

THE HOUSING FINANCE (SPECIAL PROVISIONS) BILL(LORDS AMENDMENTS)

The Clay Cross (Concealment of Enormities) Bill comes back to the Commons after its Lord's Stages in almost unrecognizable shape. The Government suffered four defeats at Lord's Committee Stage which had the result of effectively emasculating the Bill.

THE LORD'S AMENDMENTS

After Clause 1 of the original Bill a new clause was added by the Lords. Subsection (1) of this new Clause provides that where the auditor makes a rent loss certificate under Clause 1, that is to say the particular device adopted by the Government in place of the surcharge, he must state the sums for which he would otherwise have surcharged councillors and identify the persons concerned. As Lord Hailsham pointed out, those who were proud of breaking the law could have no objection to having their identities made public and the amounts for which they would have been liable to surcharge. If they are ashamed of their behaviour the public should still be told the whole facts of individual cases. Subsections (2) and (3) provide for the district auditor to refer the question of what must be done to the court. The existing powers of the court to quash the certificate if the auditor's decision is wrong on a point of fact or law are retained. If the councillor acted reasonably or in good faith, believing that what he did was in accordance with the law, the court is given the complete duty to exonerate the councillor. Thus all the councillor's rights in law at present are confirmed. The new clause now departs from the existing law by stating that the court has power to assess a sum for which the councillor would be personally liable and a maximum figure of £1,000 is imposed on the court. Thus the court can consider the degree of liability of an individual councillor and also his means to pay any surcharge. Finally the automatic disqualification from office for 5 years which went with a surcharge of more than £500 under the 1933 Local Government Act is changed. The Local Government Act of 1972 provides for a triggering figure of £2,000 to take account of inflation. The New Clause takes account of this change for the benefit of councillors who broke the law before the enactment of the Local Government Act of 1972. If the deficit caused by councillors' action is above £2,000 then a disqualification from office may be ordered. But the court has a new power to order no disqualification or less than five years disqualification where the penalty was automatic before.

Much of Labour's defence of the original Bill rested on the fact that the law-breaking councillors (not just the Clay Cross councillors) total liability for surcharge would amount to £1½ million and that this was far beyond the means of the councillors to pay. This new clause meets those objections and the other amendments deal with the crucial question; who pays for the lost revenue from non-collection of rents?

CLAUSE 2

The Amendment carried on Clause 2 ensured that the burden should be solely borne on the rent bill of those areas which benefited from the original default. The amounts payable over five years will be trivial. As Lord Hailsham said:-

"Any tenants who find it hard to pay will be entitled to rebates, which we provided in the Housing Finance Act of 1972; rebates which the Labour Government rather fraudulently chose

to retain when they purported to repeal the Act. Incidentally part of this defiance of which Clay Cross councillors were guilty, consisted in refusing to apply the rebates. so much for their claim to be activated by good feeling for the poor." (HANSARD 23.6.75 Col. 1241)

CLAUSE 3

This Clause was deleted by the Lords and provided for the deficits caused by non-implementation of the Housing Finance Act of 1972 to be met from the rates if the local authority wished. Consequently the deletion of this clause was a logical consequence of the amendment to Clause 2.

The result of these clauses would be to shift the burden of the deficits onto the council tenants who directly benefited from late implementation. In fact those tenants who have moved into Clay Cross since the evenements of 1972 can claim that they are being unjustly treated. Still the amendments do prevent those tenants now but not previously in the same area of local government as those who defied the law from being penalized. They also prevent the imposition of any burden on the general body of ratepayers.

CLAUSE 4.

This Clause is deleted. It would have provided for the removal or disqualification from office of the Clay Cross councillors. Lord Hailsham referred to this retrospective act of political favour as a "rather nasty little clause"; members may feel that the Commons permits a rather choicer description.

The Government's reaction to these defeats has been to accept the decision of the Parliamentary Labour Party to attempt their reversal. Mr. Crosland pointed out that a new surcharge of £52,000 on the Clay Cross councillors for overspending without good reason means that Clause 4 would be valueless since the councillors will in any case be disqualified. In the end though the Government refused, as with Court Line, to admit a mistake, and will plough on with the whole Bill. How many Labour "moderates" will vote against this decision? Will Messrs. Sam Silkin and Edward Short resign even now? We await their decisions with less than baited breath.