Sir LOMER GOUIN: Yes.

Mr. CLARK: The substitution of those words would get over the difficulty with which most of us have been faced, namely that of having competition, lobbying, amongst creditors for the appointment of a trustee. I think it would also tend to reduce the cost of winding up these estates. As was pointed out this afternoon, we are likely, under the amended legislation, to have at least three sets of costs.

Sir LOMER GOUIN: Will my hon. friend be satisfied to accept the substitution of the words "a qualified person" instead of "one of the most interested creditors", but keeping the last part of the clause, that the judge should be governed as far as possible by the wishes of the creditors?

Mr. CLARK: That is agreeable. It would then read:

A qualified person, having regard, as far as the court deems just, to the wishes of the creditors.

I would rather have the words "qualified to act as trustee", because it would then be quite clear to the official receiver that it is the desire of this parliament that, so far as possible, the person who is appointed is a person capable of winding up an estate, because if that official receiver appoints a man who is qualified to act as a trustee and he receives the approval of the creditors in making that appointment, the probability is that when the creditors meet for the first time for the purpose of appointing or approving a trustee, that person who has been appointed as custodian during the interim, will be the person chosen. The chances are also that the costs will be reduced, the efficiency in winding up the estate increased, and at the same time the object which the minister has in view, namely, the consulting of the creditors and giving them ultimate authority, will be accomplished.

Sir LOMER GOUIN: I have no doubt that the amendment as we offer it will fully protect the interests of the creditors. I have no wish to oppose any suggestion offered and I am prepared to accept the change. I therefore move that the words "one of the most interested creditors" be struck out of line 3 in subsection 2 and that there be substituted therefor the words "a qualified person."

Amendment agreed to.

Section as amended agreed to.

On section 55—Regarding vestment of property in trustee.

Mr. CLARK: What is the effect of this section?

Sir LOMER GOUIN: It repeals section 6, which constitutes the authorized trustee or receiver, since there is no longer an authorized trustee, and provides for the substitution of the official receiver and the creditors' trustee. This section also contains provision for stay of proceedings. In the act as it stands now there are three sections relating to stay of proceedings, sections 6, 7 and 13A. These three sections are repealed by the present bill and the whole subject is embraced in section 9.

Mr. CLARK: In line 6 of subsection 3 it is provided that upon the appointment of a trustee:

—as hereinafter provided, such property shall, subject to the rights of secured creditors, forthwith pass to and vest in such trustee, and in any case of change of trustee, the property shall pass from trustee to trustee without any conveyance, assignment or transfer whatever.

If a company holds property in trust for another, will that property vest in the trustee under the provisions of this section?

Sir LOMER GOUIN: The trustee will have the same right as the company had before.

Mr. CLARK: Under the act as amended, I assume from the minister's answer that in future all property which the assignor held in trust for any other person will vest in the trustee?

Sir LOMER GOUIN: Yes.

Section agreed to.

On section 6—Stay of proceedings:

Sir LOMER GOUIN: This is covered by the new section 9.

Section agreed to.

On section 9—Limitation regarding remedy of creditor against property or person of debtor:

Sir LOMER GOUIN: This section contains the provisions with regard to stay of proceedings. In the case of a secured creditor who takes action against his debtor the court is authorized to stay proceedings when this is considered to be in the interests of the creditors generally.

Mr. BAXTER: The last phrase in this section, "unless the court otherwise orders," applies, I take it, only to the clause beginning with the words "provided that, subject to the provisions of section forty-six," etc.