areas improved. Paragraph 4(2) of the Scheme provides a safeguard against grant-aiding improvements on the smaller farms which might be wasted in the event of an amalgamation. I do not think this necessary safeguard will, in practice, prevent many farmers from carrying out the improvements they want. The paragraph provides that if the farm is not capable of providing a sufficient livelihood (and "sufficient livelihood" is interpreted as the agricultural worker's minimum wage), either before or after improvements, then the proposed improvement may still be approved if it would subsequently benefit any larger farm which might be formed by amalgation. In most cases, I feel sure, the proposed improvements would meet this condition, but the safeguard is needed for those cases—the making of a road, for instance, or the renewal of a fence—which might not be worth while if the farm were amalgamated.

A general condition of these grants is that, as is mentioned in paragraph 4(3), the cost of the improvement should not be unreasonably high in relation to the benefit to hill land. But if it is, perhaps because it includes ineligible work or unduly expensive materials, then subparagraph (4) enables the Minister to pay grant on part of the cost. The first few lines of paragraph 5 refer to the payment of grant on the basis of "standard costs" in accordance with regulations which may be made under Section 36(1) of the Act. Consultations on the "standard costs" are now in progress with the industry, and my right honourable friend intends to issue regulations on "standard costs" in the next month or two. Applicants under this and other schemes will then be able to choose to have grant based either on the actual costs or on the appropriate standard costs under the regulations, whichever they consider to be most convenient to their own purposes.

Paragraph 7 contains the usual safeguards concerning work which would frustrate an improvement previously grant-aided and concerning payments which would duplicate a grant already paid. Sub-paragraph (3) provides that where assistance is also available under another scheme, grant at the higher of the two rates shall be allowed. Assistance under the Lime Subsidy Scheme and the Ploughing Grant Scheme may exceed 50 per cent. of the cost in some cases. Applicants submitting proposals for liming or ploughing under the Hill Land Improvement Scheme will therefore be advised to apply for assistance under these other provisions. If payment exceeds 50 per cent. of the cost, no grant will be paid under the present Scheme: if it proves to be less than 50 per cent., then the present Scheme enables us to make it up to 50 per cent. So in no case will the farmer be the loser.

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We have consulted the National Farmers' Union, the Country Landowners' Association, the Chartered Land Societies Committee, and also the corresponding Scottish organisations, on all the proposals in this Scheme. I think I can say that they all gave a general welcome to the proposals, and we are most grateful to them for their constructive help. They suggested that the list of eligible improvements should be extended to include buildings, but I have already explained to your Lordships why we have decided not to do this—apart, of course, from the exceptions that I have already mentioned.

My Lords, this Scheme is the first exercise of the powers given by Section 41 of the 1967 Act. The cost of the two Schemes together—that is, this one and the similar Scottish Scheme—is expected to be about £1 million a year. I am sure it will be of very great benefit to hill farmers; and, because of the importance of the hills for our breeding flocks and herds, I believe it will also benefit our agricultural industry in general. By giving special encouragement to improvements that will raise the productivity of hill land, it will make a useful contribution to the programme of selective expansion, and it will also help hill farmers to increase their incomes. My Lords, I beg to move.

Moved, That the Draft Hill Land Improvement Scheme 1967, laid before the House on July 5, 1967, be approved.—(*Lord Walston*.)

8.55 p.m.

LORD NUGENT OF GUILDFORD

Share

My Lords, may I thank the noble Lord, Lord Walston, for his interesting and detailed account of this Scheme, and say a word of welcome to it? It seems to follow lines similar to those laid down in previous Schemes under the Livestock Rearing Acts, with one or two useful amendments to which the noble Lord called our attention. These Schemes, of course, have been very valuable to hill farmers in the past, and I should think that the particular amendment that the noble Lord mentioned, of allowing the hill farmer to make a piecemeal approach rather than a comprehensive one, will be one of practical value.

As the noble Lord explained, the object of these Schemes is to meet half the capital cost of improvements to a range of features on these farms with a view to increasing their stock-carrying capacity, and to assisting the breeding and rearing of cattle and sheep on the the hill—which is, of course, virtually the only form of farm husbandry which this hill land can support. Both economically, in the interests of food production, and sociologically, in the interests of keeping farmers living on the hill land, this is sound national policy which has been followed by Labour and Conservative Governments now for many years. Of course, to be sitting in the hill land of England, Wales or Scotland at this moment on a hot July evening is an attractive thought. We should all rather like to be there; but in the middle of winter it is pretty rugged, and unless we make conditions as helpful as we can people just will not remain there.

I wish to make a point to the noble Lord which is a critical one: that the value of these grants to the hill farmer will be frustrated if the price for his stock when he sells it off the hill is too low. Last autumn there was a calamitous slump which hit hill farmers very hard—and they are mostly small men, with small pockets. In the main, they sell store stock, which is then fattened by the Lowland farmers. Thus they do not get the cushioning effect of the guarantee price and the deficiency payment. And the market has collapsed again this year. Last week the average price for fat cattle had fallen to nearly the lowest price of last November. One market, I believe, actually broke below £5 per hundredweight. Of course, the store

prices follow the fatstock prices, and if the fall continues for the next four months the prospect for these small hill livestock farmers is really grim indeed. This Scheme would have no more than academic value in those circumstances.

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I say to noble Lords opposite, and particularly to the noble Lord, Lord Hughes, who is to reply to this debate, that if the Government mean to help these hill farmers they really must take more effective action than this. Another one or two autumns like that of last year and there just will not be any stock farmers left on the hills to help. The noble Lord, Lord Walston, with his great knowledge of agriculture, well understands this situation, although I am glad to think that he does not live on the rugged hillside but on the lush lands of East Anglia. I will therefore not make more than a passing reference, which I acknowledge goes outside the scope of this Order, to what is happening; but it is so germane to the life of these people whom we are trying to help that I feel it deserves a mention now.

The fact is that the closing of the Western European markets to meat imports by means of the Common Market levy system has the effect of making the British market the sole open market for meat, practically speaking, in the world, with the result that this market becomes the repository for every parcel of meat

which is moving about in the world meat market, whether it comes from South America, Australia, New Zealand, or indeed from Eire—and I hear that there are even threats that France may be exporting meat to us. This severe imbalance of our meat market has been exacerbated by Her Majesty's Government actually paying a subsidy to Eire farmers who send their cattle and lambs here. This really is the last straw. It is the most astonishing piece of mismanagement. May I ask whether noble Lords opposite will please take a message to their right honourable friend the Minister of Agriculture that it is small help to these little hill farmers to give these improvement grants if, at the same time, the Minister makes arrangements which knock the bottom out of their markets?

The simple answer to this is to adopt the Common Market levy system of import control and so protect the home market for the home producer, at the same time preparing our country for entry into the Common Market—to which the Government are pledged, and very much with my personal support. In giving my support to this Order, may I ask the noble Lord, Lord Hughes, who is to answer, to take this message to his right honourable friend the Minister of Agriculture: that there is really the most urgent need to take the kind of action I have suggested to control the import of meat into the country if we are to keep these farmers on the hills. The benefit of these schemes will be completely lost unless they are to get a sufficient return from selling their stock to get a reasonable living. With those rather anxious words of warning I give my support to this Scheme.

9.1 p.m.

THE JOINT UNDER-SECRETARY OF STATE FOR SCOTLAND

(LORD HUGHES)

Share

My Lords, my noble friend Lord Walston has explained the purposes of both Schemes so well that my task in replying is comparatively easy. I say "comparatively easy", because although the noble Lord, Lord Nugent of Guildford, offered no criticism of the Schemes he raised a formidable matter on behalf of those whom the Scheme seeks to benefit. I think we must accept it that people must continue to be in business if they are to get benefit from these proposals. I think it is accepted that the proposals will be helpful to those in the hills if they are allowed to continue in business. I should like to confirm what my noble friend Lord Walston said, that the proposals to which he spoke apply with one or two minor differences also to Scotland. I do not propose to say anything specifically about the Scottish proposals.

I should like to make some comment on what the noble Lord said about the difficulties which face these farmers in the present cattle market situation. The information I have been given is that until recently the market has taken up considerably more beef than a year ago, and at comparatively good prices; but over the past three or four weeks prices have fallen rapidly. We do not dispute what the noble Lord said in that connection. The Minister has not waited for any advice which may be tendered either by my noble friend Lord Walston or myself in this matter, and he has recently had a full discussion of the problem with the unions. I think it would be right that I should give some indication of the situation as it is seen

with the unions. I think it would be right that I should give some indication of the situation as it is seen. The causes of the market weakness would appear to be; first, an increase in home fed marketings; Secondly, many poor quality cattle are now coming on to the market; thirdly, exports to the Continent have fallen from the high level of a few weeks ago; and, fourthly, the warm weather to which the noble Lord referred, with some longing to be on the hills at this time, has its disadvantages for the hills in that it reduces the demand for week-end joints. We expect the market to be well supplied over the next six months, mainly because of the increase of home-fed marketings. The very high cattle prices of 1964 to 1966 reflect a comparative shortage of beef and the Government's policy, with the fullest support by the unions, has been to encourage expansion of beef production. Somewhat lower market prices must be expected to follow from the success of this policy of some-what higher deficiency payments.

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As regards imports, supplies of fresh and chilled meat are currently running at a level comparable with last year; but imports of frozen beef are considerably lower. The present weakness cannot therefore be attributed to an excessive level of imported beef. There has been criticism of imports from the Republic of Ireland, but there has in fact been some improvement this year in the pattern of Irish supplies to our markets. In the first six months, imports of stores and carcase beef were considerably higher than last year. These were absorbed at reasonably good prices. Much of the increased potential known to exist in Ireland may have been already absorbed. The main fear felt by farmers seems to be that the Irish Republic may again this autumn flood our markets with fat cattle with the help of the export subsidies to which the noble Lord referred. We are alive to this possibility and to the importance of better phasing of Irish supplies generally. My right honourable friend the Minister of Agriculture has had several meetings with the Irish Minister of Agriculture, and they are continuing to try to secure greater regularity and an increase in the proportion of cattle sent as stores. Since talks are still going on, noble Lords will appreciate that it is not possible for me to say anything definite at this stage about their outcome.

At times of market weakness producers of store cattle are going to suffer more than the fattener who, as the noble Lord, Lord Nugent of Guildford, said, has the benefit of the protection of the guaranteed payments. Nevertheless, the rearers do receive direct help in the form of calf subsidies and the hill cow and beef cow subsidies, all of which were increased in the last Annual Review. There is also this point, and I think this could be helpful. The break in the market last year coincided with the autumn store sales which made things quite difficult for the rearer. The break this year has occurred earlier, and there is time for recovery before the starting of the store sales. So far the stock markets are remaining reasonably firm, and it is important therefore that neither the farmers nor ourselves should do anything to have the effect of talking the market down. I appreciate that these matters must always include a great deal of imponderables. But in so far as the situation differs from last year, the difference would appear to indicate a better prospect for the man on the hill than the situation which developed last year. The talks which) my right honourable friend is having will be in an endeavour to make that still more likely. We must all hope that he will succeed in that.

The noble Lord, Lord Nugent of Guildford, will forgive me if I do not follow him in the question of what will happen when we are in the Common Market and the way in which we might best at this stage prepare for our entry. That is a matter very much wider than the Schemes we are discussing and I think that the degree of unanimity which exists between us on the merits of the scheme might well disappear if we started to debate this wider aspect.

LORD INGLEWOOD

Share

My Lords, before the noble Lord, Lord Hughes, sits down, will he tell us something about the market for fat sheep? He has not mentioned sheep or mutton, and, of course, hill farmers, large and small—and not least my noble friend Lady Elliot of Harwood—depend a great deal more on sheep than on cattle. As it is so important, could the noble Lord say just a word of encouragement to hill farmers in that respect?

LORD HUGHES

Share

My Lords, I do not think the noble Lord need have undue fears on this matter, and while I accepted that

My Lords, I do not think the noble Lord need have undue fears on this matter, and while I accepted that what was said by the noble Lord, Lord Nugent of Guildford, was really outside the actual Schemes which we were discussing, at least it had the merit that it was topical, and there had been this sudden break in prices during the last three or four weeks. If the noble Lord, Lord Inglewood, wishes to give an indication that a similar situation has taken place in relation to the sheep side of the industry, I shall be surprised and dismayed—surprised because I have not had that indication, and dismayed because it would compel me to have to stray still further from the purpose of the Scheme.

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LORD INGLEWOOD

Share

My Lords, would the noble Lord take it from me that I was not just filling in time, I was making what I thought was a serious point? The store lambs of Scottish farmers like my noble friend Lady Elliot of Harwood were selling in the North of England last autumn at least at £1 less than in the previous autumn, and the market has not recovered yet. It is the sheep prices far more than the cattle prices that

have caused general weakness. I should not like to encourage the noble Lord to stray out of order this evening, but I would ask him to consider this point when he has conversations with the Minister of Agriculture, Fisheries and Food.

LORD HUGHES

Share

My Lords, I think I can give this assurance to the noble Lord, Lord Inglewood: that I shall be no less anxious to encourage my right honourable friend to help Scottish sheep farmers than to help English and/or Scottish cattle farmers.

On Question, Motion agreed to.

Hill Land Improvement (Scotland) Scheme 1967

LORD HUGHES

Share

My Lords, I beg to move this Order.

Moved, That the Draft Hill Land Improvement (Scotland) Scheme 1967, laid before the House on July 5, 1967, be approved.—(*Lord Hughes*.)

On Question, Motion agreed to.

Furniture Industry Development Council (Amendment No 3) Order 1967

9.12 p.m.

LORD WALSTON

Share

My Lords, I beg to move, that the Draft Furniture Industry Development Council (Amendment No. 3) Order 1967 laid before the House on July 5, 1967, be approved. This Order is made under the authority of the Industrial Organisation and Development Act 1947, and is subject to Affirmative Resolutions of both Houses of Parliament. It amends for the third time the Furniture Industry Development Council Order, 1948 (S.I. 1948 No. 2774) which set up a Development Council for the furniture industry.

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As noble Lords may remember, the Furniture Development Council was set up in order to help the furniture industry increase its efficiency and thereby improve the services that it gives to the public. During its life the Council has helped the industry in many ways, such as production, management and engineering, financial control and costing and marketing. In 1961 the Furniture Industry Research Association has handled on behalf of the Council its responsibilities for scientific and technical research. These two bodies worked closely together, and a large part of the levies which the Council collects from the industry is passed on to the Research Association to help with their work. By Statute the work of the Council is re-assessed every five years. The last review took place in 1966 and as a result certain changes were decided upon. The object of this amending Order is to give effect to these changes.

First, it is proposed that the form of the levy should be changed, and secondly, it is proposed that the catchment area should be spread a little wider so as to bring in those who make certain types of built-in furniture and who have hitherto not paid the levy. As a result, the Council will have somewhat more funds at its disposal, and therefore will be able to give still better service to the industry. In 1948, when the orginial Order was drafted, built-in furniture did not represent a significant part of the industry. Now it has grown greatly in importance, and it must be right that domestic built- in furniture should pay its share to the funds of the Council. Specialised built-in furniture used exclusively in offices, schools or hospitals is still excluded. It has not been easy to define these different categories in the Order and there may be some awkward borderline cases. However, I am sure that the Council will deal with these matters with common sense as they arise.

The furniture industry as a whole is in favour of these proposed changes; but the British Woodwork Manufacturers' Association, who represent employers in the joinery, timber, engineering and industrial building industries did not welcome the proposal. In this they are joined by the Amalgamated Society of Woodworkers. There is, of course, inevitably some overlapping between the joinery trade and the furniture industry; as the trend towards built-in furniture increases so the line between joinery work and furniture manufacture becomes more blurred. But I want to make it clear that the levy is not being imposed on all products of the joinery industry, such as doors or window frames, but only on built-in furniture units. I would assure the joinery industry that they are getting a good return for their investment from the Furniture Industry Research Association and the Furniture Development Council. I am sure that the work of these two organisations will prove just as valuable to them as it has to the furniture industry.

The third major purpose of the Order is to take into account various technological changes which have taken place in recent years. Just as one example out of many, in the past upholstered metal furniture has been included for levy purposes while metal furniture which is not upholstered has not. There is no good reason for preserving this distinction. Fourthly, the Order safeguards the position of the small man who may make "built-in", metal or some other furniture on a small scale. The Order provides that he should be excluded from levy payment if his turnover of leviable items is £3,000 per annum or less. This is a new provision. The position now will be that if he makes domestic furniture in the sense of the Order, he will be required to register and will be eligible to receive the benefits of the Council's services without charge, but henceforth he will not have to pay levy. This type of encouragement, of course, is one of the things for which Development Councils were set up.

Finally, my Lords, I should like to thank various other Government Departments which have helped us in the preparation of this Order, and also the Directors of the Furniture Development Council and of the British Furniture Manufacturers Federated Associations, and the General Secretary of the National Federation of Furniture Trade Unions. They have all helped with the work, as have many others who are connected with the industry. I am glad to say that the vast majority of these fully support the Order. At the same time I should like to pay tribute to the work of the Council under the chairmanship of Mr. Roger Falk, and of the Research Association under Mr. Keith Wrighton. Both bodies have done a first-class job in helping the furniture industry to strengthen its position in home and overseas markets. By your Lordships approving this amendment Order, it will enable them to make a still greater contribution in the future, and therefore I hope that your Lordships will do so. I beg to move.

Moved, That the Draft Furniture Industry Development Council (Amendment No. 3) Order 1967 laid before the House on 5th July, 1967, be approved.—*(Lord Walston.)*

the House on 5th July, 1967, be approved."—(Lord Walston.)

9.18 p.m.

LORD DRUMALBYN

My Lords, I should like to thank the noble Lord for his expounding of this Order, although I am bound to say that generally votes of thanks come at the end of proceedings rather than at the end of the first opening shots. I have no criticism to make of this Order, except so far as two things are concerned: first of all, paragraph 3 of the Schedule, which deals with the definition of furniture; and secondly, the degree of consultation that has taken place.

As the noble Lord said, the President of the Board of Trade eventually decided last year to bring built-in furniture within the scope of the levy for the Furniture Development Council. This meant bringing in activities of an industry which was quite separate from the furniture industry, an industry which looks not to the Board of Trade but to the Ministry of Public Works and Buildings as its sponsoring Department. It

is true that Section 14(2) of the principal Act, the Industrial Organisation and Development Act, permits this to be done. But if it is done, surely it should be done with the utmost tact and consideration, and with the fullest consultation. After all, one has to bear in mind that in this case the Board of Trade were dealing with a union and an organisation of employers that were not accustomed to dealing with them, but were accustomed to the ways of another Ministry. They had no previous experience of dealing with Development Council Orders, and they should have been guided, I think, and helped in every possible way; told exactly how long they were going to have for consultation; how long it would be before they must make up their minds; whether to ask for additional consultation, and so forth.

On this point of consultation, Section 1(4) provides that

> “"a development council order shall not be made unless the Board or Minister concerned is satisfied that the establishment of a Development Council for the industry is desired by a substantial number of the persons engaged in the industry."”

Technically, I dare say, it may be that the Board does not have to be satisfied that a substantial number of persons in the second industry brought within the scope of a Development Council Order, by an amended Order, desire to be brought in. Technically, no doubt, that is not necessary. But, all the same, it is relevant, I think, as the noble Lord himself said, that the joinery industry, which is the second industry, does not wish to be brought in; that the British Woodwork Manufacturers' Association consider that they are still awaiting consultation with the Board of Trade, and that they have not indicated any desire to be brought in—quite the reverse; and that, of the two trade unions involved, I am told that the Amalgamated Society of Woodworkers has informed the Board of Trade that it has no desire to be brought in, and the Amalgamated Society of Woodcutting Machinists has not been asked by the Board of Trade whether it has any desire to be brought in or not.

The Preamble to this Order states that the Board of Trade has complied with the subsection in this case dealing with consultation, which says that

> “"before making a development council order the Board or Minister concerned shall consult any organisation appearing to them or him to be representative of substantial numbers of persons carrying on business in the industry. Such organisations represent persons employed in the industry as appear to the Minister concerned to be appropriate."”

The Preamble states that the Board of Trade have complied with this subsection. My Lords, a Preamble has to be proved. Parliament has to be satisfied that consultation, in the normal sense of the word, has taken place, and not just what a Minister or Department may be pleased to call consultation. The Board of Trade wrote, on May 24, to the British Woodwork Manufacturers' Association, and said:

> “"I can assure you that as soon as we have the full draft of various proposed amendments to the Order, which includes an appropriate reference to built-in furniture, we shall be formally consulting with the B.W.M.A. as an interested organisation."”

An organisation which has not had to deal with a development council before, or, for that matter, very

much with the Board of Trade, is not likely to know what the Board of Trade means by "formally" unless it is told. The B.W.M.A. asked to see the sponsoring Ministry, and a meeting was arranged for June 26. On June 9 the Board of Trade sent a copy of the draft Order, and offered to discuss it. To this the B.W.M.A. replied:

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> “"I would anticipate that a further meeting would be required for this purpose, as suggested by you."”

That was the purpose of consultation.

At the meeting on June 26 the Board of Trade representative was present, and the Ministry Chairman summed up the three points on which the B.W.M.A. felt they required further information. On July 3 the Board of Trade wrote to the B.W.M.A., but they did not state that there was to be no further consultation before the Order was made; and there has been none, although the B.W.M.A. has made it quite clear that it expected it, and expected answers to these questions. The result is that now I think the Order is less satisfactory than it would have been if there had been full consultation. The B.W.M.A. are not satisfied with the definition of "furniture". The definition says:

> “"'Furniture' means furniture made of any material, whether assembled or not, of a type commonly used for domestic purposes, whether or not designed, manufactured or supplied for those purposes, and whether designed to be free-standing or to be affixed to premises,"”

and so on. The Board of Trade have simply informed the B.W.M.A. of all the various items that they consider will be included in the term "built-in furniture". They did that in the letter of July 3 to which I referred. Nobody knows whether that is a complete list or how this definition is going to be interpreted.

This is most unsatisfactory, and of course it is also unsatisfactory that the definition in itself makes a division in the joinery industry. The definition has the effect that what is exempt from the scope of the levy is:

> “"furniture designed to be affixed to premises and made (whether on the premises to which it is to be affixed or elsewhere) by any person—”

> “(i) pursuant to a contract entered into by him to supply and affix such funiture…."”

In other words, if the maker himself fixes the furniture it is exempt; if it is done by a contractor it is not exempt. So again there are two separate categories, one exempt and one not. This is quite unsatisfactory. I should have thought that with proper consultation this difficulty could have been ironed out, and it seems to me that the Minister would do well to withdraw this Order, to have the consultation and then reintroduce the Order. He still has quite a lot of time before the House rises for the Recess. If he would take that course, the consultation could be organised and it would give a great deal of satisfaction. People do not feel satisfied if they are brought in from quite outside the industry. The joinery industry is entirely separate from the furniture industry: it has a separate sponsoring department; it is separately treated for purchase tax purposes and for industrial training, and for those reasons it is absolutely imperative that it should be fully consulted. This has not happened. It could have happened, and in the circumstances I think we are entitled to ask that it should happen before we give our assent to this Order.

9.22 p.m.

LORD WALSTON

Share

My Lords, I am sorry the noble Lord has taken this line, because I really feel that in preparing this Order we have done not only all that was statutorily required of us but also all that reason and common sense demanded. I would say at the outset that on pure grounds of what I would call "simple logic" and nothing else, and without going into any technicalitities, it is right that those who are concerned with furniture-making should pay the levy if they are going to get the benefit from the work of the Development Council.

As I tried to explain to your Lordships, over the past years those who are normally engaged in the joinery trade have become increasingly involved in the furniture trade. A larger amount of the built-in furniture specifically is now being manufactured by people who normally are joiners and woodworkers, but the results of the research and general work of the Furniture Development Council are, of course, available, either directly or, more probably, indirectly, to these people. Therefore it is only fair to the furniture industry as a whole, as defined in commonsense terms, that they should be brought into the scope of this Order.

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I think this is the common-sense approach to this matter. What we want to avoid in this are any demarcation disputes—refusal either to do a certain job or to pay a certain levy, or whatever it may be, because of some technicality. We want to make this a common-sense working agreement which will benefit the furniture industry as a whole, and we want to ensure that those who benefit from it pay their fair share and that there is no one section that is left out on a technicality. I hope that I have carried noble Lords with me, at least as far as that.

The second point, which the noble Lord, Lord Drumalbyn, went into at considerable length, was whether we in fact made the appropriate consultations, and whether this has been done correctly. I think I am

right in saying that he was good enough to say that we had fulfilled the legal requirements under which we were operating, and that of course is quite true. He then went on to suggest that it had not been done properly, but had been done in a somewhat formal and perhaps cavalier fashion. It is perfectly true that we consulted the Woodworkers Association in the formal sense on June 9.

But that was not by any means the beginning of the story, because long before that officials of my Department had been in close touch with the Woodworkers Association. For instance, on March 22 two officials of the Department paid a special visit to the Association's headquarters and explained the purpose of the Amendment Order; and subsequently on April 14 and May 24 two further letters were sent on the subject, the latter of which extended an invitation to discuss further if the Association desired. Then there was a meeting held under the auspices of the appropriate Ministry, that is, the Ministry of Public Building and Works, on June 26. I would go further than that and say that the sponsoring Government Department, that is, the Ministry of Public Building and Works, agrees with this Order and its scope, and, therefore, although the woodworkers themselves are opposed to it, the Government Department which has the overall responsibility in this matter and perhaps can look at it in a rather wider sense, does see the force of the arguments. Indeed, as I said in my opening remarks, we have consulted very fully with them and with other Government Departments and with all the interested parties.

I think it is true to say that no matter how much consultation we had it would have been probably impossible to reach a unanimous agreement. I submit that we have had not only the consultation demanded of us legally, but far more than that—and consultation of a sort designed to bring people round a table or sitting across desks, talking to each other. No matter how much of that we had had, there would always be the natural and understandable reluctance on the part of people who have hitherto not had to pay the levy being brought into the scheme. But we have—and again I repeat what I said earlier—made it perfectly clear, and in framing the Order we have attempted to achieve this. I believe we have achieved it, at any rate as to 99·9 per cent.—that is, that the levy will be paid only by those who actually make furniture, and it will not be extended to any other activities of joiners, woodworkers or anybody else. That, surely, must be the objective of this Order; it is what you make and what benefit you get rather than how you happen to be classified in special returns or any other way. I hope therefore the noble Lord, having listened to what I have said, will agree we have not only carried out our legal responsibilities as the Government but have gone much further, and that the Order itself is a good one and he will agree to it.

9.35 p.m.

LORD ERROLL OF HALE

Share

My Lords, I should like to thank the noble Lord for replying so fully to my noble friend Lord Drumalbyn, but we on this side of the House still remain deeply dissatisfied with the situation although appreciating

but we on this side of the House still remain deeply dissatisfied with the situation although appreciating greatly the careful explanations given by the noble Lord, Lord Walston. The real reason for this Order is, of course, not just a matter of tidiness; it is that the revenue of the Furniture Development Council is falling away a little, and they have looked around and said, "We had better rope in a few more people. We have all these people who make built-in units"—which the noble Lord, Lord Walston, has been careful to call furniture; but it is not furniture at all. And so these people who do not want to be roped in, have been or are about to be roped in if this draft Order goes through.

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It is quite true that consultation on this particular matter might continue indefinitely without the Government getting agreement. In my submission, in that case the Government ought to desist from forcing these people to pay the levy. Why should they pay a levy to a body they have not wanted to be associated with, and which is not likely to do them much good? I know why: it is so that the Furniture Development Council can get more money. That is the sole purpose of this exercise.

It is fascinating to see how, even in Government Departments, the line is so clearly drawn between movable furniture and built-in units, because movable furniture is sponsored by the Board of Trade but built-in units are sponsored by the Ministry of Public Building and Works. So even in Government

Departments the two categories of manufacture are entirely different. The noble Lord, Lord Walston, has amply reinforced what my noble friend Lord Drumalbyn has been pointing out: that here we have two clearly defined, different types of manufacture; and the one that is to be roped in does not want to come in because it does not think that the Furniture Development Council will be of any use to it.

And why would the Furniture Development Council not be of any use to it? Because the Furniture Development Council work has been concerned with the research and design and development problems relating to movable furniture, not to built-in units. I do not know whether the noble Lord, Lord Walston, has been to the Furniture Development Council Research Centre in North London. It is a most interesting place. They do tests on how many times you can lean back in a dining room chair without breaking the back legs. This is not a laughing matter; it is a most serious matter. Some chairs put up with that maltreatment; others do not. How is it that some types of joints stand that sort of maltreatment? Research provides the answer. The result is that dining room chairs are now better than they were 15 years ago. Wardrobes: how much strengthening is required in a wardrobe if it is placed on an uneven floor so that it will not in fact distort and so jam the doors, preventing them from opening and shutting? These are matters of great importance, and have been studied by the Furniture Development Council. But they have nothing at all to do with built-in units, which are not subject to these problems.

The Government may say that it is about time that there was research into built-in units. But this is going on already. The Woodworkers' Association, or whatever it is called—I have not my papers with me to check the name—already have a substantial volume of research work going on under their own steam, and without having ever asked for a grant from the Government. Indeed, one of their main sources of complaint is that if only they had gone cap-in-hand to the Government and asked for a grant, the full extent of their existing research work would have been better known by the Ministry of Public Building and Works. But now, unless you ask for a Government hand-out you are told you are not doing anything. It is a real lesson for the rest of us in this country: Ask the Government for money, otherwise you will be ignored! This may be a small example to-night, but it serves to illustrate the trend of thinking on behalf of Her Majesty's Government, that if you do not ask for money you obviously cannot possibly be doing anything.

That is the case of the Woodworkers' Association. They do not want the helping hand from the Furniture Development Council, because they know it is not going to help them. They do not want to contribute and they do not see why they should be frog-marched into it by means of this draft Order. They are doing their own research work. They are not making furniture; they are making built-in units. The next time the noble Lord moves house he will soon see the difference between the furniture and built-in units, because the built-in units stay behind for the purchaser of his property. He can take only the movable furniture with him, and he will be glad if it has been built to Furniture Development Council specification, because then it will stand up to the rigours of the move. But the built-in stuff, for which entirely different research work is necessary, stays where it is.

May I conclude, on this small but important matter to the people concerned, by asking whether Her

Majesty's Government could not on this occasion, just for once, concede that there may be a point of view other than their own? Could they not say, "Maybe we did not get it quite right. At least, let us have another look at it"? It is only a draft Order. It is not an Order which is subject to the Negative Resolution Procedure, an Order which has the force of law until it is defeated in Parliament. It is, as I say, only a draft submitted by Her Majesty's Government to both Houses of Parliament. It is not a good draft. I ask the noble Lord to withdraw it and to think again.

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LORD WALSTON

Share

My Lords, with the permission of the House—I may not speak without it. I do not know whether the House will give me permission to speak again, very briefly. The noble Lord shakes his head.

LORD ERROLL OF HALE

Share

I do not think the noble Lord has to ask for permission.

LORD WALSTON

Share

I have already spoken twice. I will not detain your Lordships for long. The noble Lord, Lord Erroll of Hale, has made an eloquent appeal asking us to take back this Order and admit that we have made a mistake, that we have not thought right, and so on. Let me put this matter in what I consider to be its right perspective. This is not a question of an arbitrary, remote Government Department making a decision in its ivory tower, and issuing an *ex cathedrâ* judgment. This Order is the result of long thought and long consultation between all sections of the furniture industry, looked at in a logical and wide-raging manner, and between all the Government Departments concerned. I am surprised that the noble Lords, Lord Drumalbyn and Lord Erroll of Hale, should take this extraordinary legalistic attitude that because something happens to fall into one pigeonhole it should be dealt with in one way, and because something falls into another pigeonhole it cannot be included and must go somewhere else. It is this sort of attitude which has up to now bedevilled so much of British industry.

We must have a far more comprehensive view of these matters, and not simply say that because something happens to have a nail hammered into a wall and cannot be moved, it is separate from something which can be picked up and put somewhere else. We must look at these matters in a wide way, so that all those concerned in making furniture in this case—or it might be ships or moving freight —all join together, and do not just say, "We are railwaymen and they are lorry drivers, so we can have nothing to do with them". This is the attitude which restricts and bedevils our affairs at present.

LORD DRUMALBYN

Share

My Lords, would the noble Lord take the view that what we are doing is asking the Government to consult those who know about these matters before they make a decision?

LORD WALSTON

Share

No; that is not what I consider you to be asking us to do, because that is what we have already done. It has been going on for months past. Having consulted all the interested parties, and having got almost all of them on our side, why should we—because of a small group who are now being asked to do something they have never done before and who do not want to change their habits—then go against the majority decision of all the expert people? No, my Lords, I cannot take back this Order, and I hope

you will agree to it.

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LORD ERROLL OF HALE

Share

My Lords, before the noble Lord sits down—

A NOBLE LORD: No.

LORD ERROLL OF HALE

Share

Well, the noble Lord, Lord Walston, has spoken three times. May I not make a brief intervention? I would submit to the noble Lord, Lord Walston, that he has not made the slightest suggestion in his three speeches that any research work is going to be done which will benefit the people who have to pay the

levy. It is time it was realised that we should not have to pay for things when we get no benefit from them. The woodworkers feel that they will have to pay a levy for something from which they get no return. Perhaps the noble Lord might think over that point.

LORD WALSTON

Share

I will remind the noble Lord that if he will read what I have said he will see that I did say that they would get a return for this.

LORD ERROLL OF HALE

Share

But it is not specified.

On Question, Motion agreed to.

Hire-Purchase Restrictions On Electrical Appliances

9.45 p.m.

LORD DRUMALBYN

Share

rose to ask Her Majesty's Government whether they are aware of the serious contraction of sales of domestic electrical appliances on the home market in the past twelve months and of the consequent adverse effect on costs and on competitiveness in export markets; and whether they will now ease the present hire purchase restraints. The noble Lord said: My Lords, electrical and radio products are favourite whipping boys for every Chancellor of the Exchequer who runs into difficulties. The point I am trying to make, in as short a time as I can this evening, is that they have now had enough chastisement and it is beginning to hurt; and hurt not only the radio and electrical industry, but also the interests of the country.

Perhaps I may remind your Lordships of what has happened so far as hire-purchase on these products is concerned. First of all, before June, 1965, a down payment of 10 per cent. was required and there was a repayment period of 36 months, together with a purchase tax of 25 per cent. Over successive stages this has changed to a down payment of, not 10 per cent. but 33⅓ per cent., a repayment period of 24 months in place of 36 months, and a purchase tax of 27½ per cent. The result of all this, since July, 1966, in particular, when the 33⅓ per cent. came into force, is that all electrical appliances subject to these

in particular, when the 33⅓ per cent. came into force, is that all electrical appliances subject to these restraints—except, I believe, toasters and percolators—have declined in sales. Cookers and storage refrigerators which are less severely treated, have been doing reasonably well.

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Perhaps I may briefly refer to the story of washing machines, because that is a typical case. Washing machines and refrigerators are of course among the most important of our exports and of our home sales. In 1966 every country in the European Economic Community showed increases in home sales as compared with 1960. Britain did not. The increases ranged from 40 per cent. in Belgium to 400 per cent. in Italy, whereas in Britain sales in 1966 were 27 per cent. less than in 1960. Indeed, I think they were 39 per cent. less in 1966 than they were in 1964. The first quarter of 1964 was again heavily down—I think by some 19 per cent. So that the washing machines sales which in 1963 were worth £54 million were worth only £31 million in 1966.

I have been talking of home sales, and the position has nothing to do with saturation of the market. Penetration in the United Kingdom is 59 per cent. and sales per 1,000 homes in 1966 were 33. Penetration in Belgium is 68 per cent. and in Holland 75 per cent.—much more than in Britain—yet sales per 1,000

houses were 51 in Belgium and 99 in Holland. The effect has been very great on exports, which have fallen more than imports—from £12 million in 1963 to £4 million in 1966.

The principal reason for this, of course, is that our two main factories, both located in Wales, are operating at below 50 per cent. capacity. I might add that in both of their areas there is a high level of unemployment and there is no shortage of unskilled labour which they would employ. Unemployment at Llandudno was 7·5 per cent., and I think that in Merthyr Tydfil it was nearly 6 per cent. The added cost of under-used capacity is estimated, in the case of one of them, to add £4 to the factory cost of a twin-tub washing machine and £8 to an automatic washing machine. This obviously greatly hampers exports; and the result is that, while we exported over one-quarter of output in 1964 we are now exporting only about 15 per cent. Exports to-day are less than one-third of what they were in 1963. This compares with the fact that Italy exported 42 per cent. of its output, Germany 24 per cent. and Holland 28 per cent.

My Lords, last month the Government made a concession in favour of motor cars. Car production in the first quarter was 25 per cent. down on 1964, whereas washing machine production in 1966 was 41 per cent. down on 1964 and, in the first quarter of this year, was 19 per cent. down on the first quarter of 1966. There is no evidence, I am told, of any disposition for sales to pick up. Everyone knows that not even this Government will hold restraints as they are forever. So few people are buying unless they absolutely have to replace, or unless they win with a Premium Savings Bond, or something of the kind; and rising incomes will not help because people cannot easily save enough to put down 33⅓ per cent. of the value.

The same applies to refrigerators. Exports fell by a quarter last year, and this year they have declined still further. Home sales are down by 6 per cent. on last year, and home stocks are increasing considerably. If one takes the exports of refrigerators, one finds they have fallen from 66,000-odd by over 10,000 in the last two years, and this year they are running at a comparatively low level. What is more, the values are much less; so that, while the exports are down 2 per cent. in numbers, they are down 12 per cent. in value, and the home sales are down 18 per cent. in numbers and 28 per cent. in value. That is the position; and, of course, it is obviously adversely affecting our balance of trade and is going to make it very difficult to hold the home sales markets as against imports from other countries.

My Lords, I do not want to expand on this question. The remedy is quite clear: it is to reduce the deposit necessary for hire-purchase and to lengthen the repayment period. It seems that now would be an appropriate moment to do it. It would benefit the firms in question; it would help to make them more competitive in export; and there is a real danger that unless something is done fairly soon irreparable damage will be done to these industries. I commend this proposal to the noble Lord. I hope he will be able to convince his colleagues that the right moment to do this is now.

9.53 p.m.

LORD STRABOLGI

Share

My Lords, I should like to say just a few words, if I may, to support what the noble Lord, Lord Drumalbyn, has said, with particular reference to refrigerators. I do not want to go over the ground that the noble Lord has covered or repeat the admirable case that he has put up. I should merely like to stress another side of the case, and that is the importance of the refrigerator to the hygiene and the general health of this country.

The refrigerator, of course, is one of the most useful and important of modern inventions. I understand, though, that only 44 per cent. of households in this country own one. It seems to me absolutely essential that the number of households owning refrigerators in this country should be increased. It is also essential from the export point of view, because you can have a healthy export market only if you have a healthy home market. I cannot understand, my Lords, why the refrigerator still seems to be treated as a luxury, whereas in actual fact it is a necessity. I assume that it is considered a luxury by the Government since the purchase tax has been increased from 25 per cent. to 27 per cent. and, as the noble Lord, Lord Drumalbyn, has pointed out, the hire-purchase restrictions have been made yet more difficult. The result is a contracting market, decreasing export figures and diminishing home sales, so that families—and,

particularly, the lower income group families, who are mainly the ones who lack refrigerators—are now finding it more and more difficult to get one. Therefore I hope the Government will pay considerable attention to what the noble Lord, Lord Drumalbyn, has said, not only from the point of view of home sales and of export sales but also from the equally important point of view of the health of the country.

9.56 p.m.

LORD WALSTON

Share

My Lords, I can assure my noble friend that the Government will pay a great deal of attention, as we always do, to what the noble Lord, Lord Drumalbyn, says. He always speaks in a restrained manner and with a full knowledge of the facts. Therefore one must pay attention to this. Although I accept fundamentally the figures he gave me, I should like to correct what might be a misapprehension on the part of some of his hearers that the picture is entirely gloomy. I grant that the general picture is gloomy, but there are some bright spots. In the figures which have been provided by the British Electrical and Allied Manufacturers Association the comparison of total deliveries between 1965 and 1966 shows that although many important products such as washing machines are considerably down, 21 per cent., on the previous year; spin dryers are 12 per cent. up; tumble dryers are 26 per cent. Up; dishwashers are 20 per cent. up; space heaters up to 3 kws are 2 per cent. up; hair dryers are 29 per cent. up, and so on. There are some rather brighter spots.

LORD DRUMALBYN

Share

My Lords, I, too, have these figures before me. Will the noble Lord cast his eye through the last column which shows the change in the first quarter of 1967 compared with the first quarter of 1956?

LORD WALSTON

Share

Yes, my Lords, I have cast my eye there. I forbore to mention that percolators are 44 per cent. up; but that is an unfair point. There is a general decline there. But I think it is always dangerous for various seasonal reasons—and I am sure the noble Lord would agree—to take too short a period as an indication. It is better to take a full year. I accept the main point of the noble Lord. There has been a marked decline in the purchase of these products taken *in toto* and also, I am sorry to say, a marked decline in exports.

My Lords, let us not look on the picture as being one of unrelieved gloom, particularly in respect of the

smaller electrical domestic appliances. It is quite true that these industries are experiencing difficulties; but hire purchase is by no means responsible for the whole of the decline. After all, home market deliveries and exports and imports have all been declining steadily from the 1963 peak. This clearly cannot be caused by the recent increase in hire-purchase restrictions. Quite why there has been this marked contraction, I do not know. There are many reasons put forward. Some people suggest market saturation. The noble Lord has turned that one down; but that, I believe, has something to do with it.

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This problem, however, must be looked at in the context of the overriding consideration of the state of the national economy. The increase in the severity of hire purchase restrictions in July last year became necessary because of the paramount need to protect the balance of payments. It was put on, and affected, a whole range of industries, because a whole series of measures had to be taken to reduce home demand first of all, and, in so far as was possible, to encourage exports; not necessarily in exactly those industries where home demand was being restricted. The object of the intensification of hire purchase controls was simply to restrict consumer spending at home. There can be no doubt at all that the slackening of domestic demand has helped the balance of payments; that is one of the reasons why our position is happier to-day than it has been.

The situation in all the industries which are subject to hire purchase control is, of course, kept continuously under review, and it certainly is not the intention of Her Majesty's Government to keep the present controls at their existing high levels indefinitely. I can assure the noble Lord that as soon as the state of the economy allows it, the present restriction will be removed, or at least lightened. As noble Lords will remember, my right honourable friend the President of the Board of Trade announced one relaxation on June 7: that was the relaxation for the car industry. The reason this industry was selected was because of its exports which are so outstandingly large, both as a proportion of its total output and absolutely. We felt that otherwise they might be threatened by the usual seasonal fall in home sales. The case of the car industry is unique and the relaxation given last month was the maximum that we thought it possible for the economy to bear with safety. I am sorry that at the present time we cannot do anything for the domestic electrical appliance industry, but I repeat that when the state of the economy allows further relaxations in the control, the problems of the electrical appliance industry, as well as those of other industries—it is not alone in this—will, of course, be borne very much in mind.

I am sure noble Lords will appreciate that it would not be right, or indeed possible, for me to forecast when further relaxations can safely be made, or which will be the industries or group of industries, which will benefit the most. In the meantime, I very much hope that the improvement in the industry's position which usually takes place in the second part of the year will be enhanced during the coming six months by the modest stimulation which has been given to the economy, and which is expected to follow from slightly rising incomes and the recent concessions on cars.

10.3 p.m.

LORD ERROLL OF HALE

Share

My Lords, once again I should like to thank the noble Lord, Lord Walston, for replying to the able speech of my noble friend Lord Drumalbyn, but I must say that we on this side of the House are very disappointed at the tone of his reply. There is nothing at all for an industry which is suffering deep and growing depression, when there is a perfectly clear example of the value of these relaxations, because the Government have already conceded the position in the case of the motor car industry. But they refuse to help the towns where the principal factories of the domestic electrical appliance makers are situated namely, those which are suffering an abnormal rate of unemployment.

The Government will help the prosperous Midlands, but not Merthyr Tydfil, or North Wales, or the hard-pressed domestic electrical appliance industry centred on Dundee and Fifeshire. That, of course, will not be allowed to expand, or even to mop up the existing high levels of unemployment, on the alleged ground that the economy cannot afford it. How much is the economy having to spend on unemployment pay at the present time? Far more than any disruption to the economy which would be caused by the modest extensions of hire-purchase rates to these particular industries. I suggest to the noble Lord that, while we cannot in this case ask him to remove the draft Order, he could at least go back to the

while we cannot in this case ask him to remove the draft Order, he could at least go back to the Department and ask them to look at it again, and perhaps change yet another part of the Board of Trade; namely, that part that is responsible for the location of industry—does the noble Lord, Lord Beswick, wish to intervene?

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LORD BESWICK

Share

My Lords, I was merely asking if it was usual, after the noble Lord had answered a debate, for another noble Lord to get up and speak.

SEVERAL NOBLE LORDS: Yes.

LORD ERROLL OF HALE

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This is a most interesting doctrine to learn from noble Lords opposite: that only one person on our side is allowed to speak. The noble Lord makes a proposition, the Minister makes a reply and nobody else is allowed to speak. What are we coming to?

LORD GLADWYN

Share

My Lords, surely the procedure is that the noble Lord introduces the Question, any other noble Lord can intervene, and then it is for the representative of the Government to wind up.

EARL ST. ALDWYN

Share

My Lords, I wonder whether I might enlighten the noble Lord. When noble Lords opposite were sitting on these Benches and they put down Unstarred Questions it was very nearly the normal procedure for one of their spokesmen to come in after the Government had made their reply.

LORD HENDERSON

Share

No.

EARL ST. ALDWYN

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I will turn it up. I can remember at least three occasions when I was sitting there that this happened.

LORD HENDERSON

Share

Three occasions in thirteen years is not normal procedure.

EARL ST. ALDWYN

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In those days there were not all that number of Unstarred Questions.

LORD ERROLL OF HALE

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The country was, in any case, run better in those days. It certainly makes sense to me, even if it is keeping other noble Lords waiting for their subject-matter. Surely it is only right, if the noble Lord raises a matter and the Government make a reply, for a further comment to be made on the noble Lord's reply. Does he mean that he does not want comments made on it? Does the noble Lord wish to rise yet again? I am content to sit down if he wishes to. The noble Lord, Lord Beswick, is getting so restless.

This is a very important matter for thousands of people. We raised it on this side of the House this evening because we realise the difficulties of the domestic electrical appliance industry and the considerable hardship that exists in the towns where their principal factories exist. We are disappointed at the reply of the noble Lord, Lord Walston. We hope that he will look into the matter more fully than he had perhaps had time to do before this debate. I hope that he will look not only at the figures of output which he quoted, but also at other figures which are worth quoting; namely, the serious fall in deliveries,

comparing the period of three-year credit stability with the period of imposition of restrictions in mid-1965 to mid-1966.

In the three years 1962 to 1965, the quarterly deliveries of washing machines were at the rate of over 303,000, but in the year 1965 to 1966, June to June, they had fallen to under 200,000; and on the average in the last three quarters they were down to 160,000 per quarter. This is the nature of the decline that has taken place. The Government have little in their armoury which they can use to help to restore the industry, but they have one matter which they can use; namely, the removal of the severe restrictions on hire-purchase which operate at present. I do ask the noble Lord if he will be good enough to see whether some further relaxation can be given.

St Kitts, Nevis And Anguilla

10.7 p.m.

THE EARL OF BESSBOROUGH

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rose to ask Her Majesty's Government whether they will make a statement on the situation in St. Kitts, Nevis and Anguilla, and the imprisonment of British subjects there. The noble Earl said: My Lords, although it is very late for your Lordships, I make no excuse whatever for begging leave to ask this Question. Ever since your Lordships debated the West Indies Bill at the end of January this year there has been considerable concern, both in your Lordships' House and in another place, about the situation in these islands. The main worry then was about the local Councils, when at that time two responsible members of the People's Action Movement came to London to express their doubts about Mr. Bradshaw's intention to set them up in accordance with the Constitutional Conference Report.

My noble friend Lord Jellicoe, who hopes to be with us this evening, raised these matters here in the middle of February, and the noble Lord, Lord Beswick, replied then that he understood that the Government of St. Kitts had every intention of implementing the provisions mentioned, and the Conference Report, and he thought that the necessary legislation had already been drafted.

On February 23—I am sorry to give all these dates, but it is essential for what I am to say and for my conclusions—Mrs. Judith Hart, the Joint Minister of State in another place, said, in reply to a letter from my right honourable friend, Mr. Wood, that

> “"subsidiary legislation providing for election procedures and other matters will be enacted within the next two months and preparations for the elections will be made so that they can be held not later than July."”

My Lords, July is well and truly here. Are the elections going to be held before the end of this month?

Since that statement much has happened. On February 27 Mr. Bottomley attended the Independence celebrations, after which, on the following day, he flew to Anguilla. It was then reported, on March 1, that he was taunted by 6,000 demonstrators when he went to the island, and, despite his subsequent assurance in another place on March 16 that

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> “"the troubles in Anguilla were exaggerated,"”

there were reports of further disturbances.

Then, on March 21, in replying to a Question by my right honourable friend Mr. Wood, in another place, the Minister again played down the whole thing saying he was not aware of any difficulties; and on April 28 Mrs. Hart, the Joint Minister, again confirmed in a letter that elections could be held not later than July. However, when Mr. Bradshaw, representing the Labour Party, came to London at the beginning of May, it then became clear that he had no intention of holding any elections in July. Subsequent questions and correspondence have brought no satisfactory assurance; and on May 21, after growing tension in Anguilla, the police force of some 27 men were expelled from the island, which declared itself to be independent.

Then on June 2 Mrs. Hart ended her Answer in another place, to yet another Question from my right honourable friend, by saying that

> “"there is complete uncertainty about the whole thing".”

And on June 10, after an alleged armed attack on the headquarters of the police and defence forces in St. Kitts, Mr. Bradshaw first arrested Mr. Michael Powell and Dr. Herbert, then other Opposition leaders, as well as Mr. Milne Gaskell and Miss Diana Prior Palmer. There is no doubt that the Government of St. Kitts is behaving in an arbitrary and dictatorial way. It seems to be flouting the Constitution and indeed the Bill of Human Rights, and at least two United Kingdom subjects, if not more, have been disgracefully treated.

Mr. Bradshaw has now introduced emergency regulations, under one of the clauses of which, Section 3-D —I would ask your Lordships to note this clause—he can dispose of the dead without a coroner's report, which is surely in direct contravention of the requirements of the United Nations' Charter of Human Rights. Mr. Milne Gaskell is, I understand, still in prison without having been charged. But what has happened to Mr. Michael Powell, who appears to have disappeared? As your Lordships may know, Miss Prior Palmer has now succeeded in returning to this country, after being abominably treated and summarily expelled without any satisfactory explanation. In addition to those I have mentioned, there are at present 22 known British subjects—that is to say, citizens of the United Kingdom or the Commonwealth—who are being detained at the present time. My Lords, what is happening to them? Under what regulations are they being detained?

On May 11 Mr. Thomas, the other Joint Minister in another place, stated the Government's position about the arrest of British subjects; he stated the position when he referred to the case of the arrest of United Kingdom subjects in Zambia. He said:

> “"It is wrong in international law to detain citizens of another country except for the purpose of instituting criminal proceedings or deporting them".”

In the case of Mr. Milne Gaskell, he is still in detention. And, so far as I know, no criminal proceedings have been instituted against him, and he has not been deported. Is this in accordance with the Constitution? I ask the noble Lord that.

I should also like to say a word about the Declaration of Emergency and the relevant paragraphs of the Constitution which was granted by an Order in Council made on February 22. May I ask the Government whether they are satisfied that the Constitution has been adhered to, both in the form of the declaration of Emergency and in regard to the protection of persons detained under the Emergency Laws? Paragraph 17 (2)(*b*) of the Constitution states that within 21 days after the Declaration it must be approved by a Resolution of the House of Assembly, supported by the votes of two-thirds of all the members of the House. Can the noble Lord tell me whether this has taken place? As regards Mr. Milne Gaskell, paragraph 15 (1)(*c*) of the Constitution states that within a month of his detention the case in question must be reviewed by an independent and impartial tribunal. The month has now passed Has this case

been heard by an impartial and independent tribunal? If not, why not?

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I should also like to ask the noble Lord, Lord Beswick, why the British Government took no action to see that the arrangements for elections for local councils (which were included in the granting of Independence) were not put in hand between May, 1966, the date of the Constitutional Conference, and January, 1967, when Mr. Johnson was sent out to the territory by the Commonwealth Office. Did not the British Government

completely misjudge the likely course of events and constantly play down the difficulties? Mr. Thomas's remarks on March 21, that,

“"I am not aware that any difficulties have arisen since the inauguration of Statehood."”

were inexcusably complacent and irresponsible. The Government clearly misjudged the situation. Have they now taken steps to make certain that they have up-to-date information about what is now going on? Time and again Mrs. Hart, the Joint Minister in another place, has replied that she was not sure what the actual position was in the territory.

My Lords, associated status may well be the model on which it is intended that other remaining colonial territories may move to a form of independence, but the experience of St. Kitts is not a happy one. Associated status must not represent a method of sliding out of responsibilities by the British Government, with no concern as to what will happen to the population after this status is granted. The Government should clearly not have granted this status until they were certain that the territories had a viable, responsible and truly democratic government. So far in this case associated status has been a passport not to the tranquillity and economic prosperity which we all desire, but to near anarchy.

The grant-in-aid for St. Kitts, Nevis and Anguilla for 1967–68 appeared at £272,000 in the Civil Estimates. Surely there must be a case for reconsidering this grant, if only because St. Kitts is no longer in control of Anguilla. As your Lordships will have seen in the Press a day or two ago, Anguilla has now voted in favour of breaking away from St. Kitts, and therefore the proportion which was to go to Anguilla in my view should not be given to St. Kitts.

There is one other question which I should like to ask the noble Lord. I believe that a mission from four West Indian territories has gone to St. Kitts, and indeed to Anguilla, with a view to bringing the two sides together. Can we be told what the result of this mission has been? I hope the noble Lord will be able to provide us with a realistic appraisal of the situation at present existing in these West Indian islands. It is about time we had one. So much unrest seems still to exist there, and it would appear that the lives of British subjects are still in danger.

The real tragedy is that the course of events has been predictable and avoidable. It was predictable that the people of Anguilla would react violently if they were not assured of their local Councils before associated status was granted. Dr. Herbert and Mr. Adams, the Member for Anguilla, told the Government about the depth of feeling in the island when they came to London in early February, six months ago. In any case, the Government should have found out about the aspirations and fears of the people of Anguilla before plunging these territories into associated status. It is not good enough to say that Mr. Adams signed the Constitutional Conference Report. Of course he did, because it was stated in the document that there would be local Councils. There was no reference in the Report on the Constitutional Conference to any great delay in the setting up of these Councils, nor to the proposal that they would be nominated in the interim period before elections.

The Government should have made certain that Councils were set up before associated status was granted. The present crisis would in all probability have been avoided if they had taken this elementary precaution. With their heads in the sand the Government have (if they will permit me to mix my metaphors) waited, like Mr. Micawber, for something to turn up. Now they show surprise when the sea rolls in. They may try to take refuge in skeltering back quickly to land, uttering the classic apologia of failure, "It is not our fault". It was their legal and still is their moral responsibility to do something; and responsibility cannot be cast aside like a paper handkerchief. I see from looking at the map that the highest mountain in these islands is called Mount Misery. I only hope that the islands themselves will not come to be known as the islands of misery.

10.22 p.m.

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LORD ROWLEY

Share

My Lords, I do not propose to follow the noble Earl in the rather extravagant language that he used, because this is, in my view, a serious matter, although a relatively small number of people are involved. I agree with him that, whether it is an associated status territory or whether it is an independent territory or whether it is our own country, any interference with the freedom of the individual contrary to the Declaration of Human Rights is something we all of us, on both sides of the House, would have to condemn. But it seems to me the facts are not altogether clear, although I would accept the reference that the noble Earl made with regard to Mr. Gaskell and other individuals who, according to his information, have been deprived of their liberty, and indeed one or more are still in restraint. But I do not think it is a bit of good gibing at the grant of associated status. The pressure of almost the whole world

is on almost any country with Colonies to end colonialism. I happened to be at the United Nations last year when the New Zealand Government were putting through associated status for Cooke Island, and I can assure the noble Earl that that has been a great success.

THE EARL OF BESSBOROUGH

Share

My Lords, may I intervene for one moment? I was not gibing at associated status: I am in favour of it. But we must grant associated status when the time is ripe.

LORD ROWLEY

Share

My Lords, the noble Earl will be able to read his statement in the OFFICIAL REPORT to-morrow. Someone has to decide when the time is ripe to grant associated status. In my opinion—and it is hypothetical now—if there had been a Conservative Government in office at the present time they would have, I hope, at least followed this policy of granting associated status to these three small islands, which are nonviable in themselves. They cannot form part of any Caribbean Federation, and it seems to me that the only solution is to give them this associated status.

That does not mean that I approve of everything that has been going on in St. Kitts. I am personally acquainted with Mr. Bradshaw. I met him in connection with my work in the Commonwealth Parliamentary Association. He is a colourful character; but that does not mean that we have to condemn him root and branch. If he reads the report of the noble Earl's speech, I think it will probably have a bad effect upon him; and this is not the time that anything should be said which is going to cause him to be more difficult than perhaps he has been in the last few months.

I hope that my noble friend who replies to this discussion will urge upon Mr. Bradshaw to seek to restore world confidence. Apparently, according to what the noble Earl has just said, things have been done in St. Kitts of which no one here to-night would approve. If Mr. Bradshaw would see his way, for example, to expedite the date upon which local government is to be granted to the 8,000 people who live in the island of Anguilla, I think that in itself would do much to restore world confidence in the present régime that is in control in St. Kitts.

But having said that, I hope that we shall be careful not to put Mr. Bradshaw and his colleagues too much in the dock. After all, we have all recognised the limitations. We cannot have it both ways. We can have a colonial system. We can grant full independence, as we have done to many other territories in the world since 1945. But the basis of associated status, as approved by the United Nations General Assembly in the case of Cook Island, was that there should be a limit to any interference in the internal affairs of the island or the territory which was given associated status.

I should like my noble friend to confirm me in this. As I understand, the United Nations General Assembly has not yet approved associated status for these three small islands, and some of the things that may be said, even in this Chamber, may be quoted by those who opposed the grant of associated status to New Zealand. They had a difficult fight to put it through the General Assembly. We may find some of the things that are said here quoted in opposition to the policy of our own Government in seeking the approval of the United Nations General Assembly to the grant of associated status to these small islands.

I hope therefore that my noble friend will be able to reassure the noble Earl—I think he is entitled to be reassured—on the question of interference with personal liberty. But at the same time, I hope that he will be able to put forward a case which will smooth or soothe some of the feelings that are likely to be aroused by too many strictures against the authorities in St. Kitts.

10.28 p.m.

LORD GLADWYN

Share

My Lords, on behalf of the Liberal Party I should like to associate myself, broadly speaking, with what the noble Earl, Lord Bess-borough, has said, and indeed in some respects to reinforce what he has said, in the light of certain information which I have recently received.

What are the facts? Since this ex-Colony achieved associated status, as it is called, a few months ago, the Head of the Government of St. Kitts (with which, as we all know is associated the island of Nevis, and until recently the island of Anguilla), a gentleman by the name of Mr. Bradshaw, who, as it seems, is well known to Lord Rowley, has undoubtedly not been behaving in a democratic way. There is no doubt about it. I think the noble Lord, Lord Rowley, himself admitted it. He has been suppressing the Opposition he has been casting some of them into gaol and, on the face of it, he has been clearly violating the Constitution and the United Nations Declaration of Human Rights. There is no doubt about that. It seems obvious that he is not going to hold elections by the end of July, as Mrs. Hart assured us all he would some time ago. Even if they were held, what are the prospects at the moment of such elections being fairly conducted?

Unless I am wrongly informed, Mr. Bradshaw, though a member of the local Labour Party, now goes about in the uniform of a colonel and sporting a tommy-gun. West Indians are a very civilised and democratic race, and are not accustomed to such behaviour, any more than we should be if Mr. Wilson suddenly turned up in the House of Commons in the uniform of a field-marshal with a couple of pistols. We should think that a bad thing. I have no doubt that the West Indians think it is a bad thing, too. Clearly, this sort of thing should be stopped, or it may spread throughout the whole of the West Indies. Already there are rumours that rather similar phenomena are being produced in Antigua, and perhaps the noble Lord would confirm whether or not this is so.

How can such tendencies be stopped or checked? Obviously, they cannot be stopped by the despatch of a British gunboat. Those days are over. The newly associated States are now completely independent. But so far as I can see there is no reason why, if their leaders carry on in the way Mr. Bradshaw has been carrying on, we should ourselves continue to be associated with these associated States. I think it would be deplorable if we were so associated. I suggest that unless those in gaol can be shown to have been arrested in accordance with the Constitution, or are given the benefit of a fair trial with proper legal aid, we should discontinue the subsidy we now pay to the Government of St. Kitts. And if that has no effect, then we should simply revoke the articles of association, or whatever they are called. Why should we not?

Finally, if the dictatorship continues, then, so far as St. Kitts is concerned, we should free ourselves from the necessity of buying its sugar under the Commonwealth Sugar Agreements. Why should we buy it if they behave in this way? If we did take such action, it might be an object lesson in the results of abandoning democracy and moving towards totalitarianism. I say this in no way to criticise the associated States. I think these are a good thing, and I think that they will flourish. It is an excellent

concept in accordance with United Nations' principles. I am not therefore attacking associated States as such. However, it is no good toadying to any dictator, and I trust that the Government will resist any temptation to do so.

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10.34 p.m.

EARL JELLICOE

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My Lords, perhaps the noble Lord, Lord Beswick, would like me to intervene at this stage in the discussion.

LORD BESWICK

Share

My Lords, I would say to the noble Earl, in the friendliest way, that had he intervened afterwards I should not have risen to my feet a second time.

EARL JELLICOE

Share

My Lords, I am sad that it has been necessary for my noble friend Lord Bessborough again to draw attention this evening to the slide we are witnessing in these three Caribbean islands. I am, however, very glad that he has done so. I am sad in that, given the assurances which we were given by the Government when the West Indies Bill was before us a bare five months ago, we were entitled to think that these islands in the Windward and the Leeward chain were advancing to a happy future in their new-found, post-colonial, associated status. That, I am sure, is so for the great majority of them. It is emphatically not so, at least for the present, so far as St. Kitts, Nevis and Anguilla are concerned; and the sorry tale which my noble friend has unfolded makes this only too plain. But I am glad that he has chosen to unfold it.

Just because these islands are no longer Colonies, we cannot wash our hands of them. When things go wrong—and in this case they seem to have gone very wrong indeed—we cannot just walk by on the other side of the Caribbean street with our eyes averted. True, they have a population of only some 60,000 people—about the population of Scarborough—and they are a long way away. But we have had a long and close association with them and with their people. These people are British subjects; the islands share associated status with us; we are still responsible for their foreign relations and for their defence, and we still extend to them, as the noble Lord, Lord Gladwyn has said, substantial economic aid. I am glad, therefore, that my noble friend has drawn our attention to their present plight; and I am glad, also, for a rather personal reason.

When the West Indies Bill was before us five months or so ago, a small delegation from the main Opposition Party came over here, as the noble Lord, Lord Beswick, knows well. It was led by Dr. Herbert, the leader of the Opposition, and by Mr. Adams, the Opposition Leader for Anguilla. They were accompanied by Mr. James Milne-Gaskell, about whom we have heard this evening. They came to tell us of their forebodings about the course which events were likely to take after Statehood, and I reflected their disquiet in some small measure during our discussions on that Bill.

The Government, in the person of the noble Lord, Lord Beswick, reassured your Lordships—and your Lordships were reassured. Yet what do we find now, a bare five months later? We find the situation described by my noble friend. We find Herbert and Milne-Gaskell in gaol; we find a sort of Graham Greene atmosphere starting to pervade these islands. I am speaking in this short discussion since I feel a degree of personal involvement. In their talks with me, Herbert, Milne-Gaskell and Adams showed a very high degree of responsibility. They were undoubtedly worried about the future, and they did not hide their worry. They feared that the new Constitution—above all, the local councils in Nevis and Anguilla—

would not be properly activated. And who is to say that in this view they were necessarily wrong? But at no moment did they step outside the proprieties usually observed by Opposition Parties when they are abroad. I feel it only right that I should say this—and I say it with all sincerity—because they are now languishing in gaol.

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My Lords, I have no desire to make any Party points out of this matter, but my noble friend has unfolded a very sorry tale—a new Constitution in jeopardy when the ink on it is hardly dry; a further fragmentation of the already fragmented British West Indies; the Opposition hamstrung and imprisoned in some large degree; assaults upon the liberties of United Kingdom citizens; Milne-Gaskell still neither charged nor deported; the Constitution apparently flouted in his case—I say "apparently", as one cannot prove these matters. And here in the United Kingdom, Her Majesty's Government are, it would appear, impotent in this matter; certainly ill-informed, at least in the past, and certainly at least in the past, I think, unduly complacent. They rejected the suggestion which we advanced, that in view of the disquieting factors placed before us, and placed before them, they should consider postponing Statehood until they were entirely satisfied that the new Constitution would be properly operated, both in the spirit and in the letter; and they did not, as my noble friend Lord Bessborough has pointed out,

take the elementary precaution of seeing that proper provision had been made to establish the local councils before Statehood was granted.

I await with interest the noble Lord's replies to the pertinent questions which have been put to him by my noble friend, and I wish to add only one of my own. We have all seen reports that the St. Kitts Government has been importing arms and material possibly with a view to bringing Anguilla forcibly to heel. Has the noble Lord any information about this, and can he tell us how in this context Her Majesty's Government interpret their responsibilities for defence and foreign relations? I know that this is a difficult issue, that there is a delicate balance here between the full internal sovereignty which these islands undoubtedly command and our responsibilities for external protection. But I should be grateful to know how the noble Lord interprets what is undoubtedly, as I say, this delicate balance here.

My Lords, there is more at stake in these small, sparsely populated, remote islands than may at first meet the eye. It is not only the reputation of the three islands that can be tarnished. In some degree, the reputation of the West Indies may be tarnished, but these islands are also a proving ground for the new experiment in decolonialisation, the new formula of associated Statehood. It is one which could very well be applied, as the noble Lord, Lord Rowley, has pointed out, elsewhere, and, indeed, already has been applied in other small and barely viable communities. I should like to reinforce what my noble friend Lord Bessborough has already said: that we are in no way opposed to this concept. What we are opposed to, what we are worried about, is when it is granted without due precautions and when, as it appears to be in this case, it may be miscarrying. It is important that this new formula should not be found wanting at the start, and I very much hope that Premier Bradshaw and his advisers (and I am not saying that all the blame for what has happened should necessarily attach to them; I think that these matters are largely *sub judice,* and we do not know all the facts) will seek to restore world confidence, as the noble Lord, Lord Rowley, has said. Equally, I hope that Her Majesty's Government will show themselves in the future a good deal better informed and a good deal less complacent than they have shown themselves on this particular issue in the past.

I do not wish to end these brief remarks on too petulant or too negative a note. The noble Lord opposite may well reply: "Very well; I accept some of these strictures. Perhaps we were a bit 'dozy' at the outset of all this in February. We are now, at long last, on our toes. But what would you do now if you were to find yourselves in our position?" That is a fair question, and, given the total internal independence of these islands, not a particularly easy one to answer. My answer would be twofold. Where the rights of United Kingdom citizens are involved, Her Majesty's Government should be punctilious in seeing that these are respected by every possible means at their disposal; and I am not entirely satisfied that this has been the case in this particular instance. But where the internal political evolution of these islands themselves is concerned, I am inclined to think that more is likely to be achieved by quite hard pressure from their friends and their neighbours than by undue strictures from Whitehall or from Westminster. That I why I personally attach such very high importance to the West Indian Good Offices Mission, to which my noble friend Lord Bessborough has drawn our attention.

That Mission, which as I understand it is composed of senior civil servants from four neighbouring Commonwealth territories, has just visited, I gather, St. Kitts, and I trust that Her Majesty's Government have kept in close touch with the four Governments concerned about the visit. I should be very glad to know what the noble Lord has to tell us, if anything, about the results of that Mission. That said, I look forward to hearing what he has to say on this sad subject—and I feel that this really is a sad subject, given the hopes which we all entertained five months ago about the future of these three territories.

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THE EARL OF LINDSEY AND ABINGDON

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My Lords, may I intervene to ask just one question of the noble Lord, Lord Beswick, before he answers this debate? It is not a political question, it is purely a geographical one. What led Her Majesty's Government to incorporate St. Kitts and Nevis with Anguilla, which is 70 miles away as the crow flies? The crux of the whole matter seems to me that the rebellion has emanated from this small island outnumbered in population by St. Kitts and Nevis. I want to keep off the political implications; I am not a

political man. But this is very interesting. There is a 70-mile sea-way—there are one French and two Netherlands islands—between the island of Anguilla and St. Kitts and Nevis. What led Her Majesty's Government to incorporate them?

10.46 p.m.

LORD BESWICK

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My Lords, the noble Earl, Lord Jellicoe, approached this problem in a somewhat more statesmanlike way than did his noble friend, Lord Bessborough. I quite agree that this is a matter which should have been raised today, even at this hour. It is a matter about which there has been a great deal of concern, both outside and in this place. I only regret, as did my noble friend Lord Rowley, the extravagant terms with which the noble Earl, Lord Bessborough, opened this discussion.

THE EARL OF BESSBOROUGH

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My Lords, I merely stated the facts.

LORD BESWICK

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My Lords, my noble friend Lord Rowley asked whether I could confirm that the new status of these islands had been considered by the United Nations. The answer is that it has not yet been considered. I can say that when it comes up before the appropriate committee, or the General Assembly, some of the strictures which, unfairly and inaccurately, have been uttered by the noble Earl will be seized upon by some of the ill-disposed persons in New York.

EARL JELLICOE

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My Lords, may I interrupt? The noble Lord has made quite serious accusations against my noble friend. If he has uttered strictures which, in the noble Lord's view, are inaccurate, I hope very much in the course of his remarks in reply the noble Lord will say why they are inaccurate.

LORD BESWICK

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If I am given a chance, possibly I can deal with them. I was asked by the noble Earl and by the noble Earl, Lord Lindsey and Abingdon, why it was that the island of Anguilla had been joined with St. Kitts and Nevis in the one associated State. The fact is that for more than eighty years the three islands had been administered as one unit. Moreover, at the Conference held in London in May, 1966, to consider the future of the islands we had deliberations of men exercising free will. It was not an unusual pro- cedure; it was the usual procedure. The noble Earl, Lord Jellicoe, seemed to think it strange that we should have accepted the views and the opinion of the representative of the people of Anguilla. But this was not a Press-gang affair; this was, as I have said, a deliberation of men of free will. Anguilla was represented. Her representative was not of our choosing.

EARL JELLICOE

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My Lords, I am sorry to interrupt. I do not think I ever referred to this in my remarks. I do not know quite with what the noble Lord is crediting me.

LORD BESWICK

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I am crediting the noble Earl, and his noble friend, with the statement that we had not endeavoured to find out the wishes of the people of Anguilla. I am saying there was a Conference in London to consider the future status of the islands. It was a Conference of men of free will. I am saying that Anguilla was represented, not by a person selected by us but by their freely-elected representative.

THE EARL OF LINDSEY AND ABINGDON

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My Lords, I am sorry to interrupt again, but I have always been under the impression that St. Kitts, Nevis was an entity under colonial rule—it issued its own stamps and so on. I have never previously heard of Anguilla. When the islands were under colonial rule previously, before the West Indies Federation broke up, one always heard of the entity of St. Kitts, Nevis, but never of Anguilla.

LORD BESWICK

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My Lords, I am giving the noble Earl the information at my disposal: that for the last eighty years these three islands were administered under colonial rule as one unit.

Moreover, so far as the Conference is concerned, I am assured—and I have re-checked this—that Mr. Adams, who was their representative, and who in fact sat in the Central Council of St. Kitts as representative of the people of Anguilla, never once argued against the proposal to set up this new authority for the three islands including Anguilla. It is true that at the time the Bill was going through this House doubts were raised, and I recall that the noble Earl, Lord Jellicoe, very properly expressed the apprehensions felt by some people about the good faith of the Central Government in St. Kitts regarding the promised establishment of a local Council with adequate powers in Anguilla.

The charge has been made by the noble Earl and by the noble Lord, Lord Gladwyn, that this local Council should have been set up before the granting of independence, but there was never any requirement for this to be done. The undertaking was that the local Council would be established by the end of 1967. At the time of the Constitutional Conference, and before, there was, admittedly, a feeling among the Anguillans, as there commonly is among out-islanders, that their interests compared with those of the main-islanders, were neglected by the Central Government. There were fears that this neglect would be perpetuated once the remaining authority of the United Kingdom over the internal affairs of the territory was removed.

To meet these feelings, the then Chief Minister put forward proposals for asociating the Anguillans more

To meet these feelings, the then Chief Minister put forward proposals for associating the Anguillans more closely with the running of their own affairs through the establishment of a Council for Anguilla with at least two-thirds elected members. These proposals were accepted. These were proposals to establish the local Council, not by June or July, but by the end of the year. During January and the beginning of February of this year there was evidence of growing anxiety in Anguilla and in the Opposition Peoples Action Movement about entering associated status and about the nature and timing of Government proposals for local government.

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THE EARL OF LINDSEY AND ABINGDON

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My Lords—

LORD BESWICK

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No, I cannot give way. Noble Lords would like me to answer the points which have already been put. On February 2 the President of the Peoples Action Movement, Mr. Herbert, sent to the Administrator a letter, signed also by Mr. Adams, containing a number of demands, including a demand for proper local government before statehood. Despite assurances which the Administrator was able to give that the report of an expert on local government provided by the Ministry of Overseas Development had been received, and that proposals under consideration by the Government covered almost the whole of their points, they decided to come to London to make their views known here.

In London they both confirmed that they were not questioning the entry of St. Kitts, Nevis and Anguilla into associated status, but pressing for postponement of Statehood Day until properly elected Councils had been set up. On February 15 of this year, while the delegates were still here, the St. Kitts Government issued a statement setting out their local government proposals. The statement explained that it would take considerable time to draft the necessary legislation and to set up machinery to provide for elections to local Councils in Nevis and Anguilla. In view of this, the expert sent out from here by the Ministry of Overseas Development had advised the Government, who agreed, that the first Councils should be full nominated to give effect to the requirements of the Constitution on Statehood Day. The statement went on that it should be no longer than one year before the elections to the local Councils took place. The statement also said that the appropriate legislation was being enacted. In other words, it would have passed the nominated Council, and then the elections would take place within the one year. It was in the light of this information that I was advised to give the assurances which were accepted by the noble Earl, Lord Jellicoe, at the time of the Third Reading of the Bill.

The Chief Minister and a senior official of the Commonwealth Office discussed procedure for nominations in Nevis and Anguilla. The procedure then agreed has been followed successfully in Nevis. The Council for Nevis was inaugurated on April 20. But in Anguilla, unfortunately, the same procedure has not resulted in any names being put forward for appointment. But this was not the fault of Mr. Bradshaw; it was the fault of the people of Anguilla. On March 21, when the reply mentioned by the noble Earl was given in another place (I use the word "mentioned", but one could use another word to describe the tone he used in referring to the statement in another place), there was every expectation that the invitation of the Premier to suggest nominees would be successful in Anguilla.

On the basis of these reports from the senior official from the Commonwealth Office, our understanding in February was that if the establishment of a nominated Council could not be brought about arrangements for elections would be possible by June or July. The assurances given by my honourable friend in the letter to Mr. Wood, quoted by the noble Earl, were worded accordingly. It was only later, as a result of changes in the office of the Attorney General, that it seemed that this timetable might slip. But the fact is that today the Anguillans could, if they had wished, have a properly constituted Council of Members in whose nomination they had been consulted through their elected representative in the Legislature.

A statement issued on June 1 by the Government of St. Kitts, Nevis and Anguilla referred to a delegation

from Anguilla which had been received by the Government in the presence of senior Ministers. The statement said that the Anguillans wanted to become a separate associated State. It recalled that this was the very first occasion on which an approach of this sort had been made to the Government. It pointed out that the people of Anguilla had taken part through their properly elected representative in all the discussions concerning the present Constitution. It affirmed that the Government continued to be ready to make every opportunity available for Anguillans, as well as other citizens of the State, to exercise their constitutional rights and to pursue their wishes in a democratic and peaceful manner. It went on to point out that for this to take place in Anguilla it was necessary for all violence to cease, for law and order to be restored, and for all arms and ammunition, including those seized from the police on Tuesday, May 30, 1967, to be turned in to the Government. The statement ended with a call upon all the citizens of Anguilla to ensure a quick return to peace and law and order for Anguilla without any untoward incident or occurrence.

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On May 30 the Premier requested the United Kingdom and certain other Caribbean Governments to provide forces to help in the restoration of law and order. While these requests were still under consideration by the several Governments, and the Deputy Premier was already on his way to London for

consultations, news was received of an outbreak of firing on the night of 9th-10th June in Baseterre, the capital of St. Kitts, resulting in the wounding of a guard at the power station, but no other casualties.

On June 11 it was reported that a number of persons, including the Leader of the Opposition Party, had been taken into detention under the emergency regulations made on May 30. I have been asked by noble Lords opposite about these emergency regulations, and the fact of the matter is that they were properly promulgated according to the Constitution. I would say to the noble Lord, Lord Gladwyn, that there is absolutely no evidence, no justification, for his saying that there has been a clear violation either of the Constitution or indeed of the Human Rights Convention.

LORD GLADWYN

Share

My Lords, I thought I said, "I thought there had been".

LORD BESWICK

Share

My Lords, I thought the noble Lord said—and I made a note of it at the time—that "there is clear evidence of a violation". However, we shall see what *Hansard* says.

The Premier immediately renewed his request for assistance, and the Minister of State for Commonwealth Affairs at once initiated consultations with other Commonwealth Governments. The outcome was that, acting on a suggestion made by the Prime Minister of Jamaica, the Governments of Jamaica, Trinidad and Tobago, Guyana and Barbados, with the agreement of the Premier, despatched a mission to St. Kitts to determine the facts and to help in any way it could to find a peaceful solution to the problem. In the course of its visit, the mission was able to visit Anguilla; to take part in a meeting between a delegation from Anguilla and St. Kitts Ministers under the chairmanship of Sir Fred Phillips, the Governor; but also to visit detainees. The members of the mission have now reported to their own countries, they have reported to their Governments; and I shall refer later to this Commonwealth initiative.

Among those taken into detention under emergency regulations—properly taken into detention according to the law of their land—was Mr. James Milne Gaskell, about whom I have been asked. As soon as the British Government representative learned of the arrests and the possibility that one or more United Kingdom citizens from this country might be involved he made official inquiries. The arrest of Mr. Gaskell was confirmed, and our representative immediately took steps to assure himself that Mr. Gaskell had access to his lawyers, and that he had no complaints of his treatment in prison. He has made repeated representations to the Government of St. Kitts, Nevis and Anguilla against the continued detention of a United Kingdom citizen without charges or trial, and he has pressed for his early release

or speedy trial on specific charges. But, again, although we have pressed for this on behalf of a United Kingdom citizen, it still remains the case that the Government of St. Kitts, Nevis and Anguilla have every right under the emergency regulations, drafted by their lawyers, to detain a person.

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As I mentioned in answer to a Parliamentary Question by the noble Earl, I think a week ago, there has been an application in respect of Mr. Gaskell for a writ of *habeas corpus,* but his counsel applied on July 7 for an adjournment of the proceedings on this application *sine die.* Our representative has continued to press for the review of Mr. Gaskell's case, as the Constitution provides. The Constitution provides that the case against a detained person should be made known to him within seven days, and further provides that there should be a review within one month. And, again, my understanding of what the noble Earl has said was that there had been again a breach of the Constitution in this regard.

The tribunal has been established. It started work on July 8, within the time required by their law. It adjourned *sine die* on July 13, without having made any recommendations. I am informed that it did so to allow hearings to be completed in the magistrates' court of specific charges against certain other detainees. I cannot say whether this is to Mr. Gaskell's disadvantage or not. It may well be to his

advantage. In the first instance, this is a matter for him and his legal advisers to decide. It will, of course, be possible, if the provisions of the Con- stitution have been contravened in this respect, to seek a remedy in the High Court. But I understand the concern expressed about this case, and I am glad to say that we have arranged for a First Secretary to be attached temporarily to the staff of the British Government representative in the associated States, who will be stationed for the present in St. Kitts, with the object of looking after British interests in the territory, including, of course, the case of Mr. Gaskell.

EARL JELLICOE

Share

My Lords, since one does not have the chance of replying after the noble Lord has sat down, I should like to say straight away that I very much welcome the information he has just conveyed to us.

LORD BESWICK

Share

My Lords, I am much obliged to the noble Earl. Meanwhile, the Anguillans are reported to have conducted for themselves a referendum on the question of secession from St. Kitts, Nevis and Anguilla, and we have reports of a Proclamation made in Anguilla immediately after the announcement of the result of the referendum was made on July 11. The contents of the Proclamation were not without interest. It says, *inter alia:*

> “"Anguilla is now absolutely and conclusively independent from St. Kitts. Today's decision will never be undone."”

It goes on, however, to say:

> “"The history of the British Empire and the Commonwealth gives us high hopes that we, as others, can enjoy both freedom and allegiance to the Crown. We humbly beg our Queen and the people of Britain to talk with us about sharing the future."”

Despite statements in this Proclamation that the referendum had effected the independence of Anguilla from St. Kitts, the fact is, of course, that it has no constitutional validity. But that is not to pass any judgment on its value as an expression of the wishes of the Anguillans. It may be that when more is known of the conditions under which it was held it will be seen to be a free expression of the voters' wishes, and a factor to be taken into account. I think that all who study the situation in these islands will take their own view of the importance to attach to this event, but the real problem is still that of creating a situation in which the difficulties can be resolved by constitutional means.

The noble Lord, Lord Gladwyn, and others have referred to the possibility of stopping grants, and so on.

This is something which we may well have to consider, but for the time being in our judgment that possibility does not yet arise. As I have said before, we are not responsible for the internal affairs of the associated States, except to the extent that they impinge upon matters of defence and external affairs. But this does not mean that we are not concerned over the difficulties which have arisen in St. Kitts. Our close and friendly relations with the associated States ensure our continued interest. If we can help in achieving a satisfactory settlement, we are ready to do so.

Meanwhile, we have this Commonwealth Mission about which I have been asked. The initiative of the Commonwealth Mission, composed, as the noble Earl said, of eminent representatives of four Caribbean countries, was warmly welcomed. We are now in urgent discussion with them as to the means by which this initiative can best be followed up. I am hoping that some further development will take place before the end of the week, though I am afraid—even though the noble Lord couched his invitation in such a friendly way—I cannot say more at this stage.

LORD ROWLEY

Share

My Lords, might I just ask my noble friend one question? Does he consider that any advantage would be derived from the expediting of the date on which Anguilla would be given local government? Is that not the root of the trouble?

LORD BESWICK

Share

My Lords, that is certainly one of the original difficulties, as I thought I had made clear. The original promise was that the local Council would be established by the end of the year. I have endeavoured to show that there are certain mechanical difficulties, as I am sure the noble Lord will agree, about the holding of elections, but there would have been absolutely no hindrance to the establishment of a nominated Council. That Council could have been in existence now had it not been for the lack of co-operation shown by the people of Anguilla. I was referring to the possibility of a further development together with, or in line with, or following, the initiative taken by the other four Commonwealth Governments. This, I think, is the most helpful line of approach, and I am sure all of us will agree that some way forward from this unhappy situation can, and must, be found.

Manchester Corporation Bill

Reported, with Amendments.

Criminal Law Bill Hl

Returned from the Commons, agreed to, with Amendments; the said Amendments to be printed.

House adjourned at ten minutes past eleven o'clock.

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