

2056

# SAORSTÁT EIREANN.

## Committee of Privileges

UNDER

## Article 35 of the Constitution.

### LAND PURCHASE (GUARANTEE FUND) BILL 1935.

### Reports

AND

### Proceedings of the Committee.



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RUIN I DTAOBH AN CHOISTE

DAIL EIREANN.

*Beartuithe:* Go dtoghtar Conchubhar Mag Uidhir, Séamus Mac Eochagáin agus Liam de Nortún chun Coiste ar Phríbhleídí fe n-a bhfágtar an Cheist i dtaobh ce'ca Bille Airgid an Bille Talamh-Cheannaigh (Ciste Urraíochta), 1935, no nách eadh [13adh Mí na Nodlag, 1935].

RESOLUTIONS IN REGARD TO THE COMMITTEE.

DAIL EIREANN.

*Resolved:* That Deputies Conor A. Maguire, James Geoghegan and William Norton be elected to a Committee of Privileges to whom is referred the question whether or not the Land Purchase (Guarantee Fund) Bill, 1935, is a Money Bill [13th December, 1935.]

SEANAD EIREANN.

*Beartuithe:* Go dhtoghtar Earnán de Blaghd, Séamus Dubhglas agus Mícheál Ó hAnnlúain chun an Choiste ar Phríbhleídí fé n-ar bhfágadh an Cheist i dtaobh ce'ca Bille Airgid an Bille Talamh-Cheannaigh (Ciste Urraíochta), 1935, no nách eadh [18adh Mí na Nodlag, 1935].

SEANAD EIREANN.

*Resolved:* That Senators Blythe, Douglas and O'Hanlon be elected to the Committee of Privileges to which has been referred the question whether or not the Land Purchase (Guarantee Fund) Bill, 1935, is a Money Bill [18th December, 1935].

CLAR.

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REPORT.

THE COURTS OF JUSTICE,

DUBLIN.

20adh Mí na Nodlag, 1935.

AN CEANN COMHAIRLE,

DÁIL EIREANN,

LEINSTER HOUSE,

KILDARE STREET,

BAILE ATHA CLIATH.

Report of the Decision of the Committee of Privileges summoned to decide whether a Bill called—**LAND PURCHASE (GUARANTEE FUND) BILL, 1935**, certified by an Ceann Comhairle on the 11th instant, be a Money Bill or not a Money Bill within the terms of the Constitution of Saorstát Eireann.

A Chinn Chomhairle, a chara,

The Committee of Privileges appointed under Article 35 of the Constitution, convened by the President at 2.30 p.m., at Leinster House on Thursday the 19th instant, duly met. There were present the three members elected by Dáil Eireann, namely:—The Attorney-General (Deputy Conor A. Maguire, Senior Counsel), Deputy James Geoghegan, Senior Counsel, and Deputy William Norton, and also the three members elected by Seanad Eireann, namely:—Senator Ernest Blythe, Senator James G. Douglas and Senator Michael F. O'Hanlon, and I, the undersigned, acted as Chairman of the Meeting.

The Committee immediately took into consideration the question, whether or not, the Land Purchase (Guarantee Fund) Bill, 1935, is a Money Bill. There was a very full discussion of the matter, after which the Members of the Committee divided on the question and, there being an equality of votes, it became my duty to vote, the ultimate result being that it was decided that the Bill is a Money Bill as it had been previously certified by An Ceann Comhairle of Dáil Eireann.

Personally, I wish to convey my thanks for the facilities offered for the Sitting of the Committee.

The Original Certificate of An Ceann Comhairle of Dáil Eireann was produced to the Committee.

I was requested by the Committee to report the result of the decision of the Committee to Dáil Eireann and Seanad Eireann and, accordingly, offer to you, Sir, this Report for communication to the Body over which you preside.

(Signed),

AODH UA CINNEIDIGH,

*Prímh-Bhreitheamh.*

REPORT.

THE COURTS OF JUSTICE,

DUBLIN.

20adh Mí na Nodlag, 1935.

AN CATHAOIRLEACH,

SEANAD EIREANN,

LEINSTER HOUSE,

LEINSTER LAWN, KILDARE ST.,

BAILE ATHA CLIATH.

Report of the Decision of the Committee of Privileges summoned to decide whether a Bill called—LAND PURCHASE (GUARANTEE FUND) BILL, 1935, certified by an Ceann Comhairle on the 11th instant, be a Money Bill or not a Money Bill within the terms of the Constitution of Saorstát Eireann.

A Chathoirligh, a chara,

The Committee of Privileges appointed under Article 35 of the Constitution, convened by the President at 2.30 p.m., at Leinster House on Thursday the 19th instant, duly met. There were present the three members elected by Dáil Eireann, namely :—The Attorney-General (Deputy Conor A. Maguire, Senior Counsel), Deputy James Geoghegan, Senior Counsel, and Deputy William Norton, and also the three members elected by Seanad Eireann, namely :—Senator Ernest Blythe, Senator James G. Douglas and Senator Michael F. O'Hanlon, and I, the undersigned, acted as Chairman of the Meeting.

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(Signed),

AODH UA CINNEIDIGH,

Prímh-Bhreitheamh.

## COMMITTEE OF PRIVILEGES

UNDER

Article 35 of the Constitution.

Déardaoin, 19adh Mí na Nodlag, 1935.

Thursday, 19th December, 1935.

The Committee met at 2.30 p.m. in Room 91, Leinster House.

MEMBERS PRESENT:

CHIEF JUSTICE UA CINNEIDIGH in the Chair.

DEPUTY GEOGHEGAN, K.C.,  
THE ATTORNEY-GENERAL (DEPUTY  
CONOR MAGUIRE, S.C.)  
DEPUTY NORTON.

SENATOR O'HANLON,  
" DOUGLAS,  
" BLYTHE.

**Chairman:** Have we got the certificate?

**Senator Douglas:** We can get it from the Clerk of either House.

**Chairman:** I think we should get it. Does it give any reasons?

**Senator Douglas:** To the best of my belief, no reason is given.

**Chairman:** I have been asked whether pressmen may come in. That, of course, is for the Committee to decide.

**Senator Blythe:** Personally, I do not see why they should not be admitted. There is a point of public interest to be argued and I do not see why they should not be here.

**Senator Douglas:** That is my view. In fact, I think they definitely should be admitted.

**Senator O'Hanlon:** I do not mind.

**Deputy Geoghegan:** Like Senator O'Hanlon, I have not got any view. I do not mind.

**The Attorney-General:** What is the practice?

**Senator Blythe:** This is the first sitting of this body.

**Chairman:** As a general practice, I do not think the Press are admitted to Committees.

**Senator Douglas:** The Seanad practice is that the Committee decides itself. They are present at some Committees and at others they are not.

**Deputy Norton:** They are not present at meetings of Committees of the House.

**Senator Blythe:** Not unless it is a special Committee to consider a Bill. They have been present at those.

**Chairman:** I think that the idea of going into Committee sometimes is to avoid the Press.

**Senator Douglas:** There has been a suggestion by some people that this is solely a Party matter. I am satisfied that this Committee is going to consider the question on its merits. At any rate, that is what I am here for. For that reason, it would be better that the Press should be here and hear the case for and against. It is of sufficient

[Senator Douglas.]  
public interest. It is a constitutional matter, and a point affecting the Constitution is presumed to be public until definitely decided to be private. If necessary, I would move formally that the meeting be held in public.

**The Attorney-General:** I am rather surprised to think that we would discuss this in public. I think it would hamper our discussion if we do. I agree with Senator Douglas that we ought to approach the thing, examine it and decide on it not along Party lines. That might justify bringing in the Press, but I imagine it would make the discussion not as free as it would be if we had not the Press here.

**Senator Douglas:** Probably each member of the Committee will want to make a statement of his view on the matter. The Press might be admitted for that. If necessary, when considering our final decision, we need not have the Press here. That practice has been adopted in a number of cases. My sole reason for suggesting they should be admitted is that I know that a number of people think that this is going to be dealt with along Party lines, that we each have a vote and that the Chief Justice will decide. We have a problem that may affect the public and we want it debated and I should like the public to know the case for and against this being a Money Bill.

**Chairman:** Very well; we will take a vote.

**Senator Blythe:** I am for.

**Senator Douglas:** For.

**Senator O'Hanlon:** I must decline to vote.

**Deputy Geoghegan:** I am not voting.

**Deputy Norton:** I have no feelings one way or the other and I shall do the same.

**The Attorney-General:** I am against.

**Chairman:** That is two votes to one, with three not voting.

**Deputy Geoghegan:** I may say, by way of explanation—and I think I

have already made it clear to some members—that the reason I do not vote is that I have no sufficiently strong conviction one way or the other. If any member here cited to me a precedent one way or the other, it would guide me, but I feel that I have nothing within my knowledge or before me that would turn the scale one way or the other.

**Senator O'Hanlon:** That is my viewpoint, too.

**Senator Douglas:** I think we are creating a precedent. I do not think that any similar point has ever arisen before. There is no precedent to go on and in deciding now, we are creating something new. We have not got a precedent in any other country, or at least I have been unable to find one.

**Chairman:** That being so, we will communicate with the usher that if any pressman applies to come in, he will be admitted.

**Senator Blythe:** Or any member of the Oireachtas.

**Deputy Geoghegan:** I do not want to waste the time of the Committee, but it strikes me as a point of view that this Committee ought to sit either in private or in public. I do not foresee any clamour on the part of members of the public to come in, but from the point of view of the record, I should prefer that the form of our decision would be that we would sit either in private or in public. No doubt the only members of the public who will avail of it will be the Press.

**Senator Blythe:** I agree.

**Chairman:** Then, members of the public applying to be admitted will be allowed in. For my copy of the Constitution I am using Mr. Flynn's book.

**Deputy Geoghegan:** I am using for my copy of the Constitution the Standing Orders of the Seanad which bring it up to 1930.

**Chairman:** This Article was amended, I think, in 1930. I can use it in lieu of getting the document.

**Senator Blythe:** I have the same, the Seanad copy.

**Chairman:** certificate. What were the reasons to start

**Deputy**

**Chairman:** of appeal the views

**Senator**

**Deputy:** interrupt suggest to House its committee would should at forward

**Chairman:** them to fulness.

**Senator:** Attorney-General's defence here right.

**Senator:** Senator I

**Senator:** the Attorney

**Chairman:** Those who please call

**Senator:** opportunity in either Attorney-General's is not will

**The Attorney:** that we should it.

**Chairman:** have done to the Committee the Attorney's thing generally awkward a member

**The Attorney:** we have to falls within Bill within The Article

**Chairman:** We start with the certificate that this was a Money Bill. What we want to know is whether any reasons were given. Will we assume to start with that he gave no reasons?

**Deputy Norton:** He gave no reasons.

**Chairman:** We sit as a kind of court of appeal from that. Should we take the views of the members in turn?

**Senator Blythe:** Unless—

**Deputy Geoghegan:** If I am not interrupting Senator Blythe, I would suggest that, by way of analogy to the House itself, any member of the Committee who desires to capture your eye should attempt to do so and then put forward his arguments.

**Chairman:** I simply want to ask them to overcome their natural bashfulness.

**Senator Douglas:** I think the Attorney-General would have precedence here, if he chose to exercise his right.

**Senator Blythe:** I should prefer Senator Douglas to speak.

**Senator O'Hanlon:** I should prefer the Attorney-General to speak.

**Chairman:** That throws it back. Those who desire to talk first will please catch my eye.

**Senator Douglas:** There will be opportunity of replying, if necessary, in either case. I should prefer the Attorney-General to speak, but, if he is not willing to do so, I am.

**The Attorney-General:** My idea is that we should have discussion about it.

**Chairman:** The first thing I would have done if he had not been appointed to the Committee, would be to ask the Attorney-General his views on the thing generally, but he is in rather an awkward position by reason of being a member of the Committee.

**The Attorney-General:** The question we have to decide is whether this Bill falls within the definition of a Money Bill within the meaning of Article 35. The Article sets out rather clearly and

fully what is to be regarded as a Money Bill. I do not know if I need to read the Article as a whole, but perhaps I should read that part of it which deals with the definition of a Money Bill. It is:—

“A Money Bill means a Bill which contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges—”

I suggest that, when we come to deal with the Bill itself, it is under that head that it falls to be considered.

**Chairman:** We had better have the whole of that Article.

**The Attorney-General:** It goes on:—

“—supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; subordinate matters incidental to those subjects or any of them.”

Then, there is the important definition sentence:—

“In this definition the expressions ‘taxation,’ ‘public money’ and ‘loan’ respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.”

**Chairman:** I had better read the certificate. It is:—

“I hereby certify that the Land Purchase (Guarantee) Fund Bill, 1935, which was duly passed by Dáil Eireann on this eleventh day of December, 1935, is a Money Bill within the meaning of Article 35 of the Constitution of Saorstát Eireann.”

It is signed by the Ceann Comhairle.

**The Attorney-General:** The Bill is very short. In Section 1 it provides that deficiencies in the fund called the Purchase Annuities Fund, which I suppose we need hardly examine, are a charge on another fund called the Guarantee fund. The subsequent pro-

[The Attorney-General.]  
visions of the Bill are all ancillary to that declaration in sub-section (1) (a). I do not think it can be suggested that, having regard to its provisions, this Bill can be considered to fall within any of the heads mentioned in the Article describing a Money Bill except the one to which I referred *en passant*.

"The imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges."

The Bill creates a charge on a fund, and I think the decision of this Committee will depend on whether we hold, in the first place, that the Guarantee Fund consists of moneys which can properly be described as public moneys, and, secondly, whether this Bill does nothing else except create a charge on those moneys. "Public moneys" is defined in the concluding sentence of that part of the Article in a very wide way by exclusion. It excludes from the definition of "public moneys" any taxation, money or loan raised by local authorities or bodies for local purposes, so that the scope of our examination seems to be limited almost to this: Does the Guarantee Fund consist of moneys which are taxation raised by local authorities or bodies for local purposes. If anything in the Guarantee Fund can be properly described as money so raised, and if it consists, as I think it will be found when we come to examine it, of moneys provided by the Parliament in one way or another, it would seem to me that the Guarantee Fund clearly consists of public moneys.

**Chairman:** How is it made up? I think you should tell us how the Guarantee Fund is made up.

**The Attorney-General:** I intended to do that, but I thought it might simplify the matter if, taking the Bill as it stands, we can limit the scope of the inquiry by seeing under what heads of the descriptions of a Money Bill given in the Article it can fall. My examination of it satisfies me that it can fall only under the head I have just mentioned, and, taking that as being so, the scope of our inquiry is

limited to seeing whether, in the first place, it does impose a charge, and, secondly, whether the fund upon which it imposes the charge can properly be described as public moneys. If some member of the Committee satisfies me that that is a wrong method of approach and that there are some other heads mentioned in the Article under which it might possibly fall, I am quite open to conviction on the point.

**Senator Douglas:** I think there is no doubt that if it be a Money Bill, as stated, it would be under that section of the Article. I do not propose to maintain that it comes under any other section, if it comes at all, and, without agreeing generally, I do agree that that is one line of argument we shall have to discuss.

**The Attorney-General:** I should like not to be taken as arguing the case at all in the way in which it might appear I am arguing it. I should rather be taken as putting forward what has occurred to me in examining the Article and as being quite open to consider arguments from any other member of the Committee which dispose of the inferences which I have drawn from applying the Article to the text of the Bill. Following that line, it seems then that the next question we have to ask ourselves is what exactly the Guarantee Fund consists of. The Guarantee Fund was established, first of all, under the Land Act, 1891, Section 5, and it consisted of a cash and a contingent portion. The cash portion consisted of the Irish probate duty grants and an Exchequer contribution of a sum of £40,000 and the county percentage. The contingent portion consisted of certain grants for rates on Government property in Ireland, for certain expenses of the commissioners of national education, industrial schools, salaries of medical officers and so forth. It may possibly save trouble to say at once that by Section 26 (2) of the Land Act, 1933, the contingent portion of the Guarantee Fund was completely abolished. Section 26 (2) says:—

"The provisions of the Land Purchase Acts in relation to the contingent portion of the Guarantee

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Fund shall cease to have effect on the passing of this Act."

**Senator Douglas:** That is the 1933 Act?

**The Attorney-General:** The 1933 Act. It occurs to me that we need not consider any of the provisions of the earlier Acts with regard to the contingent portion of the Guarantee Fund. We need not examine the nature or quality of the fund which made up that contingent portion.

**Senator Blythe:** Although the contingent portion was abolished in 1933, this Act goes back to 2nd April, 1932. That, however, might be considered later.

**Chairman:** What is the date of the coming into operation of that?

**The Attorney-General:** The enacting date is 30th October, 1933. Alteration was made in the Guarantee Fund by later legislation. By the Land Act of 1896, the county percentage was abolished.

**Chairman:** What did the county percentage mean?

**The Attorney-General:** It is very difficult to follow. I tried to find out what it was, but, when I found that it had been abolished, I did not continue.

**Senator Douglas:** The same thing happened to me. When I found it had been abolished before 1932, I dropped it.

**The Attorney-General:** There seems to have been some curious method of calculation of 5/- per £100 of advances of purchase money. I do not know whether Deputy Geoghegan can say off-hand what it was?

**Deputy Geoghegan:** I regarded it as an antique portion of our law.

**The Attorney-General:** I abandoned my researches when I discovered it was abolished.

**Chairman:** The Guarantee Fund started with a presentment to the Grand Jury.

**The Attorney-General:** That was part of the provisions of the 1896 Act.

The Agricultural Grant was created by the Local Government (Ireland) Act, 1898, under Section 48 (1). It provided that annually there should be paid out of the Consolidated Fund to the Local Taxation (Ireland) Account, a sum equal to half the amount certified under the Act to be taken for the purpose of this Act as having been raised in the whole of Ireland by poor rate and county cess off agricultural land, as hereinafter defined during the 12 months ending as regards poor rate on the 29th day of September, 1897, and as regards county cess on the last day of June, in the same year. By the Land Purchase Act, 1903, the Agricultural Grant, which was so created, was made part of the Guarantee Fund.

**Chairman:** The Agricultural Grant was strictly public money?

**The Attorney-General:** I submit that it is strictly public money. I have got a convenient reference in the Report of the Commission on Derating to show what the Guarantee Fund now is. It consists of the Estate Duty Grant, the Agricultural Grant, an Exchequer contribution and a licence duty grant. Those are the sums which make up the Guarantee Fund. They are all funds provided by Parliament. None of them, so far as I can discover, is raised by local authorities for local purposes. It would seem to me that if this Bill were to provide—which it does not—that deficiencies in each county should be met by a rate to be levied on the ratepayers of the county—requiring the ratepayers to make good the deficiency in respect of land annuity payments in their particular area—it would still be a Money Bill, because the money so raised would not be raised for local purposes. However, the Bill does not do that. Even if a security was created by putting the obligation directly on the local authorities to find the amount of the deficiency between the annuities collectable and the amount actually obtained, it would still seem to me that such a Bill would properly be held to be a Money Bill. However, we are not really concerned with that question. That is the result of my examination of the position—that there is nothing in the Guarantee Fund

[The Attorney-General.] which is not properly describable as "public moneys." This Bill creates a charge on the Guarantee Fund and was, therefore, properly certified by the Speaker as a Money Bill.

**Chairman:** In what way does it come into conflict with the local authorities?

**The Attorney-General:** Grants such as the Agricultural Grant, which can be taken as a typical example, which are payable to the local authorities in certain fixed proportions are placed in the Guarantee Fund and can only be drawn out upon the Land Commission clearing a particular county in respect of the annuities payable in that county. The grants are held up in the Guarantee Fund to the precise amount of the default in each county in respect of land purchase annuities.

**Chairman:** As an indirect consequence of that, has the local authority to raise a rate?

**The Attorney-General:** If the local authority has budgeted for services for a particular year and takes into account the amount which it estimates it will receive from these various grants in full, then, if the Guarantee Fund is called upon to make up deficiencies in the collection of land purchase annuities, the council must drop certain services or find money by local taxation or by borrowing. That is the direct effect of depriving the local authority of a sum measured by the amount of the default in each county.

**Chairman:** As an indirect consequence, money must be raised somehow by the local authority?

**The Attorney-General:** If the local authority wants to carry on its services to the full extent of its estimate, and if it loses grants as a result of the operation of the Guarantee Fund, it must find the money. Otherwise, it has to cut its services.

**Senator Douglas:** I have given a good deal of consideration to this question. I take a good deal of interest in constitutional questions and, some time ago, I gave a great deal of consideration to the ques-

tion of Money Bills. I had only part of last night to make up what seemed to me to be the case for the view which I take, that this is not a Money Bill. I state my case with a certain amount of diffidence, as I am only a layman. I have no legal experience and there are two distinguished lawyers on the Committee who, apparently, take the other view. However, they are fair men and they will make allowance if I fall down on a legal point, as I am sure you, Chief Justice, will. I entirely agree with the Attorney-General, that we are not considering precedents or anything of that kind. We are simply dealing with Article 35. The only question for the Committee is whether the Bill conforms to the definition in Article 35. If it does not, it is not a Money Bill. If it does, admittedly it is. That simplifies the position, to some extent, because we have a definite standard with which we can compare the Bill and consider what its effects. If it can be shown that the Bill does not do any of the things stated in Article 35 or that it contains provisions other than those enumerated there, or subordinate or incidental matters to the subjects enumerated, then it is not a Money Bill. On several grounds, in my opinion, we can argue that this Bill is not a Money Bill. In the statement I propose to make, I should like to be regarded for the moment, as taking one side. That does not mean that there may not be other sides, but I think it will help the Committee if I put the reasons why I think this is not a Money Bill. I am definitely taking one side for the moment.

In the first place, in my opinion, this Bill is merely a declaratory Bill. It purports, by its title, to be "an Act to remove doubts." Accordingly, it does not, of itself, effect any change in the law and it certainly does not do any of the things stated in Article 35. If that contention, of itself, is correct, it is not a Money Bill. I do not believe that Article 35 ever contemplated, or actually provided for, declaratory Bills coming under the subjects to be dealt with as Money Bills. That is one reason why I doubt very much that this Bill can be properly described as a Money Bill.

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If you examine Section 2 of the Bill, you will find that it has the effect of validating acts of the Government done before the passing of the Bill, whether they were, or were not, lawful or valid at the time. I think that that is quite clear. The acts which are validated, I should like you to note, include not only payments or deductions but also, page 3, line 3, every "other thing done." These "other things done," which are validated in that section, could include acts which could not properly be dealt with in a Money Bill—such, for instance, as the apportionment of the various shares of counties in the moneys forming the Guarantee Fund after deductions had been made. In my humble opinion, a Bill which validates acts done before its passing does not come within the definition of a Money Bill contained in Article 35. Even if that Bill does deal with public moneys—which I do not admit, for reasons which I shall state later—the validation of "other acts done" cannot be regarded as "incidental." Further, if the Committee hold that I am wrong and that they are "incidental," then, I submit, they are not "subordinate" matters and that the validation of payments which might run to about £1,000,000 could not reasonably be called a "subordinate" matter within the meaning of that Article. For that second reason, I believe that Section 2 of the Bill is sufficient, of itself, to prevent the Bill being regarded as a Money Bill without going into the further points raised by the Attorney-General.

There is the third reason that, if you turn to Section 3 (2), you will find that "This Act is to be construed with the Land Purchase Acts and may be cited with these Acts." This sub-section seems to me to bring the Bill within the whole land purchase code, and I submit that this sub-section, of itself, is sufficient to show that the Bill does not contain "only" provisions regarding the matters set out in Article 35 or subordinate matters incidental thereto. I think it will be admitted that the Land Purchase Acts are not Money Acts, and I cannot regard the bringing of a Bill into the land purchase code as either subordinate or incidental to a money matter.

When you come to the main point, you find that Section 1 deals with two funds—the Purchase Annuities Fund and the Guarantee Fund under the Land Purchase Acts. It does not seem to me that, in relation to either of these funds, this Bill does any of the things that are stated in the Article. With great respect to the Attorney-General, it does not seem to me that it deals with "the imposition for the payment of debt or other financial purposes of charges on public moneys." It does not vary or repeal any such charges. It does not regulate any such charges. It does not deal with supply, appropriation, receipt or custody of public moneys, as, I think, the Attorney-General agrees. It does not provide for the raising or guarantee of any loan or the repayment of any loan though, as you, Chief Justice pointed out, it might lead to the raising of a loan by a local authority. I cannot see that it does any of the things set out in the Article. I take it that we are agreed that the only case which can be made for regarding the Bill as a Money Bill, is under the phrase "the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges." If it be held, against my opinion, to come within this definition, I submit that the charges on public moneys—if there be any—in relation to the Guarantee Fund were not made in this Bill at all. They were made under other Acts. Our attention has been drawn to the Report of the Commission of Inquiry into Derating and that is where I got some of my information. There seems to be no doubt that the charges were provided under other Acts and not under this Act. I submit that this Bill does not make, vary or repeal charges on public moneys and that therefore it does not do any of the things set out in this Article.

**Chairman:** Is not the difficulty that the Bill is supposed to get rid of a doubt as to whether the charges effectively lay?

**Senator Douglas:** I take it that the doubt was whether deductions were properly made, but the charges on

[Senator Douglas.]  
 public moneys were not affected by that. I cannot agree with the Attorney-General that either the Purchase Annuities Fund or the Guarantee Fund consists only of public moneys. I think I can claim that if we can prove that these funds consist even in part—certainly, if they consist in whole—of moneys which are not public moneys, then it must be held that this Bill does not deal “only” with public moneys. The Purchase Annuities Fund, which the Attorney-General did not deal with but which is referred to in the Bill, consists of receipts from land annuities. I submit that receipts from land annuities are not public moneys. The Attorney-General has not raised that point. If necessary, I can argue it further. The Purchase Annuities Fund consists primarily of land annuities which, I have submitted, are not public moneys. It also consists partly of payments made from the Guarantee Fund. It may consist of moneys temporarily advanced to it from the Central Fund.

**Chairman:** The Purchase Annuities Fund, I understand, is a fund created by moneys paid by purchasing tenants towards redemption of the moneys advanced to them to buy their holdings?

**Senator Douglas:** Yes.

**Chairman:** Does it get any other moneys as the Purchase Annuities Fund?

**Senator Douglas:** There may be cases where the Consolidated Fund in England and the Central Fund here temporarily lent it money.

**Senator Blythe:** That would arise if the Guarantee Fund was not sufficient.

**Senator Douglas:** That admission may seem to be against my own argument but, if money is advanced to it, it is purely temporary and is immediately repaid out of the Guarantee Fund. As the Attorney-General has pointed out, the Guarantee Fund consists of two portions—the cash portion and the contingent portion. If it could be proved that the moneys on which the contingent portion were charged were not

public moneys, I submit that it would affect this Bill because this Bill goes back to 1932, whereas the repeal of the contingent portion only took place in 1933. I do not regard that as a very important point unless we have to go more deeply into it. If any of the moneys on which the cash portion or contingent portion was charged in 1932, or thereafter, can be proven to the satisfaction of this Committee not to be public moneys, then this is not a Money Bill because any Bill which does not deal “only” with public moneys—I am assuming that that particular phrase is the phrase under which the claim is made that this is a Money Bill—is not a Money Bill. If any of the moneys in the Guarantee Fund are not public moneys, then I submit—and I think the Attorney-General agrees—that this is not a Money Bill.

The two principal moneys forming the cash portion of the Guarantee Fund have been for some time and are, I think, at the present date, the Irish Probate Duty Grant—now known as the Estate Duty Grant—and the Agricultural Grant. Both of these are, admittedly, moneys made available by Parliament, but they are so made either by specific Acts or by annual appropriation for distribution amongst local authorities in relief of local taxation. They have been granted to local authorities and are merely held against a contingent liability to the Purchase Annuities Fund. The fact that they are so held against a contingent liability does not alter the fact that, once they are granted, whether by specific Act or appropriation, they belong to the local authorities. I shall give further reasons for that in a moment. Let us take the first portion of the moneys—the Estate Duty Grant, formerly the Probate Duty Grant. If you refer to the Probate Duties (Scotland and Ireland) Act, 1888, you will find that it is clear that this is definitely a grant in relief of local taxation. The preamble sets that out clearly. I think you will find that, originally, one-sixth of that grant went to Scotland and Ireland and, of the sixth, Ireland got nine-twentieths and Scotland eleven-twentieths. The present position is that  $1\frac{1}{2}$  per cent. of

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the Estate Duties collected by the Revenue Commissioners of the Saorstát are paid to the Local Taxation Account. Of this sum, £4,000 now goes to the Department of Agriculture for a specific purpose and that specific purpose is improving the breeding of horses. Originally, this money went to the Royal Dublin Society for the same purpose. The sum was then, I think, £5,000. At the present time it goes to the Department of Agriculture for a specific purpose. Half the balance goes to the road authorities for the repair or maintenance of roads or bridges. There is a specific statement as to what it must be spent upon. It is provided in the Act that it goes to the local authorities, and I contend that it is their property. The other half was formerly paid to the guardians of unions. Now, it goes to their successors. It must be applied in aid of the poor law. That will be found specifically stated in the Act to which I have referred. I can find no evidence that it has been changed since and I am satisfied that it has not been changed. It seems to me that this part of the Guarantee Fund, now called the Estate Duty Grant, was definitely applied by statute for local purposes and that it does not even pass through the Central Fund. It is paid direct to the Local Taxation Account by the Revenue Commissioners, according to statute, and I do not think it can properly be described as "public moneys." If this contention be correct, portion of the Guarantee Fund is not raised from public moneys and this Bill is not a Money Bill.

The next important part of the Guarantee Fund is received from the Agricultural Grant. This grant was made to county councils for relief of rates on agricultural land. That was the object of the grant. Part of it is granted by statute out of the Central Fund under Section 48 of the Local Government (Ireland) Act, 1898, as pointed out by the Attorney-General. Part of it is granted under the Local Government (Rates on Agricultural Land) Acts passed in the Saorstát. There are a number of these Acts. Once granted, it is, I submit, the property of the county council (subject

merely to charges) to be used by them for statutory purposes in relief of local taxation, and the moneys comprised therein are not "public moneys" after they are granted, any more than any other money granted to any body or person is "public money" after it has been granted to such body or person. Let us take as an example the annual grant to the National University. Once it has been granted, the university can use it for university purposes and it is no longer public money. If a Bill were introduced to empower the Minister for Finance to retain part of the grant to the National University after it had been granted until the professors, say, had paid their income tax, I submit that it would not be a Money Bill, because the money was granted to the university for university purposes. The university had no direct control over the income tax of its professors and, if such a Bill were passed, it would not be a Bill dealing with public moneys. If this Land Purchase (Guarantee Fund) Bill purported to make a definite alteration in the law—I say it does not and that it is only declaratory—so as to empower the Minister to retain moneys granted to county councils, until individuals over whom they had no control had paid their land annuities, I submit that it would not be a Money Bill any more than a Bill to withhold money granted to the National University in the circumstances I have described would be a Money Bill. I had to make this case up rather late last night and I have not got all the quotations, but in quite a number of Land Acts the phrase occurs again and again "share of a county in the Guarantee Fund." That phrase occurs in sub-section (5) of Section 6 of the Land Purchase Act of 1891. It also appears in several other Acts and, if necessary, I can find it in them. That constitutes a statutory recognition of the fact that such share is the property of the local authorities and is not public money. A perusal of the Land Purchase Acts, and consideration of the nature and character of the various moneys comprised in the Guarantee Fund, clearly demonstrate that those moneys are the property of the local authorities, sub-

[Senator Douglas.]  
 ject only to charges created for the purpose of making good possible losses in the working of the finances of the Land Purchase Acts, which charges are, in fact, repayable to the local authorities when funds become available by reason of the payment of arrears of land annuities. Any doubt that there might be as to the ownership of these particular moneys, for which the Guarantee Fund is drawn, to my mind is entirely placed beyond all doubt by the case of the Kildare County Council versus the King. That is in the Second Irish Reports of 1909. It dealt with the rights of county councils in regard to the Agricultural Grant and Estate Duty Grant. This particular judgment is extremely important to the contention I am making. In the financial years 1905-1906 and 1906-1907 there had been deducted from the Agricultural Grant and the Death Duties Grant certain sums to recoup the Land Purchase Fund for losses in the working of the land purchase finance. The Agricultural Grant and the Death Duties Grant formed portion of the Guarantee Fund. In the year 1908 the Kildare County Council presented a Petition of Right to the King, alleging that the deductions made from these two grants were illegally made and praying for payment of the sums which represented their share of the sums so deducted from the grants. It was contended by the Crown, and argued as a preliminary point, that a Petition of Right did not lie: that under the Land Purchase (Ireland) Act, 1891, Section 6, the question should be determined by the Lord Lieutenant. This question depended on whether the county council had such an interest in their share of these two grants as to entitle them to proceed by Petition of Right. It was admitted that the right of the county council depended not upon contract, but upon grant from the Crown. The question, therefore, was whether the moneys in question ought to be deemed to be the property of the county council. If they ought to be, jurisdiction to hear the Petition of Right was clear. It was held by Chief Baron Palles, in a judgment in which the other judges concurred, that the

Sovereign had granted these sums and had, with the co-operation of Parliament, provided money to satisfy them and he authorised the transfer of the money to a separate account, the Local Taxation (Ireland) Account, for the purpose of paying to the county councils their share and such share had, subject to the charges thereon, become the moneys of the county council. I would like to read portion of the judgment delivered by Chief Baron Palles, because it seems to deal directly with the point I am making. This is taken from the Irish Law Reports, Volume 11, pages 104 and 105. This is the portion of the judgment which I think directly refers to this point:—

“ In the first instance, I desire to consider whether the moneys in question ought to be deemed to be the property of the suppliants in the hands of the servants of the Crown; because, if they ought to be, the jurisdiction to hear the petition cannot be denied.

“ These moneys were, undoubtedly, granted by Parliament, and were by it directed to be paid into the Local Taxation (Ireland) Account. The share of the suppliants in them—”  
 that is, the Kildare County Council—

“ subject to the charges created by the Acts of 1891 and 1903, has been ascertained in moneys numbered, through machinery appointed by Parliament; so that the right of the suppliants, subject to those charges, is to ascertained sums. The present case (subject to the question of charges which, in this connection, I do not deem material) does not differ from the simple one of a specific sum having been granted by Parliament to a named individual—say, to a distinguished general—and of that sum having been, in pursuance of the directions of Parliament, paid to a servant of the Crown, to satisfy the Parliamentary Grant, and alleged to have been misapplied by him. Were the person to whom the money was paid not a servant of the Crown, he would have received it to the use of the grantee. In the case of its receipt by a servant of the Crown, it is different, as the

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Crown cannot hold money for the use of a subject; but the money in the hands of a servant of the Crown, and in respect of which his only legal duty is one to the Crown, can still be the money of a subject, just as the lands of a subject may be in the hands of the Crown, through its servants. The question, then, is: Is it, although in the hands of the Crown, the money of the suppliants, in the sense in which that expression is used in this connexion? In my opinion it is. The grants made by the Acts of 1888 and 1898 operated, as in my opinion do all statutable grants as granted by the Crown. The Lords and Commons, by making themselves parties to the grant, guaranteed that they would provide sufficient funds to enable the Sovereign to make good the grant; but, in law, it was the grant of the Sovereign, as truly as it would have been had it been made, not by Act of Parliament, but by Patent under the Great Seal, as was the grant of Charles II, which was the subject of *The Bankers' Case* (14 State Trials, 1). It is true the Agricultural Grant is a grant out of the Consolidated Fund; and the Act of 1888, granting the Probate Duties, strangely enough seems to intercept these duties in the hands of the Commissioners of Inland Revenue before they reach the Lords Commissioners of the Treasury, who are usually regarded as the custodians of the Consolidated Fund; but still, in the hands of the Commissioners of Inland Revenue, they are part of the Consolidated Fund; and the Consolidated Fund is, constitutionally, the property of the Sovereign, although payments out of it are appropriated by Parliament. The Sovereign, then, has granted these sums. He has, with the co-operation of Parliament provided money to satisfy those grants. He has authorised the transfer of the money granted (subject to charges thereon) to a special account, 'Local Taxation (Ireland) Account,' for the purpose as to a part equal to the suppliants' share of them, of paying it to the suppliants—"

I understand that the Local Taxation (Ireland) Account still exists—

"I am of opinion that the share therein of the suppliants becomes their money, subject to the charges thereon. It is not money received to their use, because the Sovereign by reason of his dignity is not capable of receiving or holding money in that manner, but still money which, in the hands of the Crown, has rightly become the money of the suppliants. It cannot be suggested that anyone but the Crown or the grantee, is the owner of it; so, if it be not the money of the Crown, it must be that of the grantee. It cannot be used by the Crown, or applied by it in any other way than by handing it to the grantee; and, according to the judgment of some distinguished judges, there is a moral duty in the Crown to apply it in that mode. Thus the Crown has none of the incidents of ownership, other than the mere possession, and, as against the suppliants, cannot claim to be its owner."

**Deputy Norton:** What interpretation do you put on the phrase used in that judgment—"subject to the charges thereon?"

**Senator Douglas:** My case is that there is a statutory right to deduct certain charges from the money, but that the money is, after it has been granted, definitely the property, not of the State, in which case it would be public moneys, but the property of the county councils. We are not dealing with the Crown here. The principle is the same; the position is, of course, different. The money is not granted to the Crown by the Irish Parliament in the British form. I submit this judgment shows it is the property of the county councils after it has been granted, and that they were able to sue the Crown—the State authority as it would be now—to have their rightful share. If this was public money in the hands of and under the control of the Minister for Finance, a county council would not be so able to sue because the Minister's discretion as to the deductions would be final. I think it is conclusive what I have argued, that the moneys in the Guarantee Fund are not, in the meaning of

[Senator Douglas.]  
the Article, public moneys but that is only a further point to the points which I have originally made with regard to the Bill and which I believe, apart from the question of money, are sufficient to show it is not a Bill which contains only provisions dealing with money, if we take the section the Attorney-General relies on.

**Deputy Geoghegan:** I have very little to say on this question. I am not aware that I have hitherto expressed, in public at all events, any view upon the matter. Senator Douglas, in his opening remarks, referred to two lawyers who take the opposite view.

**Senator Douglas:** I think I said presumably. I apologise.

**Deputy Geoghegan:** I am not seeking an apology. I was just about to say that Senator Douglas has drawn the inference that I have taken the opposite view. As a matter of fact, I have taken the opposite view, but I trust I have not taken it in such a fashion as to be unshakeable in regard to it, if there is any argument advanced here that would lead me to alter that view. I want to say at once, frankly, that after this matter was debated and agitated in the Dáil and after I had looked into this Article, I undoubtedly formed a view different from and opposite to the view of Senator Douglas. In forming that view I have been influenced chiefly, almost entirely, by the nature of the Guarantee Fund and the nature of the Purchase Annuities Fund referred to here in the Long Title of this Bill. I took the view that the phrase the Guarantee Fund was a mere phrase describing a portion of the public moneys, portion of the moneys of the State.

**Chairman:** It is a term of art—a fund known by that name.

**Deputy Geoghegan:** It is undoubtedly a term of art; it occurs in Acts of Parliament. It is a term of art, but a term of art designed to label a portion of the public fund. Although it is, perhaps statutory, it still is accountancy; it is a mere method of dealing with the account of the public funds. The

grants out of that fund, or the grants that might indirectly affect that fund, all hinge around the bounty of parliament. If these moneys in the Guarantee Fund are, as I think they are, part of the public moneys of the State, I feel that the framers of the Constitution had taken particular pains to see that the holder of the public purse, the controller of the public purse, would be the Dáil. It may be that I have approached Article 35 from a slightly different viewpoint to that in which Senator Douglas approached it. I approached it with that feeling that the Dáil was the custodian of the public money and that unless some construction, some words in Article 35, actually coerced me to take the view that the Seanad can meddle with public moneys, can control public moneys, can do anything more than give certain advice which may or may not be taken in relation to public moneys—unless I found actual compelling words, it would be difficult to convince me that this Article of the Constitution contemplated that the Seanad could at all interfere in regard to any matter relating to the public funds. Look at the long Title. The long Title of the Bill states that the Bill is entitled “an Act to remove doubts as to the liability of the Guarantee Fund under the Land Purchase Acts for recoupment of deficiencies in the Purchase Annuities Fund, and to define such liability and provide for certain matters relating thereto.” You then turn to the Article of the Constitution and you find the words that a Money Bill means a Bill which contains only provisions dealing with the imposition for the payment of debt or other financial provisions of charges on public moneys—I am omitting unimportant words—and subordinate matters incidental to those subjects. If language has any meaning, it would seem to me that this Bill in its title contemplates the imposition for financial purposes of charges on certain public moneys. It proceeds then by Section 1 to do so. In the long Title it speaks of a liability. In the side note, the marginal note to Section 1, it uses the actual word which you find occurring in this Article of the Constitution, the word “charge”

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**Senator Douglas:** Is that part of the Act or not?

**Deputy Geoghegan:** It is not part of the Act, but is something—

**Chairman:** But the long Title is.

**Deputy Geoghegan:** It is not part of the Act, but it is something that, under certain circumstances, can be resorted to for purposes of interpreting.

**Chairman:** To remove doubts.

**Deputy Geoghegan:** Yes, to remove doubts. While it is not part of the Act itself, it is permissible in courts—I speak subject to correction, and I hope I will receive the correction of the Chief Justice in regard to this, if necessary—that it has been permitted in courts of law in cases where actual statutes have had to be interpreted or construed—it has been permitted to refer to the marginal note. The value that the court will attach to the marginal note is, as far as I know, not a fixed value. They will attach as much importance to it as they think right; but it is permissible to allude to it.

**Chairman:** Perhaps not in the same way as the long Title. The long Title is part of the Act.

**Senator Douglas:** If what Deputy Geoghegan says is right, and I am not questioning it, then I think there is not the slightest doubt that members of the Oireachtas will pay attention to a matter which I venture to say none of us has paid very serious attention to—the marginal notes. Perhaps in some cases they may submit amendments, a thing which I have never known to be done; I do not know of a single instance.

**Deputy Geoghegan:** I hope the Senator heard me say that I am not asserting that the marginal note is part of the Act. I trust I made that quite clear.

**Senator Douglas:** Even if it had the further importance as a matter which could be argued in connection with the interpretation of the Act or to remove doubts, I have an idea members of the

Oireachtas would pay more attention to it than I think any of them do. I just merely make that comment.

**The Attorney-General:** I do not think it can be looked at. I think the Interpretation Act of 1923 says it cannot be looked at.

**Deputy Geoghegan:** I went to some pains to dwell upon the degree of importance, if any, which can be attached to it in relation to a Bill.

**Chairman:** When the Constitution was going through the Dáil, for fear they might be looked at with a view to helping construction, all the marginal notes were removed.

**Deputy Geoghegan:** I welcome the intervention of Senator Douglas. It is helpful as one goes along to have any comment like that that may occur to any member of the Committee, and I am grateful to Senator Douglas for intervening. I have advanced what I conceive to be the view that would be resorted to in the courts, that in the last resort, at all events, you could have had recourse to a marginal note and could refer to it, and you would not have been stopped by the judges. I think that here before this Committee it has an even greater value, that the degree of weight to be attached to it is even greater, because while I trust that every member of this Committee will approach this matter in a judicial way and in a judicial spirit, this is not a court of law. This is, after all, a Committee of the Oireachtas endeavouring to ascertain the mind or the intention of the Oireachtas in regard to this Bill—it is merely a Bill—the mind of the Dáil, at all events. Of course, it has merely gone through the Dáil.

**Senator Douglas:** We have a little mind sometimes.

**Deputy Geoghegan:** I merely suggest it has not reached the stage when the Seanad could apply its mind to it. If I am wrong in that, let me be corrected. I understood the Seanad had decided not to apply their minds to it so far.

**Senator Douglas:** Any question as to whether it is or is not a Money Bill

[Senator Douglas.]  
would have to be decided by Senators in the first seven days, of which three have elapsed.

**Deputy Geoghegan:** As I understand it, the Seanad have not deliberated on this Bill up to the moment.

**Chairman:** With regard to the Guarantee Fund, I understood Senator Douglas to suggest that while originally it might be public money at the point of departure from the body that votes it or decides to give it, that once it has been voted and has been delegated to the Guarantee Fund it then takes on its character as the property of the Guarantee Fund.

**Senator Douglas:** My point was that it was the property of the county councils, based on the judgment to which I have drawn attention.

**Chairman:** I quite follow.

**Deputy Geoghegan:** The case to which Senator Douglas has referred deals with the rights and obligations in regard to a grant of this sort, after Parliament, the King and the other constituents of the British Parliament had expressed their view in regard to it. But as to the nature of the moneys, it makes it clear that it is a grant by the King of moneys provided by the Commons. In the present case, this Bill is dealing with moneys that are still in the Central Fund here.

**Senator Douglas:** Do you mean in this case?

**Deputy Geoghegan:** The moneys with which this Bill will deal.

**Senator Douglas:** My contention is that portion of the moneys of this Guarantee Fund is not in this Central Fund, but goes direct to the Local Taxation Account. I am only trying to help Deputy Geoghegan. We do not want to argue something not in dispute. In this particular case the contention I have made is that they are paid by the Revenue Commissioners to a different fund, the Local Taxation Account, which still exists, though this judgment would make it clear, to my mind, that even if they

were remaining in the Central Fund after they were granted and the actual steps were taken by Parliament, they would be the property of the local authorities. If the Deputy would like to have this judgment, I shall be glad to let him have it.

**Deputy Geoghegan:** I had reason to familiarise myself with that judgment for another purpose. It would seem to me that perhaps the judgment would be more apposite if we were considering what is the existing law rather than considering the nature of the Bill which proposes to declare what that law is. But whether these moneys are in the Central Fund or whether they are in the Local Taxation Fund, they are still in a fund which is under the control of the Oireachtas. They have not left that fund. It is not like seeking to get these moneys back, they having passed from the control of the Oireachtas, having passed out of the Central Fund or this Local Taxation Fund and gone to the county councils. If they had, and if it was sought to get them back, I think it would be difficult to answer the views that the Attorney-General expressed as to the nature of the Bill that would seek even to do that. I think that would be a Money Bill; but that has not occurred. The moneys are still in the Central Fund or in the Local Taxation Fund. This Bill is in form a Bill to remove doubts, but in so far as the Title of the Bill is concerned and the form of words used in describing the Bill and in titling it, and the fact that it is a declaratory Bill—these are immaterial points for the purpose of the question we have to consider now, because I think it will hardly be seriously contested that if this Bill when enacted is in conflict with the true view of the law, suppose that true view was capable of ascertainment and was found to be in conflict with this Bill, with the enunciation of the law which this Bill purports to make, then this Bill when enacted would prevail. would be legislative, would be a piece of law-making. It would not then be open to any one to go into court and say "This is an inaccurate declaration," even assuming for the purpose of argument that there was some

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**Chairman:** Perhaps you could tell me—I do not know, as a matter of fact—what is the doubt that this Bill will be passed to remove?

**Deputy Geoghegan:** Claims were advanced by at least two county councils against these funds. Claims were advanced and they at least allege that there was a doubt, if not more, as to whether the existing law entitled the Minister for Finance, in effect, to charge deficiencies in the collectible amount of the Land Purchase Annuities in Ireland against these grants. They at least raised doubts about that, doubts which I do not share, but they were raised and proceedings were instituted.

**Chairman:** Does that mean—I want to know what is the object of the Bill—that a deficiency has arisen owing to the deliberate retention of the moneys?

**Deputy Geoghegan:** I do not know that there is any doubt as to the owner of the land being liable to pay.

**Senator Blythe:** As I understood the case, the contention of the county councils is that originally the Guarantee Fund was instituted for the purpose of guaranteeing the dividend and sinking fund on the land stock, and that as certain land annuities are no longer being used for that purpose but are being paid into the Exchequer, it was no longer the right of the Minister for Finance to make deductions from the Guarantee Fund and, through the Guarantee Fund, from the grants to local authorities. That is the question which is being litigated.

**Chairman:** So that the doubt merely arises, as I understand it, as to the nature of the deficiency?

**Deputy Geoghegan:** Yes.

**Senator Blythe:** Or really as to whether, in the circumstances existing after the Act of 1933, the Guarantee Fund may be drawn upon.

**The Attorney-General:** After the Act of 1933.

**Deputy Geoghegan:** No matter what the deficiency is, every deficiency is dealt with in Section 2. Section 2 says: "Every deficiency in the Purchase Annuities Fund."

**Chairman:** What I put to you is this: It refers to every deficiency as drafted there, but what I want to know is what was the doubt previous to that? The doubt apparently was as to whether it covered certain kinds of deficiency, not whether the deficiency arose owing to inability to pay or whether the deficiency arose through public authorities saying, "Do not pay, we dispense you."

**Deputy Geoghegan:** As I understood the political argument that was advanced, it was substantially what Senator Blythe has stated as to the original intention of the Guarantee Fund.

**Senator Blythe:** And the claim of the county councils which presumably led to this Bill.

**Deputy Geoghegan:** Yes.

**Chairman:** That is to say the Guarantee Fund was not to pay a deficiency, arising not from the failure of the individual to pay, but from his being dispensed from payment by the Government.

**The Attorney-General:** No, there is no alteration in the destination of the Purchase Fund.

**Deputy Geoghegan:** The political argument as Senator Blythe has stated it, and as I understood it hitherto, was that as originally payments by instalment payers were intended to provide moneys to be forwarded for the payment of interest and sinking fund on land stock, and, as the Oireachtas had provided that that money should no longer be despatched to the National Debt Commissioners in England, therefore there was nothing to guarantee. I do not know if I have stated Senator Blythe's argument fairly?

**Senator Blythe:** That is it roughly. There is nothing to guarantee now.

**The Attorney-General:** It was provided that the moneys in the Purchase

[The Attorney-General.]  
Annuities Fund should be paid into the Exchequer.

**Chairman:** So it ceased to be a Purchase Annuities Fund except in name?

**The Attorney-General:** That is not so. The Purchase Annuities and the Guarantee Fund support the stock created under the 1933 Act. Part of the moneys in the Purchase Annuities Fund goes to pay the interest on land bonds and the other part is diverted into the Exchequer and the doubt arises in respect to the portion which was payable into the Exchequer under that Act, as to whether the Minister was entitled to call on the Guarantee Fund to make good the difference between the amount collectible and the amount actually paid.

**Chairman:** The effect is that while a certain set of names was preserved, the whole character and purpose of this 40 year old fund was changed?

**The Attorney-General:** Only in part.

**Deputy Geoghegan:** In respect to annuities prior to the 1923 Act. To get back to the Chief Justice's original question, every default by an instalment payer under the 1903 Act, for instance, was, as I understood the political argument, alleged to be a default even if it was inability to pay, in respect to which the Minister for Finance could not withhold anything from these grants, that he had still to pay grants to the county councils no matter what the cause of the default or omission on the part of the individual payer was.

**Senator Blythe:** Quite. The contention is that the Guarantee Fund was to guarantee stockholders and that it cannot be a guarantee to the Revenue Commissioners, the Department of Finance, the Minister for Finance or any official of his Department.

**Senator Douglas:** If these were public moneys he would not want a Guarantee Fund. The Attorney-General bears out my contention that these moneys are the property of the county council, once they are granted. If they were public moneys, there

would be no need for this doubt at all.

**Deputy Geoghegan:** It depends on one's definition of the word "doubt."

**The Attorney-General:** They could get rid of the old machinery but the Legislature has chosen instead to adapt the old machinery to the present circumstances.

**Senator Douglas:** In this Bill?

**Deputy Geoghegan:** In all the statutes before this Bill.

**Chairman:** As to the Guarantee Fund, is there a fund handled and accounted for as such to somebody? Is there also a Purchase Annuities Fund?

**Deputy Geoghegan:** It would appear from the statutes that there is.

**Chairman:** But is there?

**Senator Douglas:** I thought there was not, except to the extent that when calls were made upon these other funds for the requisite moneys, to meet deficiencies in the payment of sinking fund or interest, the money passed into what was known as the Guarantee Fund. In between, it did not exist at all. It is difficult to get information.

**Deputy Geoghegan:** I am going on the statutes and I am assuming that what the statute says has to be done is done. We have not called any evidence on this point, but it is within our powers to call evidence. We must assume that what the statute says has to be done is done. Senator Douglas's observation now gets me back again to the statement I made already, that the name by which we call this fund does not matter very much. If the Oireachtas by the Act of 1933 and the Act of 1923 agreed to preserve the name and the historic origin of the fund, it could be done.

**Chairman:** I want to know, apart from the name, is there a Guarantee Fund in fact and is it accounted for?

**The Attorney-General:** The annuities in respect to land sold prior to 1923 are the moneys as regards the destination of which there is a doubt. The moneys collected in respect to annuities payable under the Land Act of 1923 are

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applied, having gone through these various funds, to the dividends and sinking fund on the bonds. There must be, I would say, such a fund, without knowing what the actual position is. I think you would have to get some officials from the Department of Lands to give evidence on that point.

**Deputy Geoghegan:** I was assuming that the Chief Justice was asking these questions in a rhetorical way.

**Chairman:** They are not rhetorical. I am seriously asking whether the fund is handled and accounted for in the ordinary way?

**Deputy Geoghegan:** In so far as the statutes go, the burdens and charges on these funds remain now as they were, except that the Oireachtas has relieved the Government here of the obligation to despatch to Great Britain a certain sum of money every year as was formerly done. Otherwise the statutory position remains exactly as it was. That being so, whether you call these moneys in the Local Taxation Fund, moneys in the Central Fund—in any fund you care to name—so long as these moneys are under the control of the Oireachtas, the Oireachtas has power to impose upon them charges for financial purposes. The Constitution has directed how that power is to be exercised. It has to be exercised by the Dáil, and accordingly I take the view—and I have not been in any way shaken in that view by anything Senator Douglas has said—that this is a Money Bill, and that so far as sub-section (2) of Section 3 is concerned, and so far as the words in Section 2, "or other thing done," go, these would be at most subordinate matters incidental to the other matters. They would clearly fall within Article 35 dealing with subordinate matters. Of course, so far as "other things done" are concerned, they would be of the same nature.

**Chairman:** They might not be subordinate; they might be of the same character.

**Deputy Geoghegan:** I suggest they are of the same character and that "other things done" means that they

are of the same nature as what is particularly legislated for. Sub-section (2) of Section 3 states: "This Act shall be construed with the Land Purchase Acts and may be cited with those Acts." Certain terms occur in these various Land Purchase Acts without the aid of which the construction of a Bill when enacted would become a matter of very great difficulty. Accordingly, I express the view that this Bill is a Money Bill.

**Senator Douglas:** Do I take it that the contention is that any moneys which Parliament can by statute interfere with are public moneys? Do I understand Deputy Geoghegan to say that? I want to be quite clear.

**Deputy Geoghegan:** I did not quite say that. I said that any moneys in the nature of public funds under the control of Parliament were public moneys.

**Senator Douglas:** In that case, you have got to prove that they are public moneys. I do not agree that all public funds are public moneys in the sense of the Article of the Constitution.

**Deputy Norton:** It would depend on how the money is raised.

**Deputy Geoghegan:** I do not know what test you would apply to it. Any moneys that go into the Exchequer go into the Central Fund, or go into any of the other funds that for administrative or accountancy purposes are in existence, but which are moneys of the Oireachtas, would be public moneys.

**Senator Douglas:** Your contention is then that the whole of the money granted to a county council could be retained without a further Act. My contention is that it has been voted for them by Parliament, and these words to the effect that it should be a charge on the Central Fund would not affect the issue when actually portion of it goes direct into the Local Taxation Fund. Take the case of a profession which does not interest me personally. There is a specific provision to the effect that judges' salaries are a charge on the Central Fund. It seems to me that once they fall due, even if they are not paid over, they are not public

[Senator Douglas.]  
moneys. They are the property of the particular judges. To contend that they are public moneys because there has been delay in payment owing to the action of certain officials would be absurd. My case is that that is a fair analogy, and the decision in this particular case bears me out.

**Deputy Geoghegan:** I had concluded but may I add that I fail to appreciate what Senator Douglas means by saying that the county council have "a property" in any moneys paid into the Local Taxation Fund.

**Senator Blythe:** I think there is no definition of public money in the section. Certain things are excluded from the expression "public money." There might be other kinds of moneys in regard to which different individuals would take different views. I think the decision of the problem before us depends on the view we have of what is "public money." It might have been possible, when the section was being drafted, to frame a definition of public money, to say, for instance, that public money was money which went into the Consolidated Fund or money under the control of the Department or of the Minister. In fact the expression was used without any definition except, for the purposes of clarity, to exclude certain items which otherwise might too readily have been held to be public money. I agree with the view that Senator Douglas has put forward, that once there is an Act entitling somebody other than the Government or the State to money, and that the Oireachtas has voted that money into a special fund, then it ceases to be public money and that even though it is actually in the control and within the accountancy of a Department of State, it is the property of the people to whom the law allotted it and the Dáil voted it. I think the particular case quoted by Senator Douglas raised that very point, as to whether or not this Agricultural Grant or this Estate Duty Grant belonged to the Kildare County Council which was the suppliant, or whether it belonged to the Crown. In that particular case the decision was that the Kildare County Council had

property in the moneys. I think the position has not certainly altered to the disadvantage of any county council since that time. The Crown has disappeared and there have been various changes. The money is not now granted to the Crown. It is simply voted for this purpose, for the relief of local rates. I think the position consequently remains that this Guarantee Fund money is the property of the county councils subject to any charges which may be later imposed on it.

**Deputy Norton:** What do you mean by that?

**Senator Blythe:** Any charge whatsoever, and if there is any doubt at all about the possibility of making deductions, then subject to the deductions being lawful. I think the true interpretation of the law is that it is not subject to deduction, that the councils are entitled to it without any deduction whatever. It all depends on what the law actually is. I think the case quoted by Senator Douglas in regard to University College, Dublin, was very pertinent. Apart from the income derived from students' fees, the expenses of the University are provided by the Oireachtas. The money flows through different funds. There is an Act which provides that there shall be an annual endowment of a certain amount paid to University College. Every year a special sum is voted and once that money has been voted under that Act, the College is entitled to it and the Department cannot withhold that sum or any portion of it. The money is the College's money and the College is entitled to it.

**The Attorney-General:** There may be a charge on it.

**Senator Blythe:** I do not agree that there can be a charge on it otherwise than by taxation. If there is money of which the Government has not ownership, and of which the Government wishes to have ownership, the way to achieve that is to pass an Act to confiscate it, but I do not know that that would be a Money Bill. If it wants to get possession of the money by a Money Bill, in order to

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do that it will have to impose taxation of 100 per cent. on the University and call it a Money Bill. I do not think it could proceed other than by taxation and I do not think that the procedure set out here to charge a non-public fund is taxation. I think perhaps we would have to spend some time in defining taxation, but I think taxation must be levied at some rate and must be chargeable on some ascertainable basis and not merely on a chance depending on the action of a third party. I would hold that this does not impose taxation and that it, therefore, is not a Money Bill.

**Chairman:** I recall a case some time ago in which someone sued the Minister for Finance and the basis of the claim was an Appropriation Act passed here in which certain sums were appropriated for a particular purpose. I think it was held that they were not entitled to sue.

**The Attorney-General:** That case came on in the last three or four years. It was on the question of a military pension. I think it was the Conroy case. The point also arose in the Leen case.

**Senator Douglas:** Would not that depend on the nature of the appropriation, as to whether there was a general appropriation?

**Chairman:** This is where there were specific appropriations.

**Senator Douglas:** Would it be affected by the question of whether there was a statute passed previously providing for expenditure for specific purposes?

**The Attorney-General:** You want two statutes.

**Senator Blythe:** There was a case where complete discretion was reserved to the Minister for Finance in the Act and then of course an Estimate was voted under these Acts. I am not familiar with the case, but if necessary before the proceedings of the Committee terminate, it would be possible to look it up.

**Chairman:** I think it does go into the question of the ownership of the money.

**Senator Blythe:** That is all I have

to say on that point. I think there is substance in the other point raised because the language of the Article of the Constitution is very specific. It says that a Money Bill shall be a Bill which contains only provisions dealing with certain subjects or subordinate matters incidental to these subjects. Certainly it does not appear on the face of the Article that the removal of doubts is one of the subjects of a Money Bill. Primarily it does not profess to impose a charge. Primarily it professes to remove a doubt and that seems to be something quite apart from the imposition, repeal, remission, alteration or regulation of taxation. The removal of a doubt is a thing of a different character and I think there is force in the argument that it is not a Money Bill. I think great force is lent to that argument by the introduction of the indemnity provision in Section 2 because what the Section does is to indemnify public servants or Ministers who may have done illegal acts in relation to the Guarantee Fund since April, 1932. In fact, it deprives people who may have sought relief in the courts of the possibility of obtaining that relief. Of course, I think it is common ground that the money involved is very considerable. It is over £750,000 and therefore this is not a thing which could be regarded as a subordinate matter incidental to some of these other things. An indemnity clause of any sort is a very serious and important provision in an Act. It is one of these things that should obtain the most careful scrutiny and should be subject to any consideration or examination to which any item of legislation may be subjected. I also think, as Senator Douglas said, that the words in sub-section 2 of Section 3 carry it outside the scope of a Money Bill. Because we must direct our minds to this word "only" in Article 35 of the Constitution. The Article says "... a Money Bill means a Bill which contains only provisions dealing with all or any of the following subjects," or subordinate matters incidental thereto. I think the business of embedding this Bill when it becomes an Act in the land code is

[Senator Blythe.]

not incidental to any of these purposes mentioned in Article 35 in regard to the imposition of taxation. The subsection provides that the Bill shall be part of the land code for convenience in the construction of that code and its purpose has no relation to a Money Bill.

**Deputy Norton:** I think the road as to whether or not this is a Money Bill will probably be found if we can ascertain whether or not in fact the Guarantee Fund consists of public moneys. Senator Douglas addressed himself to the task of proving that the Guarantee Fund does not consist of public moneys. I think the framers of the Constitution, when they came to deal with Article 35, were anxious that the Dáil should have very wide powers in the matter of Money Bills. The framers of the Constitution were anxious on that point when declaring what was or was not a Money Bill, because the word "only" appears in the first line of the second paragraph of the Article. The list of matters which constitute a Money Bill which followed the word "only" in the Article are very extensive and very wide. There is very little doubt that the normal reading of the Article would disclose a wide variety of financial matters which can be brought into the category of Money Bills if they fall into the qualifications set out in the Article. I think the main point to be determined is whether or not the Guarantee Fund consists of public moneys. The Attorney-General has indicated—and I think Senator Douglas has accepted it—that the Guarantee Fund in the main consists of the Estate Duty Grant and the Agricultural Grant. Senator Douglas has attempted to show in respect of the Estate Duty Grant and the Agricultural Grants that they were not, in fact, public moneys. But I think a more accurate ascertainment as to whether they were or were not public moneys would be got by looking at the sources from which the money comes. Estate Duty is secured by taxation by the Legislature and the Agricultural Grant is raised by the Oireach-

tas in the form of the imposition of taxation; so that the yield of moneys levied under estate duties and the moneys raised for agricultural grants are, in fact, raised by taxation by the Government. I think it is beyond all question that the moneys which are subsequently paid in the form of agricultural grants do come under Exchequer control. Being subject to Exchequer control, they really find their way into the pockets of the State. It is a disposal of public money in the same way as if they were paid directly into the Exchequer account. If it is, therefore, accepted that the moneys which may be garnisheed for the purpose of the Guarantee Fund are moneys which are raised in the first instance by taxation imposed by the Legislature, then I think there is little doubt, no matter what way the State disposes of those moneys, that the moneys were in fact public moneys, and to that extent we accept the argument that this Fund is based on public moneys.

**Senator Douglas:** The Deputy's case is that any moneys derived by taxation by the Oireachtas are public moneys?

**Deputy Norton:** Specifically imposed as part of the annual Budget of the Free State.

**Senator Douglas:** Included in the annual taxation.

**Deputy Norton:** As a general proposition, included in the Appropriations.

**Senator Douglas:** Does the Deputy mean that there are exceptions?

**Deputy Norton:** Possibly.

**Senator Douglas:** That is part of my case.

**Chairman:** Is that all?

**Deputy Norton:** No, Sir. If we establish the fact that the Guarantee Fund consists of public moneys, then we have to ask ourselves whether this Bill does impose a charge upon the Guarantee Fund. I think there is no doubt whatever as to the intentions of the Bill in that respect. Senator Douglas said that the Bill was declara-

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tory. That is true to a certain extent. But it is declaratory to the extent only that it is making it clear that the declaration is confined to the removal of a doubt, and if that doubt exists and is subsequently held to exist in respect of previous legislation, then this Bill does in fact impose a charge if that charge is not imposed by previous legislation. Under the terms of Section 1 it is provided "in order to remove doubts"; in other words, in order to remove doubts which may exist under previous legislation. This Bill does certain things. It hereby declares and indicates the liability on the Guarantee Fund under the Land Purchase Acts for recoupment of deficiencies in the Purchase Annuities Fund; it indicates a charge on the Guarantee Fund, and adds: "may lawfully be paid and made good out of that Fund to the Purchase Annuities Fund . . ." So that if there is any doubt in respect of the previous legislation, then to the extent that that doubt exists, this Bill fills the gap definitely; in my view as a layman the doubt is removed and a charge is imposed upon the Guarantee Fund. Looking at the functions of the Bill, its object is to impose a charge upon the Guarantee Fund if in fact there is any doubt. The necessity for doing so may not arise. But to the extent that there is a doubt this Bill definitely imposes a charge upon the Guarantee Fund. That seems to me to be the operative section of the Bill. Senator Douglas says that the Bill does not impose a charge. I cannot understand on what construction of the Bill the Senator bases that view. He searched Sections 1, 2 and 3, and then declared himself convinced that there was under this Bill no imposition of a charge. If in this Bill my name was substituted instead of the Guarantee Fund I do not think I would be at all happy in the belief that the passing of this Bill by the Oireachtas did not impose a heavy liability on me. I rather think it would. If any county or any institution was substituted there, I think those responsible for the good government of the institution or county of that kind would have good reason to

feel doubtful as to their solvency if they had to bear a charge such as this imposed by Section 1 of the Bill.

If we accept the view that the Guarantee Fund consists of public moneys, then I think it is clear that this Bill, as far as I can see it, would impose a charge upon public moneys. If under Article 35 it imposes a charge upon public moneys, this Bill comes within the category of that Article and is in fact a Money Bill. You have got to ask yourself there what is public money. I think that any money raised by the State in the form of taxation is by the definition of money in Article 35 within the category of public money. In fact, as the Attorney-General said, all moneys except moneys raised by local authorities for purely local purposes, would come within the category of public moneys under the definition of Article 35; and the moneys collected by the State in the form of taxation and paid by the State, without reference to how they were raised, would also be public moneys and their payment would constitute the expenditure of public moneys so long as the money was spent for national as distinct from local purposes and was not raised for a specific purpose. Senator Douglas quoted the Kildare case which was decided by Chief Baron Palles. It would be rather presumptuous on my part to attempt to indicate what that learned gentleman had in his mind when coming to a decision. But I think that even the judgment which Senator Douglas read out does not wholly fit into the argument which he would make. Because it raises a point whether the local authority had any interest in the grants which it was then sought to withhold from them. The portion of the judgment which the Senator read out, I think rather conflicts with the case he was making, that the local authority had an interest in those grants but that that interest was subject to certain charges—one of the charges imposed on the local authority before it could obtain the money was such as is imposed by the origin and method of creating the Guarantee Fund.

**Senator Blythe:** But is that charge in existence now?

**Deputy Norton:** We can deal with that. Senator Blythe took what he thought a good example—the professors in the university, an example given to him by Senator Douglas in which it was questioned whether the Central Government would be entitled to withhold grants from the university merely because the professors refused to pay their income-tax, and would a Bill doing that be a Money Bill within the meaning of Article 35. I do not think that that instance fits into the special circumstances of this case, because it is no portion of the income-tax code that you can garnishee moneys due to the employer of an income-tax defaulter, whereas it is part of the Guarantee Fund and the land code that you can garnishee money due by a land annuitant who defaults.

**Senator O'Hanlon:** That is what this is about.

**Deputy Norton:** That side of the matter was disposed of in the Dáil. I personally dislike the principle of making the community guarantors for individual debts, but the Chief Justice will tell me that I cannot discuss the matter all over again, before this Committee. I dislike that principle in legislation perhaps more intensely than Senator Blythe does, but in fact I am not permitted to discuss the merits of that proposal now. In the discussion in another place I expressed my views on it. My task to-day as a layman is confined to finding out whether or not this Bill is a Money Bill within the meaning of Article 35 of the Constitution, the Article which was presented for our interpretation here. I submit as a layman that the Guarantee Fund does in fact consist of moneys which are raised by the State in the form of taxation, and whether we dislike it or not this Bill imposed a charge upon the Guarantee Fund, and in imposing that charge the Bill is, in my view, a Money Bill within the meaning of the Article.

**Senator O'Hanlon:** I do not wish to say much on this question. Deputy Norton has stated that a Bill constituting a charge upon public moneys is in itself a Money Bill. In his read-

ing of Article 35 he omitted a word of major importance. He said a Money Bill means a Bill which contains provisions "dealing with all or any of the following subjects." But he omitted the word "only." The true reading of the Article is: "A Money Bill means a Bill which contains only provisions dealing with all or any of the following subjects" and so on. He then attempted to deal with one of the points made by Senator Douglas with regard to the validating of Acts which were lawful or operated at the time prior to the passing through the Dáil of this Bill. But surely the whole of the analogous Acts which were passed prior to the passing of this Bill through the Dáil cannot be regarded as Money Acts. I would be very interested in hearing the Deputy deal with that question particularly after having left out the word "only" in his quotation from the Article. I think the question does not chain itself up with the case made by Senator Norton.

**Deputy Norton:** Do not accuse me of that at all events. I am not a Senator.

**Senator O'Hanlon:** Very well, Deputy Norton. When the Deputy states that the basis on which the Money Bill can be interpreted by a direct and definite relation to the source of this money I have only to say that there are other things which must be taken into consideration besides its source. I agree entirely with the case presented by Senator Douglas in his submission that the Bill is not a Money Bill.

**The Attorney-General:** I will deal first of all with the point made by Senator O'Hanlon as to this Bill being a declaratory Act. I cannot believe that the Senator attached much importance to that, but there are words in Article 35 which have to be adverted to, and which I think are of some importance and these are the words: "A Money Bill means a Bill which contains only provisions dealing with all or any of the following subjects"; and then these subjects are given. This Bill deals with the matter by way of clearing up a doubt and I do not think that would deprive

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it of its character of a Money Bill. I do not think the Senator could seriously argue if there was a question as regards some clear Money Act which became necessary to clear up by a declaratory Act, that it would be wrong to hold that the Bill which cleared up doubts on such an Act would be covered by Article 35. Say it was a doubt on a matter in the Finance Act.

**Senator Douglas:** It is a very nice point which would have to be dealt with in relation to a specific case. I personally could not say unless there were specific charges made in relation to these doubts. That might or might not be the case.

**The Attorney-General:** In reference to validating the past actions of the Government I would again suggest that, if the acts which were done were acts justified by an Act which in its passage would have been certified as a Money Bill, that the fact that a Bill proposes to validate such acts *ex post facto* should not deprive it of the character of a Money Bill.

For instance, if in 1932 or 1933 there had passed an Act which was held to be a Money Bill providing for these things being done in the future, I submit the view that the mere fact of a Bill in similar terms being retrospective instead of being prospective would not deprive the Dáil of the benefit of the Money Bill provisions of Article 35. I submit that point.

**Senator Douglas:** That is not solely my point. I hold that this Bill is more than that. That is all I want to say.

**The Attorney-General:** The point advanced by the Senator in support of his argument that this Bill should be treated as not being a Money Bill—apart from his other arguments—is answered by the Bill itself. There is one thing that has emerged from the discussion and that is what the object of the Bill is. I do not know what the view of the Chief Justice is. We on this side have been through the mill of the debates in the Dáil and though it has not yet been threshed out in the Seanad, the Senators are alive to

the provisions of the Bill. The object of the Bill is to make clear that where the Minister for Finance fails to receive the annuities up to the amount payable under the legislation as it now stands, that he shall be entitled to make good to the Exchequer the deficiencies so caused out of the grants voted by the Oireachtas to the local authorities. It is a Bill to safeguard the Exchequer. There is not any difference between the provisions in this Bill and the provisions in any of the Bills dealing with the Guarantee Fund, though Senators Douglas and O'Hanlon suggest that resort was only had to the Consolidated Fund for the purpose of making temporary advances.

I do not think anybody will deny this—that the ultimate liability was on the Consolidated Fund and is now on the Central Fund in relation to the bond holders. In aid of the ultimate security the Exchequer was given the right to resort to this artificial machinery for the purpose of safeguarding the Central Fund. The ultimate object of this fund is to safeguard the Exchequer and to say that where the moneys had not been received—where a certain amount of money for carrying on the services had not been received—that by reason of the default in the payment of land annuities to the Central Fund resort could be had to the grant that had been voted by the Oireachtas to the local authorities and that each local authority would share the loss in proportion to the default in that particular county in the matter of land annuities. That is the object of the Bill. It would seem to me now, looking at this as a member of the Oireachtas, that if it happened that by reason of the interpretation placed upon this, that if it is excepted from the definition of a Money Bill, that the object of Article 35 is defeated because the object of the Article was undoubtedly to give the Dáil control over taxation and over the finding of money for the purpose of safeguarding the Exchequer and so on; giving it that authority subject to the right of the Seanad to deal with Bills sent up in a different way from the way in which they are dealt with if they are not Money Bills—

[The Attorney-General.]  
subject to the right of the Seanad to delay that legislation for 21 days.

I would submit as the underlying object of the Bill is so clearly analogous to all the things which are covered by the description of Money Bill here, that if it is to be held otherwise, undoubtedly the object of the framers of the Article of the Constitution will to a large extent be defeated. I will take Senator Douglas' other point, and, incidentally, I want to offer him my congratulations on the way in which he presented the case and argued it. Having introduced the matter as a layman, he argued it very ably and he made very effective use of the Kildare case. Deputy Geoghegan has dealt with the arguments based on that case. I suggest to Senator Douglas that if his argument on the Kildare case is to be accepted he places himself in this dilemma: that he brings the Bill under another Article. I understand the Senator's submission to be this, that the grants which now constitute the Guarantee Fund become, the moment they are voted by the Oireachtas in a certain definable proportion, the property of the various bodies to which they are to go.

**Senator Douglas:** Yes, after the legislative action necessary to make them so has been completed.

**The Attorney-General:** I understand the Senator's point to be why we should treat them as being in the Guarantee Fund is that while each county council has an interest to the extent to which it is entitled by reason of the law governing the sharing out of certain funds; and that, subject to certain charges, they no longer are moneys under the control of the Oireachtas. I think that summarises what the Senator said.

**Senator Douglas:** That "though in their hands—the hands of the Crown—the ownership is with the grantee." That is the actual phrase.

**The Attorney-General:** Although that is a leading case, and a very important case, I do not think it is very helpful on the interpretation of this particular Article, or that it

carries the matter the length that the Senator seems to think.

**Deputy Geoghegan:** Does it use the word "ownership"?

**Senator Douglas:** I will read the last portion of it, which seems to me to be the relevant portion:

"The Sovereign, then, has granted these sums. He has, with the co-operation of Parliament, provided money to satisfy those grants. He has authorised the transfer of the money granted (subject to charges thereon) to a special account, 'Local Taxation (Ireland) Account,' for the purpose as to a part equal to the suppliants' share of them, of paying it to the suppliants. I am of opinion that the share therein of the suppliants becomes their money, subject to the charges thereon. It is not money received to their use, because the Sovereign, by reason of his dignity, is not capable of receiving or holding money in that manner"—

That does not arise now.

**Deputy Geoghegan:** To some slight extent, by way of analogy.

**Senator Douglas:** It continues:

—"but still money which, in the hands of the Crown, has rightly become the money of the suppliants. It cannot be suggested that anyone but the Crown, or the grantee, is the owner of it; so if it be not the money of the Crown, it must be that of the grantee. It cannot be used by the Crown or applied by it in any other way than by handing it to the grantee; and, according to the judgment of some distinguished judges, there is a moral duty in the Crown to apply it in that mode. Thus, the Crown has none of the incidents of ownership other than the mere possession, and, as against the suppliants, cannot claim to be its owner."

**The Attorney-General:** In connection with my present argument, I was going to quote that case as far as one could possibly go in your favour for the purpose of pointing out that, I think, you have created a dilemma. If Senator Douglas is right in his con-

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tention that the moneys actually become the property of the county councils and that this Bill charges them, when the charge falls upon them, that they are not any longer public moneys, then it is clear that this is a Bill imposing a tax, a tax measured clearly by the deficiency of each county's default in respect of land purchase annuities, the object being to safeguard the Exchequer: to hold these moneys in the Exchequer until each county has cleared its liability in respect of land purchase annuities. I submit that brings this Bill *prima facie*, at any rate, within the type of legislation in respect of which Article 35 is meant to give the Dáil sole jurisdiction, or practically sole jurisdiction. I throw that out to the Senator. I do not know whether it occurred to him that that dilemma is there. I would go back for a moment to his argument that these are not public moneys. Deputy Norton, in his argument, drew attention to one matter which I adverted to in my opening statement and which has not been referred to by the other side at all. I do not know whether it is that it is not accepted, or that my point was not made clear. I referred to the concluding sentence in the paragraph of the Article which we have been considering, and suggested that it was helpful in showing how the framers of the Constitution intended that every matter relating to the control of revenue, the imposition of taxation and the provision of money for this purpose or for that should be under the jurisdiction of the Dáil, with only the 21 days' delay in the Seanad.

**Senator Douglas:** You do not mean to contend that that is to apply to all moneys?

**The Attorney-General:** The expressions "taxation" and "public money" in the definition do not include "taxation" or "money" raised by local authorities. I pointed out that if a statute said that a local authority was to raise money to make good this deficiency, that would, in my view, be a Money Bill. I do not know whether that is accepted or not.

Senator Douglas also gave as an example the grants to the universities, and said that, supposing the Minister for Finance was to impose a charge on these grants for the purpose of making good the failure of the professors to pay their income-tax, that he would hold that that was not a Money Bill. Obviously, it would. It would be a Bill indirectly to recover taxation which has been imposed.

**Chairman:** I happen to know of the case of a professor who did not pay his income-tax, and his salary was annexed by your officials for income-tax purposes.

**The Attorney-General:** Supposing he had gone to you, Chief Justice, for a declaration that that was an improper thing to do, would you have given him such a declaration? Senator Douglas seemed to think that the example which he gave illustrated the present position. I seriously suggest to him that such a Bill for the purpose of collecting tax, making good to the Exchequer money which ought to have been paid by certain individuals, would be a Money Bill. There is another point. The Land Bond Bill and the Purchase Annuities Bill, both of which dealt with these funds, were held to be Money Bills and no one challenged it.

**Senator Douglas:** If that is to be taken as a precedent, then I am afraid we shall have to debate it at considerable length. If the contention be that, because certain other Bills were passed as Money Bills which were not Money Bills, and that, therefore, we must pass this one, then we shall have to debate that at some length if that is to be regarded as a precedent. I did not deal with that at all in my statement, because I understood that we were not dealing with precedents.

**The Attorney-General:** I do not want to attach any more importance to it than is attachable to precedents of a similar kind. Surely it is relevant, but what weight is to be attached to it is another matter. I submit it is relevant to point that out on a Bill dealing with the Guarantee Fund.

**Senator Blythe:** It could have very little weight attaching to it, certainly not anything like the weight that a decision of this Committee would have. To the knowledge of almost everyone, a Bill might be a Money Bill and yet the Seanad, for some reason, not wishing to deal with it, might not challenge it. The Bill might go to the Seanad certified as a Money Bill though clearly it was outside the scope of it. That is conceivable. Therefore, I think the precedent that because certain Bills certified to be Money Bills were not challenged has no great weight at all.

**The Attorney-General:** It all depends on one's individual judgment on the matter. I should imagine that the previous rulings of the Ceann Comhairle, who has been given this particular jurisdiction, ought to have some weight.

**Senator Douglas:** That is a matter which I propose to deal with when replying.

**Chairman:** Am I to be governed by precedents?

**The Attorney-General:** I would respectfully suggest, Chief Justice, that if it falls to you to decide, as Chairman of the Committee you should hold that some weight ought to be attached to precedents. I am afraid it is a matter on which I cannot suggest that there is any law, regulation or anything binding on anyone to have regard to precedents.

**Chairman:** I must look at the Constitution. Section 2 of the Bill speaks of "or other things done." There is no doubt that is exclusive of the clause in the Constitution. The clause in the Constitution applies to Bills that are exclusively Money Bills.

**The Attorney-General:** I suggest that the phrase "payment or deduction made or other thing done" is governed by the words "in relation to or for the purposes of the Guarantee Fund." It is everything done in relation to or for the purposes of the Guarantee Fund.

**Deputy Geoghegan:** It must be done "in relation to".

**Senator Douglas:** Supposing the Minister for Finance made a wrong deduction prior to this Act, then, unless I am wrong in the case which I have quoted, the local authorities would have the right to sue for the wrong deduction. I submit that if this Bill is passed, whether the deduction is right or wrong, it will be validated and the local authorities will lose their right to sue. Again, the taking away of that right from the county councils of Ireland cannot in any sense be called a subordinate matter, and I do not think it is incidental either. I have given one example of where a wrong deduction was made, and there have been other actions in the past.

**The Attorney-General:** I doubt if the Senator is right in that. Surely it cannot be claimed that there was any illegal appropriation of moneys the property of the county councils?

**Senator Douglas:** I have claimed that they are the property of the county councils. We do not agree on that. My point simply is that it was held in the previous case that if the Minister for Finance—in that case it was the Treasury—unintentionally or intentionally deducted wrong moneys, according to the statute, from the moneys that were to be used for making payments to the county councils and that the county councils were given the ownership of these, then they had the right to sue. That was established. I hold that Section 2 validates anything that is done in relation to the purposes of the Guarantee Fund. The deduction would be in relation to the Guarantee Fund and, therefore, it would be "deemed always to have been as lawful and valid."

**The Attorney-General:** If anything has been done it must be done "in relation to or for the purposes of the Guarantee Fund." Taking it for the sake of argument, the Senator is right. If deductions have been made that would be wrong if the law had been as it was clearly intended to be,

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I do not know whether that section would validate them or not.

**Senator Douglas:** I submit that it would.

**The Attorney-General:** Even supposing it did, it is done for the purposes of the Guarantee Fund: "In relation to or for the purposes of the Guarantee Fund." The same argument applies as to whether it is a Money Bill or not.

**Senator Douglas:** You have to prove that the other things done are (1) subordinate to what you claim to be a money matter, and (2) incidental to it. You do not admit that. We differ on the interpretation of the section.

**The Attorney-General:** I say there is no necessity to refer to "incidental" or "subordinate," because the section seems clearly to deal only with the Guarantee Fund.

**Senator Douglas:** There is the word "only". You do not suggest that the other things done could not include anything but what was in that paragraph referred to in the Article. I suggest that the other things done "in relation to" could be some of the matters which I have referred to here and which are not a charge on public funds.

**The Attorney-General:** Anything done here is "in relation to or for the purposes of the Guarantee Fund." If we are right in the contention that the Guarantee Fund is made up of public moneys, surely this is something done "in relation to public moneys"?

**Senator Douglas:** It must be something done in relation to the things set down in the Article.

**The Attorney-General:** Admitting for the sake of argument that the rest of the provisions are within the description of the Money Bill, the Senator suggests that the words "or other thing done" cannot be held to come within that description.

**Senator Douglas:** I suggest, further, that to validate payments withheld illegally is not a subordinate matter.

It is a very serious matter. It may be a major matter. My second point is that this includes acts which do not come under payments or deductions. It includes such matters as a wrong apportionment between, say, the County Kildare and the County Clare and other matters as well.

**The Attorney-General:** Would the Senator say that a Bill to validate a wrong apportionment between two counties was not a Money Bill?

**Senator Douglas:** Yes. It is not a charge—the matter of the rights between the different counties.

**The Attorney-General:** Does not all this come back to the main question? If it is a question of a wrong appropriation of the Guarantee Fund between the different counties, surely that is dealing—admitting it for the sake of argument—with the Guarantee Fund and with public moneys, and is not the phrase "public moneys" covered by the wording of the Article in the Constitution?

**Senator Douglas:** Of course, we have a fundamentally different conception of what a Money Bill is. I think it is tolerably clear that my conception of a Money Bill—possibly it is an erroneous conception—is fundamentally different from that of the Attorney-General. My conception of the Money Bill provisions is that they were to safeguard the Dáil in the carrying on of government, so that it could not be interfered with by stopping taxation or other matters closely related thereto. But I do not think it covers such matters as the way in which one county is going to be assisted as against another in local government affairs. My point in this is that an error made as between two counties is not a subordinate matter, and that any errors that have been made in the case of these two counties are being specifically validated in the section.

**The Attorney-General:** I question the Senator's conception of a Money Bill, particularly as regards the scope and intention of this Article. I would point out to him for his information that the wording of this Article is

[The Attorney-General.]  
taken word for word from the Parliament Act in England.

**Senator Douglas:** With great respect I differ from the Attorney-General there. If you get the Parliament Act you will see that, in some important respects, it differs from this Article.

**The Attorney-General:** The differences are very little, I think.

**Senator Douglas:** I think some of them are very important.

**Deputy Norton:** Then the Parliament Act passed in England in 1911 is the father of this Article?

**Senator Douglas:** The wording of the Article dealing with a Money Bill was changed deliberately in certain respects. I have not got the Act by me at the moment, but if it is looked up I think it will be found that some of the changes made were very important.

**Deputy Geoghegan:** Might I ask what is the essential difference?

**Senator Douglas:** I am not at the moment in a position to quote the exact words of the section in the 1911 Act, as I have not got the Act here.

**The Attorney-General:** I gathered from the Senator's references to it that we were rather too wide in our interpretation of it, but he may be interested to know that in England they regard the Parliament Act as being so wide that Lord Salisbury on one occasion said, when introducing a Bill, that almost anything could go through as a Money Bill. Under a Bill which was presented in England a couple of years ago, for the purpose of amending the Parliament Act, the machinery that we have in the Constitution was copied to a certain extent.

**Senator Douglas:** I think it will be found that the big difference as between the Article and the section in the English Act includes the words "or on money provided by Parliament." The Article dealing with a Money Bill here specifically takes that out, and thereby, to my mind, widens

the Article here considerably. I have argued all along on that basis. I have now a copy of the Parliament Act. The section in the English Act reads:

"A Money Bill means a public Bill which in the opinion of the Speaker of the House of Commons contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration or regulation of taxation."

That is word for word with the Article here, with the exception of the words referring to the Speaker of the House of Commons. It continues:

"The imposition for the payment of debt or other financial purposes of charges on the Consolidated Fund, or on money provided by Parliament."

Instead of using the words "public moneys" they use the words "of charges on the Consolidated Fund, or on money provided by Parliament." I maintain that the wording in our Article was deliberately changed, and all along I have been basing my argument on that.

**Deputy Norton:** Do you mean that the change made here widened it?

**Senator Douglas:** It all depends on what you mean by narrowing it or widening it.

**Deputy Norton:** I think that a wider category of Bills come into this Article as compared with the section the Senator has read.

**Senator Douglas:** Do you mean wider in the English section?

**Deputy Norton:** Wider in ours.

**Senator Douglas:** Do you mean that more Bills could be called Money Bills?

**Deputy Norton:** Yes.

**Chairman:** Taking the first sentence in the clause of the Article in the Constitution, the whole object of the Constitution Committee was to give all the authority possible to the Dáil. It says:

"Dáil Eireann shall in relation to the subject matter of Money Bills as

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I think that was all that we had originally in the Constitution clause. What follows was added later.

**Senator Douglas:** I have not my copy of the draft Constitution with me.

**Deputy Geoghegan:** I did not know that before, but I regarded that clause as of such importance that I made it the foundation of my opinion. I was not previously aware of the bit of history the Chief Justice has mentioned.

**Senator Douglas:** I hold that these are not public moneys, having regard to the various decisions that have been given. It would be different, of course, if you were to say "moneys provided by Parliament." It seems to me you could include almost any moneys under this, because they were provided by Parliament. I draw attention to the fact that the words "provided by Parliament" are not in the Article. Personally, I do not think that the difference as between the two affects the general argument. I think that several of them are valid—I honestly believe so. I started off with that. My bringing in this is because of a remark made by somebody. It was a matter of interest to prove my point.

**The Attorney-General:** Senator Douglas stressed the Kildare case a lot. Every bit of money proceeding to the Exchequer is attached for a certain purpose; it is intended for a certain purpose, provided for a certain purpose. At what stage does he say it ceases to be public money?

**Senator Douglas:** If you want me to deal with that specifically, I hold that when it has been granted in law—at whatever point that occurs—to the person, and that the person can sue the Exchequer for it, it is not public money. The point would vary in the case I mentioned of a judge's salary. It is the point at which it is due in

that case, because it is provided specifically as a charge on the Central Fund. If he had to sue he would win after that date. My reliance on this case is that ownership or specific interest is decided here as belonging to the grantee before it has reached him. I do not think you will dispute he has an interest. If there is any money dealt with in this Bill that is not public money, I submit this is not a Money Bill. It has to be only dealing with public money.

**The Attorney-General:** Is not the the purpose of putting money into the Guarantee Fund to have it under the the control and administration of the Minister for Finance?

**Senator Blythe:** For the purpose of deducting certain charges.

**Deputy Geoghegan:** If a prior charge is imposed before the moment of payment?

**Senator Blythe:** They belong to the county councils subject to these charges.

**Senator Douglas:** A prior charge is laid on the Purchase Annuities Fund, not the Exchequer.

**Deputy Geoghegan:** Cannot the Dáil impose a prior charge?

**Senator Blythe:** That is begging the question. If it is to be confined to the Dáil to put on a charge the question is, is this taxation?

**The Attorney-General:** I suggest that, if it is not one, it is the other.

**Senator Blythe:** I suggest that there are other ways of taking money from a person than by taxation. Even the State is capable of that.

**Senator Douglas:** I am not prepared to argue against Deputy Geoghegan that there is anything that the Dáil cannot do, if that is any use to him; but they will have to pass an Act.

**The Attorney-General:** The Dáil cannot pass an Act.

**Deputy Geoghegan:** Not yet. I am surprised to hear that from the Senator.

**Senator Blythe:** They can pass it by the lapse of time.

**Deputy Geoghegan:** I think the Senator is in advance of his time.

**Senator Douglas:** I would be glad to know that the 18 months was not valid. It would interest me enormously. I have assumed they could do so after 18 months. I still think that what I said was correct, and I should be delighted to hear I was wrong. We are really dealing with the Oireachtas. When Deputy Geoghegan said the Dáil, he meant the Oireachtas.

**Deputy Geoghegan:** I meant that the Dáil can impose a charge on that fund, that if the person, as distinct from owning that fund, had merely a right, to put it at the highest, to resort to it by way of action or otherwise for payment—

**Senator Douglas:** It is only the Oireachtas can do it and it consists of three parts at the present moment.

**Deputy Geoghegan:** For money purposes.

**Senator Douglas:** It does. One of the three has very little power for money purposes.

**Deputy Geoghegan:** I suggest that the governing words of this exclude the other two, that they exclude the power of the two other members. I presume you are alluding to the King and to the Seanad, and I suggest that they are expressly excluded when you come to imposing a charge on a public money fund.

**Senator Douglas:** I have not any experience of His Excellency, the Governor-General. It may be that he does not sign Money Bills; but I always thought he did. I confess I never looked into it.

**Deputy Geoghegan:** I refer again to the words that "Dáil Eireann shall in relation to the subject matter of Money Bills, as hereinafter defined, have legislative authority exclusive of Seanad Eireann."

**Senator Douglas:** We are not disputing that. We claim that it is not a Money Bill.

**Chairman:** The question is, have you exhausted all the arguments? I do not feel called upon to express any opinion. I am in the happy position of waiting until certain arguments are advanced and then acting. The question is then, do you wish to postpone the discussion or to conclude it now?

**Deputy Geoghegan:** I think Senator Douglas is weakening a little in his view.

**The Attorney-General:** There is no purpose in postponing it.

**Senator Douglas:** As far as I am concerned, I do not propose to ask for a postponement unless any new point arises which requires consideration. I still believe this Bill is not a Money Bill within the meaning of Article 35. I do not believe a Bill which includes a clause validating acts done by the Executive can be a Money Bill, and I consider Section 2 of the Bill sufficient to prove my case. I still believe that the Guarantee Fund does not include only public moneys within the meaning of the Article. The Attorney-General has tried to show that if this latter contention is correct the Bill would then become a Bill imposing taxation. There are special Standing Orders in the Dáil which apply to taxation and these were not complied with in regard to this Bill—which makes it obvious that the Dáil did not regard the Bill as one which imposed taxation. Apart from this fact, I am unable to agree with the Attorney-General that my arguments would prove that the Bill imposed taxation.

**Senator Blythe:** There is a requirement for a Message in the case of a Bill imposing taxation and I did not hear that a Message was submitted, so that I think it could not be held to impose taxation. Therefore, if it does not impose a charge on public moneys it is not a Money Bill. I do not think it gets the money by way of taxation.

**Chairman:** Is it your wish that we should finish the discussion and take a vote?

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**The Attorney-General:** I think so.

**Senator Douglas:** Unless there is any other information which would help to clarify it.

**The Attorney-General:** I am wondering if it might be helpful to get the regulations for the control and dispersal of the fund.

**Senator Douglas:** The only possible point of any importance would be if there is any further information with regard to these other acts done. I mean other acts in relation to the Guarantee Fund.

**The Attorney-General:** Precedents?

**Senator Douglas:** Not precedents. I refer to other acts done which may be validated. It is not a question of precedents. With regard to precedents, I should say that I am strongly of the opinion, assuming there is to be a further Second Chamber, and the Attorney-General's view is correct, if there is the slightest doubt in the mind of anyone, either of the minority in the Dáil or of 24 members of the Seanad, if it is to be of the present size, that they will have to challenge every single Bill. There were many Bills as to which there were grave doubts. There were several that I would like to have seen challenged but I did not get sufficient support. I do not mean only in the last two or three years, but in years past. I made no secret of that. I think it is well known to many Senators. If the view he takes is that the Seanad, in not challenging a Bill, creates a precedent which would govern this Committee, then I certainly say that the Second Chamber or the minority in the Dáil, will have to be extremely careful, if there is a doubt at all, to see that they challenge every one of them. I respectfully submit that the Attorney-General is completely and absolutely wrong with regard to precedents. This is the first time a Committee ever met to interpret what is a Money Bill within this Article, and if there were 50 wrong decisions by different Chairmen in the Dáil, it would not affect the decision.

**The Attorney-General:** The Senator ought to be more careful. He says that I am completely and absolutely wrong, but his statement of what I said is completely and absolutely wrong. I merely instanced that and said it was for each individual member of the Committee to know what weight would attach to a precedent.

**Senator Douglas:** Then I apologise. I was under the impression that he thought some weight should be attached to them. I say no weight should be attached to them.

**The Attorney-General:** I said I thought weight would be attached to them, but that it was a matter for each individual.

**Senator Douglas:** And I said I thought you were wrong.

**Chairman:** I suppose the vote should then be simply as to whether this Committee thinks it is a Money Bill or not?

**Deputy Geoghegan:** What is the form of the question?

**Chairman:** Whether the Bill under consideration is a Money Bill or not.

**Senator Blythe:** It could be put either in that form or in the form that for a specific reason it was a Money Bill: that it did not impose a charge, or it did not include "only" the specified matters.

**Chairman:** That is stating reasons. I do not know whether we should state reasons. The Ceann Comhairle did not state reasons. Whether we should or not is another matter. Do you want to state reasons?

**Deputy Geoghegan:** The Article of the Constitution says that after the necessary requisition has been sent in, "the question whether the Bill is or is not a Money Bill shall forthwith be referred to a Committee of Privileges consisting of such number (not exceeding three) of members (if any) as shall be elected by Dáil Eireann within seven days after such reference, such number (not exceeding three) of members (if any) as shall be elected by

[Deputy Geoghegan.]

Seanad Eireann within such seven days, and a Chairman who shall be the Senior Judge of the Supreme Court able and willing to act and who in the case of an equality of votes, but not otherwise, shall be entitled to vote. Every such Committee of Privileges shall decide the question so referred to it and report its decision thereon to Dáil Eireann and Seanad Eireann . . . ." That would seem to me to contemplate only a decision.

**Chairman:** I think so. Then we will decide.

**Senator Blythe:** I think it is not a Money Bill, and I vote against.

**Senator Douglas:** I think it is not a Money Bill.

**Senator O'Hanlon:** Not a Money Bill.

**Deputy Geoghegan:** A Money Bill.

**Deputy Norton:** A Money Bill.

**The Attorney-General:** A Money Bill.

**Chairman:** I suppose that seals my fate. There is an even division of voting. I do not want to state reasons. I want to say that I have been a good deal shaken by a number of the arguments by Senator Douglas; but having weighed it all up—it is a decision of very great importance—I am of opinion that this is a Money Bill. Now what do we do?

**Senator Blythe:** There must be some procedure for reporting this matter.

**Chairman:** Have we anybody here to report or am I supposed to write it?

**Senator Blythe:** I presume the Chairman should issue some sort of certificate or written note of this—to whom I do not know.

**Senator Douglas:** I suggest that it should be sent to the Chairman of each House unless there is a specific instruction.

**Deputy Norton:** The report need not necessarily be long—the notetaker's notes will be evidence.

**Chairman:** I can dictate it tomorrow.

**The Attorney-General:** If you do that it will be all right.

**Senator Blythe:** Yes, and send it to each Chairman.

**The Attorney-General:** The Seanad will have to meet within the 21 days.

**Deputy Geoghegan:** Will it be necessary for the Committee to meet again for the purpose of that report?

**Chairman:** No, I will show it to you to make sure it is right.

**Deputy Geoghegan:** I have not the slightest desire to see it.

**Chairman:** I will simply report the decision that it is a Money Bill.

**Deputy Geoghegan:** I only wanted to be quite sure that I am free from my engagement to attend the Committee. I merely wanted to have it clear what the procedure is.

The proceedings of the Committee terminated.