

to be found in the words "as part of the arrangement." Apparently, these words indicate cases in which an application to the court would still be necessary, even though both parties were willing that the settlement should be carried out.

Given, then, the preliminary condition that the parties "as part of their arrangement" (whatever exactly that may mean), have to apply to the court at all, the question would appear to be left to be decided upon the facts of each case. The writer in 54 *Solicitors Journal*, p. 557, seems to go too far in suggesting that such assistance would be refused in every case where the settlement was made "against the express order of the client," but, at the same time, the House of Lords lay down no very definite principle to govern the exercise of the discretion which they assert. Indeed, it is not easy to rid oneself of a lingering suspicion that the "higher principle" of Lord Halsbury was in the nature of a *tabula in naufragio*, and bears some generic resemblance to that "unwritten law," of which so much is heard from time to time when a desperate situation requires its invocation.

But it may be submitted that the court would not refuse its assistance (if it were necessary) to enforce what can be described as a purely "business" settlement, that is, one into which such elements as the withdrawal of defamatory statements, or of charges of fraud, and the like, did not enter. Apart from other considerations, in such cases damages against the person responsible for the mistake would be an adequate compensation, and this might well have some effect upon the discretion of the court.

It appears from the judgments that some such consideration as this was not absent from the minds of the Law Lords. After discussing certain aspects of the question which might arise in connection with a money claim, Lord Halsbury says "but a wholly different state of things arises when a person's character is at stake," and, at the close of his speech (as reported in 18 *T.L.R.* at p. 792), "but the lady alleges that her character has been attacked, and it would be gross injustice to