THE
PARLIAMENTARY DEBATES
(HANSARD)

IN THE FIRST SESSION OF THE FORTY-THIRD PARLIAMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, COMMENCING ON THE TWENTY-SEVENTH DAY OF OCTOBER IN THE THIRTEENTH YEAR OF THE REIGN OF

HER MAJESTY QUEEN ELIZABETH II

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HOUSE OF LORDS

Tuesday, 9th March, 1965

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

Prayers—Read by the Lord Bishop of Oxford

The Lord Cadman—Took the Oath.

TRIBUTES TO THE LATE LORD MORRISON OF LAMBETH

2.35 p.m.

THE LORD PRIVY SEAL (THE EARL OF LONGFORD): My Lords, before the House commences Business, I am sure we shall wish to pause for a moment in order to pay tribute to our late friend and greatly admired colleague, Lord Morrison of Lambeth. Son of a policeman, educated at one of the old Board schools, an errand boy, a shop assistant, a telephone operator—from these humble positions, of which he never ceased to be proud, Herbert Morrison rose to a lofty eminence in the life of his country. With two or three others, including my noble friend Lord Attlee, who has been prevented from being with us to-day, and Mr. Arthur Henderson, he was one of the main architects of the Labour Movement as we know it to-day. He shared the supreme burden of our Cabinet during the greatest crisis in our national history. He has perhaps never been surpassed as a Parliamentary manager and as a local government administrator. No one else has ever left a name so imperishably connected with the Government of London.

He was a Member of this House for about five years. No doubt he remained at heart a House of Commons man. At times he found our ways strange, after so many years in another place. I remember his saying to me, after an earlier speech in this House, "The trouble with these fellows is that they are so infernally polite. You can never tell how a speech is going down here. In the House of Commons it was only too obvious." But he took from the first an active part in our proceedings, and in time he became much attached to this House. All of us here, I am sure, accepted and enjoyed his robust method of debating and his tactical skill, from which all of us, on all sides of the House, could benefit.

He was undaunted in his argument, as the House will remember, on the London Government Bill. Some noble Lords may have raised their eyebrows at his unmistakable bitterness, but those who knew him fully understood. Herbert Morrison was a Londoner, a Cockney, as he never ceased to remind us. He was proud of London, jealous of its reputation, anxious and determined where its people were concerned. London has meant many things to many people on various occasions. One of our finest poets, the late T. S. Eliot, has, if I remember rightly, spoken of

> "an unreal City in the brown fog of a winter dawn".

To Herbert Morrison, London was simply and always the greatest City on earth, and no one else in our time has done so much to make its name still more honoured.

[The Earl of Longford.]

Herbert Morrison was the inspirer of the London Labour Party and became its first secretary. Here all his high qualities of leadership, organisation and political skill were displayed. And here in London were his first major successes. At 31 he was Mayor of Hackney, and three years later he was elected to the L.C.C. His power and influence began to grow with the recognition of his qualities. The following year he was returned to Parliament for the first time, and became Minister of Transport in 1929 in the reinstated second Labour Government. In 1931, he brought into being the London Passenger Transport Board. Soon he was out of Parliament, but what was Parliament's loss was London's gain. In 1934 Labour gained control of the L.C.C., and Herbert Morrison became its Leader. The most obvious mark of his work might be Waterloo Bridge, built in the teeth of prolonged opposition. But, by his drive and his enthusiasm, he brought about a greater efficiency and a greater sense of humanity to the work of the Civil Service of London. In vital respects it could be said that the Government of London became the envy of the world.

This experience stood him in good stead when he became Home Secretary in the National Coalition Government during the war. He brought a sense of urgency, and once again, as always, efficiency, into all aspects of Civil Defence, as was illustrated by the National Fire Service. His Cockney humour, his understanding of ordinary people, his indomitable pluck, did much to sustain the morale of everyone. I imagine that he regarded his most repugnant task as Home Secretary the administration of Emergency Regulation 18B. Security had to be maintained, but he administered the regulations with humanity and justice. On a famous occasion he released an internee in the face of a great deal of public opposition. He did it for one reason only: because he felt sure that it was the only right thing to do.

The year 1945 saw the return of a Labour Government, with a massive majority. Herbert Morrison became Deputy Prime Minister, Lord President of the Council and Leader of the House of Commons, and later, when Ernest Bevin died, Foreign Secretary. Parliament, as we all know, is not only a group of individuals; it has an ever-changing character; and 1945 saw a new House of Commons with many new young men and women eager for rapid advance, quite a few of whom have joined us here since. It was fortunate that in Herbert Morrison the House had a Leader who understood the Members thoroughly, once again due to his innate comprehension of human nature, and he guided them so firmly that a massive legislative programme could be, and was, passed.

Herbert Morrison knew the rules of procedure of the House of Commons. He loved the House of Commons. He was as jealous of its honour as he was of his own. But he never forgot the rights of local government and he would always resist attempts—as, we remember, here quite recently—to expand central Government if it was at the expense of local government. In that field, as in all others, to him all problems had a practical solution.

My Lords, as with all outstanding statesmen it is impossible to pick out one characteristic of Herbert Morrison and place it beyond all others. We all remember his sense of fun. He was happy with young people and he enjoyed the Arts, though he was the last to claim any expert knowledge of them. The Festival Hall and Battersea Gardens are there because of his determination that London should have a cultural centre fitting to its position as a capital city. As an organiser and tactician he was a supreme realist, understanding human nature and never deluding himself into the belief that there was any easy way to solve the large problems.

In my eyes, and I am sure in the eyes of many others, there was something else more remarkable still: there was in Herbert Morrison an extraordinary balance between the acuteness and the dexterity of his political calculations, on the one hand, and the integrity which set absolute limits to what was and was not permissible, on the other. Few others in our time may have equalled his moral courage, but I am sure that no one in our time, or in any other time, has surpassed it. Herbert Morrison was the first to disclaim any rôle of pomp or circumstance or grandeur, yet to many of us there will always be something heroic in the figure of this sturdy Londoner,

who started life with no advantages whatever, labouring, indeed, under the tremendous handicap of possessing, to all intents and purposes, a single eye. He overcame all these obstacles by sheer ability and doggedness of character in a manner which must inspire countless others in all walks of life.

My mind goes back (others may remember it, too) to that single dignified sentence in his autobiography:

"My one eye served me well."

He in turn was a good and faithful and most capable servant of great causes—the cause of the Labour Party, of London and of Britain. Looking back he was happy and proud, as he had every right to be, in his many and varied achievements, but he remained modest and dispassionate and himself throughout. He judged everything he had done, or was still trying to do, by one criterion only—namely, the public interest. By that lone star he guided his life. I am sure that we all send our heartfelt condolences to his devoted wife and family with whom he was always so completely happy.

2.45 p.m.

VISCOUNT DILHORNE: My Lords, the Leader of the House has paid a graceful tribute to the late Lord Morrison of Lambeth. We on this side would pay our tribute to a doughty political opponent who for so many years featured so prominently on the political scene. Many of us first became acquainted with him in another place. He was, and I think is generally recognised as having been, a great Home Secretary in the war-time Government of Sir Winston Churchill. He played a big part in Parliament in the years that followed, and then, after many years of political strife, he came to this House.

I do not propose to speak of his activities outside Parliament. As a Minister he showed himself to be possessed of great administrative qualities. He was a man of independent mind and a powerful advocate for what he believed to be right. I remember one occasion in another place when he and I were allies—it was, I think, a unique occasion. The Committee of Privileges had, by a majority, reported that certain conduct constituted a breach of privilege. There was a minority of one; and I was that one. When the Report of the Committee was debated in the House I found, to my joy, that Herbert Morrison agreed with the views I had expressed, and that he was prepared not only to speak but also to vote in support of them. His advocacy was powerful, and mainly due to his help we won the Division in that House by a majority of, I think, six.

He thoroughly enjoyed debate, and some of your Lordships will remember that when I was Lord Chancellor he seldom could resist the temptation to throw down the gauntlet and seek to tempt me into controversy. I well remember his strenuous opposition to the London Government Bill, now the London Government Act, 1963, in which he revealed his great affection for the London County Council with which he had had so much to do.

My Lords, I am sure that he enjoyed and was proud to be a Member of this House. He had a considerable sense of mischief, and when he sat on these Benches there was nothing he enjoyed more than trying to make things difficult for the Government. I think it would be fair to say that when he came to sit on the Government Benches that sense of mischief did not entirely desert him. He took a keen interest in constitutional questions, and in his last speech to the House, which I think was on the Machinery of Government Bill, he showed his concern for the constitutional issues involved.

My Lords, no matter on which side of the House we sit, we shall all miss him. I should like, on behalf of my noble friends and on my own behalf, to express our deep sympathy with his widow and his family in the sad loss they have suffered.

2.49 p.m.

LORD REA: My Lords, from these Liberal Benches I also should like to join in expressing regret and sorrow at the death of Lord Morrison of Lambeth, and also to express our deep sympathy with his widow and his family. The tribute paid by the Leader of the House and what has been said by the noble and learned Viscount from the Conservative Benches has covered a great deal of what one would like to say about him. We all know that his career really was in another place, and, therefore, it is perhaps hardly fitting that in this place, from an Opposition

[Lord Rea.]

Party, I should pay personal tribute to him. Nevertheless, we all hold him dearly in our hearts.

I, for one, feel—and I think others agree—that he came to your Lordships' House in rather a rebellious spirit, mischievous, as the noble and learned Viscount, Lord Dilhorne, has said, ready to " take down their Lordships ". But, as happens in so many cases, in a year or two he was a stalwart pillar of your Lordships' House and most jealous of every privilege. There was something very endearing about him. We shall miss him, not only for his contributions to your Lordships' debates, but for his very nature, and we shall miss him as a good and welcome colleague.

2.50 p.m.

BARONESS SWANBOROUGH: My Lords, from the Cross-Benches I should like to pay a tribute to the late Lord Morrison of Lambeth. So many have already been paid, that mine must be a very simple tribute, to a man for whom I worked for a full five years, and whom I have been privileged to call my friend ever since. Civil Defence during the war years needed quick decisions. As Home Secretary he understood every detail magnificently; he appreciated difficult situations instantaneously; and yet he never hampered action by interference. He was a wonderful chief, and always available if the need was there. He was infinitely patient in listening, and quick at appraising. He was fiercely energetic if wrong had to be put right. He was always fair and just and, than goodness!, he always saw the funny side of things. When tragedy occurred—and those of us who worked with him will never forget the Bethnal Green disaster—his whole being was deeply and personally involved, and his understanding of human beings was extremely profound right through.

To those of us who spent the war in London, he gave a leadership which was so natural in its appearance that we very seldom recognised it for what it was. We marvelled at the man who, although he was Home Secretary, could always find the time to give us the support we needed, and to give it to us in such a forthright and courageous way. He was quick to attack if he felt that what was wrong had to be put right, but he was always quick to give praise when praise was due. He taught a great many of us the true meaning of magnanimity, of tolerance, and of generosity. His Puckish humour demonstrated to us how burdens can be lightened by the introduction of laughter at a time of strain and tension.

As a woman, I realise to the full what the going of so vital a companion must mean to Lady Morrison of Lambeth, and I should like to send a message of deep understanding from your Lordships' House to a woman who has lost a very great deal. Above all things, Herbert Morrison will always be thought of, and remembered, as a great Londoner. Again as a woman, I suppose, I am glad he has not had to face the changeover of the L.C.C. he loved so dearly, and which for him was so painful a thought. I believe that, first and last, Herbert Morrison belonged to London, and London belonged to him. We have said goodbye to a man of fine courage, a man who was gay because he knew the worth of such gaiety, a friend who mattered. But London has lost one of her most devoted protagonists, and all good Cockneys will mourn the passing of their closest friend.

IMMIGRATION: ADMISSIONS AND REFUSALS

2.54 p.m.

VISCOUNT DILHORNE: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government the number of intending Commonwealth immigrants who have been refused admission to Great Britain since February 4, 1965, and the number of Commonwealth immigrants who have been admitted to Great Britain since that date.]

THE JOINT PARLIAMENTARY UNDER-SECRETARY OF STATE, HOME OFFICE (LORD STONHAM): My Lords, during February, 129 Commonwealth citizens were refused admission under the Commonwealth Immigrants Act, 1962, and 16,726 were admitted. It would not be possible, without undue labour, to discover what proportion of these figures relate to the period after February 4.

VISCOUNT DILHORNE: My Lords, I should just like to express my thanks to the noble Lord for that information, which is what I was seeking to obtain.

VISCOUNT ADDISON: My Lords, can the Minister give us any break-down of the figure of 16,000?

LORD STONHAM: My Lords, the break-down of the figures for February will not be available until next week, but the figures for January, which I think will give a general pattern, are as follows. In January, there were 22,729 Commonwealth citizens who entered the United Kingdom, 10,097 from Australia, Canada and New Zealand, 7,207 from the West Indies, India and Pakistan, and 5,425 from the remaining Commonwealth countries. Out of the overall total, approximately 70 per cent. were returning residents and short-stay visitors. Only 990, or 4¼ per cent., were voucher holders, 11¼ per cent. were dependants, and 14½ per cent. were students and long-stay visitors.

VISCOUNT ADDISON: I am obliged to the Minister for that information.

LINER TRAINS

2.57 p.m.

LORD CONESFORD: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government whether the British Railways Board has now abandoned the proposal to introduce liner trains; and, if not, whether they can give an approximate date for their introduction.]

THE PARLIAMENTARY SECRETARY, MINISTRY OF TRANSPORT (LORD LINDGREN): My Lords, I understand that the Railways Board still wish to introduce liner train services as quickly as possible. I cannot at this stage give an approximate date for their introduction.

LORD CONESFORD: My Lords, in thanking the Minister for that answer may I ask him this? Are the Government themselves in favour of the introduction of these trains, and can he give any indication of the cause of this extraordinary delay?

LORD LINDGREN: My Lords, the Government regard liner trains as an important stage in the modernisation of the railways of this country and as an effective part in transport co-ordination. The Railways Board and the trade unions are well aware of this view. I understand that the delay in their introduction is due to negotiations which, quite rightly, are taking place between the Railways Board and the trade unions in regard to the conditions under which the new services will begin.

LORD CONESFORD: Am I right in understanding that no outside body has power to impose a veto on the introduction of these trains, or to impose unreasonable conditons based on Luddite fears?

LORD LINDGREN: My Lords, I do not exactly understand the intention of that question. The method of attracting and operating traffic is entirely one of management, and entirely one for the Railways Board. But, as would any reasonable employer on the introduction of new methods, they try, and should try, to carry their staff with them.

LORD MOLSON: My Lords, do Her Majesty's Government consider that the trade unions should have a veto upon the introduction of this reform?

LORD LINDGREN: My Lords, it is not for the Minister. The question of the relationship between a trade union and an employer is entirely one of management, and it is not for a Minister to interfere. Perhaps interference from a Minister would worsen things, rather than improve them.

BARONESS HORSBRUGH: My Lords, while I agree that in some cases action by the Government worsens affairs, might I ask the Minister how long the negotiations have been going on, and how long he thinks it will be before any decision is come to?

LORD LINDGREN: My Lords, negotiations have been going on for about twelve months and, as I said in my original Answer, I am not yet in a position to announce a date for the introduction of the first service.

VICTORIA HOSPITAL, CHELSEA, SITE

3.0 p.m.

LORD AUCKLAND: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government what plans they have in mind in respect of the building which was until recently the Victoria Hospital for Children, Tite Street, Chelsea.]

THE PARLIAMENTARY UNDER-SECRETARY OF STATE FOR COMMONWEALTH RELATIONS AND FOR THE COLONIES (LORD TAYLOR): My Lords, there is a proposal that the site of this building should be used for the rebuilding of a convent, the present site of which will be needed for the proposed grouping of postgraduate teaching hospitals in Chelsea. The convent are still considering how best they can use the site at Tite Street. Provided that no unforeseen complications arise, the existing buildings will be demolished, probably later this year.

LORD AUCKLAND: My Lords, in thanking the noble Lord for that reply may I say that there is likely to be disappointment that the building is not to be used as a hospital, particularly in view of the shortage of hospital beds in London at the present time. May I also ask the noble Lord if the rebuilding on this site can be expedited, bearing in mind that St. George's Hospital will not be ready for several years yet and that children were removed from this hospital to Tooting very swiftly and with very little negotiation?

LORD TAYLOR: My Lords, the decision to move the children to Tooting was taken by the Board of Governors of St. George's Hospital, and I think it was a wise and sensible decision, having regard to all the facts. The point about this Chelsea site is that, until certain non-Governmental buildings can be moved, it is impossible to develop the great group of postgraduate teaching hospitals which is to go there. It was to make available a site into which one of these buildings could be decanted that it was decided to close this hospital.

CENTRAL LONDON BUS SERVICE

3.2 p.m.

LORD INGLEWOOD: My Lords, I beg leave to ask the Question which stands in my name on the Order Paper.

[The Question was as follows:

To ask Her Majesty's Government how many buses are normally running in central London at midday; how this figure compares with the number running pre-war and two years ago; and whether they are satisfied that the services available to-day are adequate to meet Londoners' needs.

LORD LINDGREN: My Lords, I am informed that the scheduled number of buses passing through or terminating in the Central London Area during the midday period 10 a.m. to 4 p.m. on Mondays to Fridays is now 726 per hour in each direction. This compares with 717 in 1963; in 1938 the comparable figure for buses and trams was 1,229. The London Transport Board consider that the service schedule to-day is adequate for the number of passengers who wish to travel by bus. It is based on regular observations on each route to see how it accords with the demand. It is inclined to be erratic in operation because of staff shortage and traffic congestion.

LORD INGLEWOOD: My Lords, is the Minister not aware that most people will think that Answer far from satisfactory, that the number of buses running in London at midday to-day should be only slightly more than half the number running pre-war, since when the population of London has increased? Is the Minister also not aware that the majority of us in London do not have either private or official cars, and that it is a very poor recommendation for modern Britain that we should have far longer waits at stops for far fewer buses?

LORD LINDGREN: My Lords, I think I can say without exaggeration that there are one or two more private cars on the roads in London now than there were in 1938, and that they tend to create a little congestion. A bus is not a helicopter; it has to follow traffic, not hop over it. In fact, the number of passengers in the last ten years has declined by 36 per cent., while the number of buses in operation

has declined by only 17 per cent. Therefore, comparatively, there are more buses available for a fewer number of passengers.

LORD INGLEWOOD: My Lords, may I ask the noble Lord to look at this matter again? And, in being critical, may I say that I do not wish to be any more so than I was of the noble Lord's predecessors who over a number of years answered similar Questions from me equally unsatisfactorily in another place.

BUSINESS OF THE HOUSE

LORD SHEPHERD: My Lords, at a suitable moment after 3.30 p.m. my noble friend the Leader of the House will be making a Statement on immigration.

SUPERANNUATION (AMENDMENT) BILL

3.5 p.m.

Order of the Day for the House to be put into Committee read.

Moved, That the House do now resolve itself into Committee.—(*Lord Shepherd.*)

On Question, Motion agreed to.

House in Committee accordingly.

[The LORD MERTHYR in the Chair.]

Clauses 1 to 4 agreed to.

Clause 5 [*Miscellaneous amendments*]:

LORD SHEPHERD moved to insert, after "Superannuation (Miscellaneous Provisions) Act, 1948":

"the County Courts Act 1924, the Supreme Court of Judicature (Consolidation) Act 1925, the County Courts Act 1934"

The noble Lord said: This Amendment, No. 1 on the Marshalled List, is a paving Amendment to Amendment No. 4, and Amendment No. 5 would be consequential to Amendment No. 4. We have just voted into the Bill the main cause for the presentation of this Bill: the need for a private pension and superannuation system for the new Diplomatic Service. As I explained on Second Reading, the Government thought it right to take this opportunity of dealing with a number of anomalies that have arisen and also to make it easier for later consolidation. This Amendment falls into that category.

The purpose of the Amendments is to clarify the law which governs superannuation of certain superior officers of the Supreme Court and county courts and to make two detailed improvements of that law. The people concerned are the masters and registrars, and certain high officials of the Supreme Court, and registrars of the county courts and other courts. These people are not civil servants, but for superannuation purposes have always been treated as such. The superannuation position of these people is governed by the provisions of the Acts of 1924, 1925 and 1934. These provide that the provisions of the Superannuation Acts—probably, but not quite certainly in all cases, only those which are in force at the time—are to apply to these officers subject to prescribed modifications. The most important modification is that a pension accrues at a higher rate and full pension is earned in 20 years instead of in 40.

Since these Acts of 1924, 1925 and 1934 were passed, there have been a number of other Acts, in 1935, 1946, 1949, 1950 and 1957 (five in all), and now we have this present Bill. The question is which provisions of these later Acts, subject always to the prescribed modifications, do in fact apply or ought to apply. The point has been obscure for some time without causing any difficulty, but an attempt is now being made to consolidate the Superannuation Acts and for this purpose the point now needs to be cleared up.

The present position is unsatisfactory in two ways. First, in the case of some officers, those covered by the 1935 Act, it is possible, but not certain, that some of the provisions of the later Acts do apply when it is inappropriate that they should apply. An example is the provision in the 1946 Act which allows the grant of added years to count towards pensions for late entrants. This is inappropriate, because the modification giving full pension after 20 years, which I have just mentioned, is designed for this very purpose, and it would be wrong to accelerate the rate of accrual still further. This has caused no difficulty in practice, since the provisions have never had to be applied, but it seems right to have the law clear on this matter.

Secondly, there are two minor provisions which should apply to all these

[Lord Shepherd.]

officers but which certainly do not apply in some cases, and may not apply in others. The first Amendment, combined with the Amendment to Schedule 4 (that is, Amendment No. 4), which I have mentioned, accordingly clears up the situation by stating, where necessary, what does not apply, and by adding two provisions which should. These two provisions represent the only changes in current practice which will result from the Amendment. They are contained in paragraph 24(1). Their effect, briefly, will be to allow any of these officers who marry after they have retired, but before the age of 70, to allocate part of their pensions for the benefit of their wife or their husband; and, secondly, to make these officers eligible for special benefits which apply to civil servants who are injured on duty, and to their dependants. With those brief words, I will commend this Amendment, and Amendments Nos. 4 and 5, which I will move subsequently, to your Lordships. I beg to move.

Amendment moved—

Page 5, line 11, after ("1948") insert the said words.—(*Lord Shepherd.*)

On Question, Amendment agreed to.

Clause 5, as amended, agreed to.

Clauses 6 to 9 agreed to.

Schedule 1 agreed to.

Schedule 2 [*Amendment of Superannuation Acts and of other pension Acts*]:

LORD SHEPHERD moved, after paragraph 7, to insert as a new paragraph:

"*Reckoning of service of former teachers*

. In section 6(2) of the Superannuation Act 1946 (which provides that, in the case of a civil servant who was formerly a teacher, certain service as a teacher shall be treated as if it were service as a civil servant)—

1946 c. 60.

(*a*) for paragraph (*b*) there shall be substituted the following paragraph—

'(*b*) service which is recorded as first class service under regulations made under section 101 of the Education (Scotland) Act 1946 (as substituted by section 10 of the Education (Scotland) Act 1956) or section 102 of the Education (Scotland) Act 1962 or any amendment thereof (hereinafter referred to as "the Scottish Regulations"); or';

1946 c. 72.

1956 c. 75.

1962 c. 47.

(*b*) in paragraph (*c*), for the words 'the Scottish Teachers Scheme' there shall be substituted the words 'the Scottish Regulations';

(*c*) in the proviso—

(i) for the words 'subsection (2) of Article 14 of the Scottish Teachers Scheme' there shall be substituted the words 'the Scottish Regulations';

(ii) for the words 'be cancelled in the record of service maintained under the Scottish Teachers Scheme' there shall be substituted the words 'or in reckoning periods of first class service under the Scottish Regulations'."

The noble Lord said: This Amendment corrects, in the interests of consolidation, an anomaly which has accidentally arisen over the qualifying for the purposes of Civil Service pension of previous service as a teacher in Scotland. Section 6(2) of the Superannuation Act, 1946, lists the kinds of teaching service that may qualify and includes in subsection (2)(*b*)

"service which is recorded under the Scheme framed and approved under the Education (Scotland) Superannuation Acts, 1919-1939, and any Act amending the same (hereinafter referred to as 'the Scottish Teachers' Scheme')."

At the time the 1946 Act was passed only contributing service as a Scottish teacher was "recorded". Since then, however, subsequent legislation has been passed, and regulations made under which contributing service is still recorded (as first-class service) but non-contributing service of two kinds is also recorded (as second-class and third-class service). The new regulations also did away with the phraseology of "the Scottish Teachers' Scheme".

These changes in Scottish legislation went unnoticed at the time and have not been paralleled by any change in the Superannuation Acts. The result now is that, contrary to the intention of the 1946 Act, not only contributing service but also non-contributing service as a Scottish teacher may qualify under the section. This certainly would be wrong, since such non-contributing service may, for example, be outside employment, which is recorded simply for the purpose of keeping previous contributing service

eligible for pension if a person returns from it to teaching, and there is no reason why it should qualify for Civil Service pension. In practice, such non-contributing service has never been allowed to qualify, and no case has so far been traced in which it has been proposed that it should do so, so that no practical problem has arisen. It is, however, very desirable to get this bit of law right before it is consolidated. The Amendment which I have before the Committee therefore limits the service that may qualify to first-class service and makes the necessary translations of the obsolete term "Scottish Teachers' Scheme" in the rest of Section 6(2). I beg to move.

Amendment moved—

Page 12, line 45, at end insert the said new paragraph.—(*Lord Shepherd.*)

On Question, Amendment agreed to.

LORD SHEPHERD moved, after paragraph 16, to insert:

"17. In proviso (ii) to section 36(1) 1949 c. 44. of the Superannuation Act 1949 (which refers to what would have been the retiring age for a civil servant if he had continued in the employment in which he was when he was last a civil servant) the reference to that retiring age shall be construed on the assumption that in continuing in that employment he would have been employed in the United Kingdom."

The noble Lord said: This Amendment is to remove a possible doubt affecting the retiring age of persons who have served in unhealthy climates abroad. Section 36(1) of the Superannuation Act, 1949, defines the circumstances in which a person who has left the Civil Service with a pension may be re-employed and earn additional pension. One of the conditions is that only service after reaching the retiring age may count towards the addition: if a man is re-employed from, say, the age of 58, he must wait till he reaches 60 before his additional service begins to count.

There is, however, a possible doubt. Proviso (ii) to Section 36(1) provides that no account shall be taken of his re-employed service

"before he attains the age which would have been the retiring age for him if he had continued in the employment in which he was when he was last a Civil Servant."

Section 42 of the 1949 Act allows service in certain unhealthy climates (the scheduled territories) to count as time and a half for pension, and also allows the retiring age to be reduced by three months for each completed year of service under the section. A man who has served in a scheduled territory and has retired before reaching his retiring age as reduced under the section—for example, because of ill-health—may later be re-employed in the United Kingdom again before retiring age. He might then claim that if he had continued to serve, instead of retiring on ill-health, his employment would have continued to be in a scheduled territory, thus earning a further reduction in his retiring age, and that his additional service ought therefore to begin to count not from his actual retiring age, 60, less the reduction already earned when he retired, but from the age which would have been the retiring age if he had continued to serve in a scheduled territory throughout. If such a claim were conceded he would be able to claim re-employed service at, say, 58 instead of 59, and thus retire on maximum pension a year earlier than he should.

The same point has already been dealt with in the Bill in other places where the same doubt could arise—for example, in Clause 1(1), and paragraphs 4 and 15 of Schedule 2. Its application to Section 36 was not then noticed, and it is particularly desirable to set this right since the fact that the point is covered in those other contexts might reinforce the doubt over Section 36 if it were not covered there also. The Amendment removes the doubt by providing that the reference to the retiring age in proviso (ii) to Section 36 shall be construed on the assumption that the officer concerned would have continued his service in the United Kingdom. I beg to move.

Amendment moved—

Page 15, line 38, at end insert the said new paragraph.—(*Lord Shepherd.*)

On Question, Amendment agreed to.

LORD SHEPHERD: I spoke to this Amendment when I moved Amendment No. 1. I beg to move.

Amendment moved—

Page 21, line 14, at end insert—

(" .—(1) In section 4 of the County Courts Act 1924, section 128 of the Supreme Court of Judicature (Consolidation) Act 1925 and section 21 of the County Courts Act 1934 (which apply the Superannuation Acts 1834 to 1935 to certain judicial officers) the reference

to the said Superannuation Acts shall include a reference to section 33 and, subject to sub-paragraph 2 of this paragraph, section 41 of the Superannuation Act 1949 (which relate respectively to the allocation of pension for the benefit of the spouse of a retired civil servant and to injuries and diseases contracted in the discharge of duty).

(2) In subsection (3) of the said section 41, as it has effect by virtue of this paragraph, references to an additional allowance shall include references to a lump sum under section 2 of the Administration of Justice (Pensions) Act 1950 and the reference to Part I and Part II of the said Act of 1949 shall include a reference to section 8 of the said Act of 1950.

(3) Notwithstanding section 118 of the said Act of 1925 (under which certain judicial officers are deemed for the purpose of pension to be permanent civil servants of the State), nothing in the Superannuation Act 1946 or, except as provided by this paragraph, in the Superannuation Act 1949 shall apply to the officers to whom that section applies.")—(*Lord Shepherd.*)

On Question, Amendment agreed to.

Schedule 2, as amended, agreed to.

Schedule 3 agreed to.

Schedule 4 [*Repeals*]:

LORD SHEPHERD: As I indicated earlier, Amendment No. 5 is consequential on Amendment No. 4. I beg to move.

Amendment moved—

Page 23, line 24, column 3, at end insert (" In section 63(1), in the definition of 'superannuation allowance', the words from 'and does not include' to the end.")—(*Lord Shepherd.*)

On Question, Amendment agreed to.

Remaining Schedule, as amended, agreed to.

House resumed: Bill reported, with Amendments.

KENYA REPUBLIC BILL

House in Committee (according to Order).

House resumed: Bill reported without amendment; Report received.

SCIENCE AND TECHNOLOGY BILL

3.22 p.m.

Report of Amendments received (according to Order).

Clause 2 [*Expenses, accounts etc. of Research Councils*]:

VISCOUNT DILHORNE moved to leave out Clause 2. The noble and learned Viscount said: My Lords, may I move this Amendment on behalf of my noble friend Lord Bridges, who I know is in the House; but perhaps we have reached this Bill a little more quickly than he anticipated. This is a paving Amendment, and I know that the noble Lord, Lord Bridges, in the course of moving the Amendment, was going to say that he did not propose to move the next Amendment in his name, as he understood that the noble Lord, Lord Snow, would be moving an alternative Amendment, to the same effect, but in slightly different language. No doubt when the noble Lord, Lord Snow, does move it he will explain to your Lordships the differences between his Amendment and the one tabled by the noble Lord, Lord Bridges. I understand that the substance of the two Amendments—the next one, in Lord Bridges' name, and the one about to be moved by the noble Lord, Lord Snow—is really the same. The present Amendment is simply a paving Amendment for whichever of the two Amendments may follow. I beg to move.

Amendment moved—

Leave out Clause 2.—(*Viscount Dilhorne.*)

THE PARLIAMENTARY SECRETARY, MINISTRY OF TECHNOLOGY (LORD SNOW): My Lords, owing to the absence of the noble Lord, Lord Bridges, I think things have gone a little askew, because although all that the noble and learned Viscount said about a paving Amendment is correct, and I propose to move an Amendment which covers it and a little more, there is also an Amendment standing in the name of the noble Lord, Lord Bridges, on Clause 2. With your Lordships' permission, I think I will go on as though that had in fact been moved.

VISCOUNT DILHORNE: My Lords, I moved the Amendment to delete

Clause 2, standing in the name of the noble Lord, Lord Bridges.

LORD SNOW: My Lords, on the Committee stage the noble Lord, Lord Bridges, raised points on the procedure and processes of administrative control in relation to Government sponsored nuclear physics, and I promised to bring these points to the attention of my right honourable friend the Secretary of State for Education and Science, and I promised that I would make a statement at a later stage of the Bill. This is what, with your Lordships' permission, I am now doing.

In his speech the noble Lord, Lord Bridges, made it clear that he accepted the principle that research into nuclear physics should be grouped with other branches of scientific research for the assessment of the global needs of all forms of scientific research taken together. That, I think, is common ground between us all. The noble Lord's concern was in connection with procedural matters and with the extent of delegation. He was troubled because he had not had precise information on the position after April 1 with respect to delegated authorities. He had reached the conclusion, from such information as he had, that it was clear, or at any rate likely, that the lines of communication would be much longer than they are today. He wished to be assured that under the new arrangements the National Institute's laboratories would not be subjected to a more rigid, more detailed, and in particular, a more time-consuming form of control to the detriment of scientific work in the laboratories which have achieved such notable successes in recent years. In fact, his concern was that the scientific work in these laboratories might suffer.

That, of course, is the Government's concern. Administrative machinery exists in these circumstances for the needs of the scientific work, and is otherwise meaningless or indeed dangerous, and we are happy that our ends should coincide. I am also happy to be able to tell the noble Lord, as I was not able to tell him on the previous occasion, that we are making suitable administrative arrangements. The Science Research Council will have delegated authority to approve projects for grants up to £100,000. The limit of financial obligation of the Science Research Council will be exactly the same as that which has previously been given to the Atomic Energy Authority. The Science Research Council will also have power to authorise the creation of new posts in their laboratories to a level equivalent to Senior Principal Scientific Officer in the Civil Service. The effect of this will be that only the most senior posts require specific approval.

The noble Lord was particularly concerned because he understood that the new arrangements would mean a much more extended series of authorising authorities than hitherto. I can assure him that this will not be the case. Up to now the National Institute has had to get the approval of the Atomic Energy Authority for new capital projects or sets of equipment costing more than £25,000. The Atomic Energy Authority in turn has had to get the approval of the Department and of the Treasury for items of expenditure in excess of £100,000. Under the new arrangements the Science Research Council will take the place of the Atomic Energy Authority. It will be for the Council itself to decide what power should be exercised by its own boards and committees. But I can assure the noble Lord that we are confident that the Council will exercise precisely the same powers as the Atomic Energy Authority, and in the same spirit.

LORD BRIDGES: My Lords, may I first of all apologise for the fact that I was outside the Chamber when consideration of this Bill commenced, and was unfortunately unable to be present myself to move the Amendment standing in my name. May I thank the noble Lord, Lord Snow, very much indeed for the reply which he has given, which I am sure shows that it is his intention, and that of his Department, to carry on the administration of nuclear research when it is transferred to the Science Research Council in the same manner in which it has been carried on hitherto. I thank the noble Lord most warmly for the decision he has come to.

VISCOUNT DILHORNE: My Lords, as I moved the Amendment on behalf of my noble friend, perhaps I am the right person to ask leave to withdraw it on behalf of my noble friend.

Amendment, by leave, withdrawn.

Schedule 3:

TRANSITIONAL PROVISIONS ON REDISTRIBUTION OF ACTIVITIES OF EXISTING ORGANISATIONS

1.—

. . . . . .

4.—(1) Section 2 of the Atomic Energy Authority Act 1959 (which enables pension schemes of the United Kingdom Atomic Energy Authority to extend to staff of the National Institute for Research in Nuclear Science), and, without prejudice to any power to amend the scheme, any provision included in a scheme by virtue of that section, shall continue to apply to officers and other persons employed by the National Institute for Research in Nuclear Science who on the transfer date are by paragraph 1 above transferred to the employment of the Science Research Council, and shall have effect in relation to them as if their employment with the Council were employment with the Institute.

. . . . . .

3.31 p.m.

LORD BRIDGES: My Lords, the two following Amendments are clearly part of the Amendment I am now moving. I do not propose to move them. I understand that the noble Lord, Lord Snow, proposes to put forward a Manuscript Amendment which embodies the sense and many of the words of my Amendment, but in a slightly different form. I beg to move.

Amendment moved—

Page 11, line 28, after ("shall") insert ("(*a*)").—(*Lord Bridges.*)

On Question, Amendment agreed to.

LORD SNOW moved, in paragraph 4(1), after "Science Research Council" to insert:

"and

(*b*) apply to officers and other persons taken into the employment of the Science Research Council subsequent to the coming into force of the provisions of section 3(2) of this Act, to work on activities taken over under that subsection from the National Institute for Research in Nuclear Science whether or not while in that employment they cease to be engaged in those activities".

The noble Lord said: My Lords, this Manuscript Amendment embodies the Amendment proposed originally by the noble Lord, Lord Bridges, in somewhat different words and, for technical reasons, goes somewhat further. The Amendment has been circulated in manuscript form. I am afraid the Amendment sounds remarkably esoteric, but in fact is not so. It has caused some anxious concern in various parts of Whitehall and Westminster.

A NOBLE LORD: The corridors of power.

LORD SNOW: The Government gave most serious consideration to the representations made during the Committee stage by the noble Lords, Lord Bridges and Lord Sherfield, and the noble and learned Viscount, Lord Dilhorne, and other noble Lords, about matters with which this Amendment is concerned. The Government have been strongly of the view that the Science Research Council should have common terms of service for all those whom it recruits to its employment after the Council is formed. It is common ground that existing staff transferred from other organisations will be able to remain under their existing contracts of service; but the general principle that an employing organisation should not offer better terms to some of its employees than others for comparable work still seems to us to be of great importance for the contentment of the new staff in the longer term. However, the Government accept the force of the arguments put forward by noble Lords, that the close proximity and long association of the Rutherford Laboratory with Harwell and the Atomic Energy Authority creates special circumstances, and that there might be recruiting and other psychological difficulties.

We accept these Amendments willingly for we know that the noble Lords have been speaking not only with the weight of their own experience but with the weight of the experience of those who actually do the work—the weight of experience of scientists actually being employed. No Government can lightly ignore the feelings of scientists, old and young, and therefore we most willingly accept the force of these arguments. We have therefore decided that the Science Research Council should be authorised to recruit new staff to the Rutherford Laboratory on terms which would enable them to be members of the Atomic Energy Authority's pension scheme if they so choose. They do not intend to apply this measure to the Daresbury Laboratory in Cheshire, which is not in close proximity to Harwell and to which the same arguments do not apply.

The Government are advised that the Amendments to paragraph 4(1) of this Schedule which Lord Bridges originally moved are permissive and not mandatory.

This is because Section 2 of the Atomic Energy Authority Act 1959 is permissive. Therefore, this Amendment, which I have substituted for that of the noble Lord, Lord Bridges, with his approval, in fact covers a new circumstance as well as the circumstances which he wished to cover. That is, we do not intend to make any difference in terms of employment for men recruited under the Atomic Energy Authority's scheme, which is the scheme in force at the moment at the Rutherford Laboratory, should they go to other employment under the purview of the Science Research Council. This somewhat elaborate Amendment is proposed in order to cover that point. I beg to move.

Amendment moved—

Page 11, line 31, after ("Council") insert the said words.—(*Lord Snow.*)

VISCOUNT DILHORNE: My Lords, I am glad indeed that the Government have taken this course. The question as to the pension rights of those employed by the National Institute of Research into Nuclear Science was raised by Conservative Members during the Committee stage of this Bill in another place on January 21, some time ago. The Government then rejected the proposal, effect to which is now given by this Amendment. The matter was not further considered by another place, because the Report stage followed immediately after the Committee stage, and the Third Reading was also taken on the very same day. When the Bill had its Second Reading in this House on February 4, the noble Lord, Lord Snow, in winding up the debate reiterated the Government's adherence to the decision which this Amendment now seeks to reverse.

The Committee stage in this House took place on February 23, at which stage the noble Lords, Lord Bridges and Lord Sherfield, spoke in support of the Amendment in Lord Bridges's name. A very strong case was made out for that Amendment and we were grateful to the noble Lord, Lord Snow, for saying that he would undertake to look at the matter again. That was, as I say, on February 23. It is now March 9. I am glad indeed that in the time which has passed the Government have made up their mind on this. If I may say so, the noble Lord, Lord Snow, wore his white sheet to-day extremely well. Either solution, that which is in the Bill or that which is proposed by the noble Lord, Lord Bridges, and which is now being incorporated in this Amendment, produces an anomaly. I must say that I think the anomaly following from the proposal of the noble Lord, Lord Bridges, is preferable to the one inserted in the Bill, and it is acceptable to all the staff associations.

It may, and no doubt does, offend the Treasury that some of those now to be employed under the Science Research Council will have different pension rights, and pension rights that they consider preferable to those of others employed by the Science Research Council—and that, I think, is what the noble Lord probably meant when he said that there was anxious concern in various parts of Whitehall and Westminster. But to me, a proposal that employees in the National Institute doing similar jobs should be on different terms of service seems a much greater anomaly, and I am glad, indeed, that the Government now agree.

I should like to congratulate most sincerely the noble Lord, Lord Snow, on winning the battle which he quite obviously has had to fight. I should not, of course, omit to congratulate the noble Lord, Lord Bowden, who I am sure throughout all this controversy has been following closely at the heels of the noble Lord, Lord Snow. It is Lord Snow who has dealt with this matter throughout in your Lordships' House, but of course these new employees are being transferred to the sphere of Lord Bowden, and I have no doubt that Lord Bowden welcomes, and is grateful for, the efforts that Lord Snow has made on their behalf.

We were told by the noble Lord, Lord Snow, on Second Reading that the whole pension system of the Civil Service is being looked into. I am sure that that is a very good thing, and, pending the conclusion of that review, it is satisfactory to think that the employees of this Institute will not be employed with different pension arrangements. I should like to conclude by congratulating the noble Lord, Lord Bridges, on the success that he has to-day achieved, and to express the hope that his success on this occasion may encourage him to table and press other Amendments to this Government's Bills.

LORD CONESFORD: My Lords, may I put one question to the noble Lord, Lord Snow? It is always difficult to deal with a manuscript Amendment, but, if I understand the Amendment correctly, there seems to be a defect in grammar. Should not the word " subsequent " be " subsequently "?

LORD SNOW: My Lords, by leave of the House, may I say that I believe " subsequently " is slightly preferable, though I think I might use either if I were writing a book.

LORD BRIDGES: My Lords, I should like to thank the noble Lord, Lord Snow, very warmly indeed for having given such prolonged consideration to a matter which has been a subject of controversy and which has given rise to a good deal of feeling in Whitehall. I know it cannot be very easy for him to reach this conclusion. I should like not only to thank him very warmly on my own behalf, but to say that the staffs in the National Institute for Research in Nuclear Science will be extremely grateful to your Lordships for having given such full consideration to this matter, and for having arrived at a conclusion which I am sure is not only right on merit but will also lead to much more harmonious and easy working in the future. I thank the noble Lord, Lord Snow, very much indeed for his efforts, and perhaps I may join with him the noble Lord, Lord Bowden.

On Question, Amendment agreed to.

IMMIGRATION AND RACIAL DISCRIMINATION

3.45 p.m.

THE EARL OF LONGFORD: My Lords, with your Lordships' permission, I wish to repeat a Statement which my right honourable friend the Prime Minister is making in another place. It will be convenient if I use his exact words. They are as follows:

> " On the 25th of February I said in answer to the honourable Member for Surbiton that the Government were urgently reviewing various aspects of immigration.
>
> " The Government believe that the problems this country is facing in connection with immigration require an attack on three broad fronts.
>
> " First, it is accepted in all parts of the House that once immigrants are here they should be treated for all purposes as citizens of the United Kingdom, without discrimination. The Government are not satisfied with progress in integrating Commonwealth immigrants into the community, particularly in some of our big towns and cities. This affects a number of Government Departments and I have invited the Parliamentary Under-Secretary of State at the Department of Economic Affairs, my honourable friend the Member for West Bromwich, to make himself especially responsible, in a personal capacity, for co-ordinating Government action in the field and for promoting through the Departments concerned the efforts of the local authorities and of voluntary bodies.
>
> " Secondly, we all agree that we cannot have first and second-class citizens in this country. We must therefore take vigorous measures to prevent racial discrimination. The Government intend to introduce in the very near future a Bill to deal with racial discrimination in public places and with the evil of incitement to racial hatred.
>
> " Thirdly, the House will recall the Statement made by my right honourable friend the Home Secretary on the 4th of February about evasion of the Commonwealth Immigrants Act by people coming from certain Commonwealth countries. My right honourable friend then indicated that the degree of evasion of existing controls was almost fatally eroding the Act. This situation arises from the use of false passports, impersonation, false statements about the purpose of travel to this country, and so on.
>
> Since the Act is not working as was intended, a fresh examination of the whole problem of control is necessary. The Government therefore propose shortly to send a high-level mission, which will include experts in the field of immigration, to consider with certain Commonwealth Governments the problems that have arisen. The function of the mission will be to establish the facts, to examine what can be done to stamp out evasion at source and to discuss whether new methods are needed to regulate the flow of migrants to the United Kingdom."

My Lords, that concludes the Statement being made by the Prime Minister.

VISCOUNT DILHORNE: My Lords, we welcome the appointment of a Minister with special responsibility for co-ordinating Government action and for promoting through the Departments concerned the efforts of the local authorities and of voluntary bodies. We shall be debating this subject to-morrow and I therefore propose—and perhaps your Lordships would think it convenient—to refrain from making any other observations, except one, until we have that debate. I wanted to ask one question of the noble Earl for purposes of elucidation. In the last sentence of the statement he said that the function of the mission will be to establish the facts, and that is preceded by a statement about "almost fatally eroding the Act." Are not the facts in relation to evasion known within this country?

THE EARL OF LONGFORD: My Lords, the figures are, I believe, known; but how exactly all this takes place seems to require some further exploration.

VISCOUNT DILHORNE: My Lords, are those the only facts into which this mission is going to inquire?

THE EARL OF LONGFORD: No, my Lords. I would say that the whole method of dealing with the problem will be examined.

LORD REA: My Lords, I think that this Statement will be widely welcomed. The three points are very good ones. But in relation to the supplementary question of the noble and learned Viscount, is it not a fact that most illegal immigration took place during the Conservative Government's administration?

THE EARL OF LONGFORD: My Lords, I believe that the answer to that is, Yes.

COMMONS REGISTRATION BILL [H.L.]

3.50 p.m.

Report of Amendments received (according to Order).

Clause 1 [*Registration of commons and town or village greens and ownership of and rights over them*]:

LORD MOLSON moved, in subsection (1) at the beginning of paragraph (*c*) to insert "claims to". The noble Lord said: My Lords, I beg to move Amendment No. 1, which stands in my name. The effect of this would be that, in Clause 1(1), paragraph (*c*), the wording would be: the registration of

"claims to the ownership of such land"

instead of: the registration of

"the ownership of such land".

This Amendment arises out of an exchange between the noble Lord, Lord Chorley, and the Parliamentary Secretary on the first day that this Bill was in Committee. We were trying to elucidate the exact meaning of registration. It emerged, after discussion, that the effect of registration under paragraphs (*a*) and (*b*) is very substantially different from registration under paragraph (*c*).

While this matter was under discussion, the noble Lord, Lord Chorley, intervened, at column 735, and said as follows:

". . . several people may be claiming the ownership in regard to this matter. Clearly, in that case the ownership of the land cannot be registered, but the claims to the ownership can be so registered. It seems to me that it would make this subject much simpler, both as a matter of law and as a matter of understanding it from the common sense point of view, if we said 'claims to ownership' instead of 'ownership'".—[OFFICIAL REPORT, Vol. 263 (No. 42), February 23, 1965.]

In reply to that, the noble Lord the Parliamentary Secretary said:

"I agree with my noble friend that what one is really registering is a claim to ownership. It is no more than that, because if you said you were registering ownership you might give rise, unless your language was rather carefully worded and in the right context, to the idea that there was some question of title. There is no question of title involved at all in this Bill, as regards the ownership of land".

The Government have made other amendments to this clause in order to try to make the meaning clearer; and, in

[Lord Molson.]

view of what transpired on the Committee stage, I thought it would be a good thing to put this Amendment down for the purpose of clarification. I venture to hope that it will be acceptable to the Parliamentary Secretary and to the Government. I beg to move.

Amendment moved—

Page 1, line 11, after ("(*c*)") insert ("claims to").—(*Lord Molson.*)

THE JOINT PARLIAMENTARY SECRETARY, MINISTRY OF LAND AND NATURAL RESOURCES (LORD MITCHISON): My Lords, on the substance of the matter I have no dispute at all with the noble Lord, Lord Molson. I agree that what are being registered here are, in effect, claims. On the other hand, I am bound to say that, looking at the rest of the Bill, and particularly at Clause 9, as I propose it should be amended in deference to his views, I think there is no need for this Amendment, and I think it would be better to leave it out of the Bill. This is a purely drafting point, so far as I can see: simply a question of whether we insert it in these terms or whether we do not. I myself think it unnecessary; I am so advised, and I do not want to put words into a Bill unless there is some reason for them. There is no difference between us on the substance of the matter.

LORD HAWKE: My Lords, I do not think that is a very satisfactory reply to my noble friend. For years I have sat in this House and heard precisely that same argument—namely, "Why put it in?—because it does seem to be unnecessary". But in this case the noble Lord himself has said that it is necessary, because he has said that it is a claim, and not a title, that is being registered. Anybody picking up this Act (as it will be) will naturally think that paragraph (*c*) of Clause 1(1) is referring to a title. But it is referring to a claim to a title. The noble Lord says it will do no harm to put in these words. If it will make it clearer, why not put them in?

LORD INGLEWOOD: My Lords, may I support my noble friend? I should have thought that in this case the addition of these two words might make clear beyond all dispute what in fact we are trying to do; whereas, if the drafting of the Bill stays as it is now, it is definitely less clear. Surely we are here to see that the Bill is drafted as clearly as it is possible for us to make it.

LORD MITCHISON: My Lords, this is to some extent, I think, a matter of individual judgment, but my own opinion is that the words in the Amendment would not make the Bill any clearer. Indeed, I think they would make it less clear. We quite understand the difference —now, at any rate—between the question of registration under paragraphs (*a*) and (*b*), which are dealt with in Clause 9 and are, in certain events, conclusive, and registration under paragraph (*c*), which raises the rather troublesome possibility of a conflict with the Land Registry registration and, therefore, carries no conclusive element in it at all.

I can only say to noble Lords that I quite see their point. Everybody looks at this in his own way; but I think that, on a matter of drafting, I prefer, not necessarily my own opinion, but the advice that is given me. If I felt, with the noble Lord, Lord Hawke, that this Amendment would make the Bill clearer, I should unhesitatingly accept it. I can only repeat to your Lordships, with due deference, that we all look at these things in our own way; but, personally, I think—and I am so advised—that this Amendment is unnecessary, and would not clarify the Bill.

So far as one can put one's finger on a question of this sort (it is not too easy always to do it; it is very much a question of one's impression of the language), it would look as though what was being registered was a claim in the case of ownership and not a claim in the other two cases. In fact, of course, at this stage, it is a claim in all three cases; and, though it has a different result, that is all that can be registered. People are always registering claims; and to accept this Amendment would, I think, tempt them to draw distinctions between claims in respect of ownership and something else under paragraphs (*a*) and (*b*). With great respect, I would invite noble Lords who think otherwise to consider whether what is being registered under paragraphs (*a*) and (*b*) is not also, at the date of registration, a claim.

LORD SILKIN: My Lords, at the risk of being told that I really do not understand the question, I am bound to say

that I fail to appreciate that this is simply a matter of language. I think there is a matter of substance here. Whether my noble friend Lord Mitchison wants to give way on the substance of the question, I do not, of course, know, but it seems to me that there is a very big difference between registering claims to ownership and registering ownership itself. I imagine that registration of claims to ownership would involve a much wider class than registration of owners. If the noble Lord, Lord Molson, wishes to register this wider class of person—people who claim to be owners of land, but who may not necessarily be the owners—then there is a difference of substance between the two sides. And I should have thought that in that event the Government were right in wanting to restrict the registration to people who are clearly owners of land, of commons, and not to include also people who may have some shadowy, vague or nebulous claim. So I should have thought that, while the difference between the two sides is substantial, the Government are right.

LORD CHORLEY: My Lords, I wonder if the noble Lord will explain what happens when there are three people all making claims. Are all three to be registered as owners? Obviously not. My noble friend the Parliamentary Secretary conceded this point in Committee stage, and I should have thought he was conceding the whole argument.

LORD MOLSON: My Lords, in reply to the noble Lord, Lord Silkin, I do not think he followed the very long discussions we had at the Committee stage as to exactly what was the meaning of this clause. The point about it is that Clause 1 says that "There shall be registered . . ." and then follow paragraphs (*a*), (*b*) and (*c*). Paragraph (*a*) refers to the land: what land isa common; Paragraph (*b*) to the rights of common over that land; and Paragraph (*c*) to "the ownership of such land". The matter was explained to us, and on my representations the Government amended Clause 9 in order to make it clear that the registration under this Bill of any land as common land or as a town or village green under paragraphs (*a*) or (*b*), shall be conclusive evidence of the matters registered. That does not apply, however, in the case of the ownership of the land.

The Government have emphasised that there is a complete distinction to be drawn between registration under paragraphs (*a*) and (*b*) and registration under paragraph (*c*). This distinction was not apparent to noble Lords in this House. The noble Lord, Lord Chorley, took part in this discussion; and it was he who pointed out, in reply to what the Parliamentary Secretary had said, that what in fact were being registered under Paragraph (*c*) were claims. And the Parliamentary Secretary agreed (in what I have just quoted from his speech on the Committee stage) that what, in fact, were being registered were claims, and that when they are registered they do not constitute any title to the land. For that reason it seems to me to be extremely desirable that we should amend Clause 1 in a way that gives effect in words to what the Parliamentary Secretary himself said was intended. Therefore, in a Bill where our relations have been so extremely amicable all the way through, I am sorry to have to press the Parliamentary Secretary to agree to insert the words which he himself on Committee stage said expressed the intention of the Bill.

LORD MITCHISON: My Lords, I wish I could help noble Lords; but I do not think it is right to accept this Amendment. I believe it is a minor drafting matter. If it were accepted it could lead to consequences of the character which the noble Lord, Lord Silkin, indicated and which I myself mentioned. I do not think it right for me to accept the Amendment, and I do not think the Government ought to do so. If I may say so, with great respect to noble Lords, there really is no point in this Amendment one way or the other. I should have thought it was a matter in which we might, on the whole, take the views of the draftsmen and of those who have been considering the provisions of the Bill at length. There is no question of principle here. If this Amendment is carried, then carried it will be; and there it is! But, as I understand my duties to the House, I ought not to accept an Amendment which I believe, on balance, to be quite a minor Amendment. I should have hoped, on a matter of this sort, that noble Lords would feel that they might not wish to press the Amendment.

On Question, Amendment negatived.

4.7 p.m.

LORD MOLSON moved, in subsection (3)(*b*), to leave out all words after " vested " and to insert:

" in the Public Trustee until Parliament shall otherwise determine."

The noble Lord said: My Lords, I beg to move the Amendment standing in my name, which, in the conversations and correspondence that I have had with the Parliamentary Secretary, has come to be known as the " lacuna ". The Parliamentary Secretary said in the debate on February 23:

" We know the lacuna is there. I respectfully agree with the noble Lord that it would be better if it were not . . . May I add that I think it is a small one?"—[OFFICIAL REPORT, Vol. 263 (No. 42), col. 760, February 23, 1965.]

This Amendment relates to what is provided for in Clause 1(3):

" Where any land is registered under this Act but no person is registered as the owner thereof . . . it shall . . . be vested . . . as Parliament may hereafter determine."

That means that where the owner of common land is not registered and is not found, and under Clause 8 the matter is referred for consideration by a Commons Commissioner, it is to be stated on these registers, which are open for the public to examine, that there is no known owner of the common.

We, the Commons Preservation Society, take the view that it is a very serious thing to have this complete lacuna for a period of time where the register shows no-one as being owner of the land. The Parliamentary Secretary has argued that the lacuna will not last for very long. It must certainly last for something like five years. There is a period of three years for the registration of claims to the ownership of land—if the Parliamentary Secretray will not resent my using the phrase in my speech which I should have liked incorporated in the Bill. Then there is a two-year period in which objections can be raised. The question then arises as to when Parliament will have determined how the land is to vest.

The Royal Commission reported in 1958; and this first preliminary Bill is being introduced in 1965. I may perhaps hazard a guess, based on a certain amount of experience of these matters, that if it had not been for the change of Government and the need for more controversial matters to be completely re-examined, a small and innocuous measure like the registration of commons might not even have found a place in the legislative programme for the present Session. What guarantee have we that, after the register of the land is completed, the next and much more difficult, complicated and controversial legislation will be introduced at once? The Parliamentary Secretary has emphasised that before deciding in what bodies these unowned commons are to be vested it will be necessary for the Government of the day to consider the matter very carefully. It does not in the least follow—in fact, it is probably unlikely—that all the unowned commons will be vested in the same persons. Therefore, it is impossible for us to feel any confidence that this new legislation will be introduced and passed very soon after the lapse of five years. As a result, the period during which these commons will be publicly registered as without owners may last quite a considerable time.

The Parliamentary Secretary has also said that he does not think that the fact that there should be no owner during this period of the lacuna, be it brief or long, is going to be as serious as others think. He himself mentioned in his Second Reading speech that in the course of the last century something like half a million acres of common land in England have been lost, and that all that could not have taken place in accordance with the law of the land. Obviously, if there have been such encroachments in the last hundred years, when it was not publicly stated that there was no owner and when at any time the real owner might have turned up to defend his rights, encroachments are likely to take place much more rapidly during the period of lacuna, when it is known that no one is claiming the ownership of the land.

At the present time, outsiders are taking valuable material away from the commons. Recently, there was a case of turf and timber being removed from Dartmoor. The police consulted the Commons Preservation Society as to what measures they could take. They considered that it was impossible for them to take action under The Mischievous Damage Act without the concurrence of an owner, and the owner was unknown. Therefore it appears to us that to have the fact registered that there is no owner is going to be a serious matter. We think

that some steps should be taken to preserve these commons during the period of the lacuna.

The Royal Commission recommended that these commons should vest in the Public Trustee but, for reasons I need not repeat, after considering the matter the Commons Preservation Society did not think that he was entirely suitable for that purpose, and on Committee stage I moved an Amendment to create the position of a Custodian of Common Land. That did not commend itself to the Parliamentary Secretary. My noble friend Lord Hurcomb suggested that it might be vested in the local authorities. The Parliamentary Secretary undertook to give careful consideration to this matter with his advisers and see whether it would not be possible to do something to cover the period of the lacuna.

As on Report Stage there is no such Question as "That the clause stand part", I have put down an Amendment to go back to the original recommendation of the Royal Commission and vest these unowned commons in the Public Trustee, not because I think that that is an ideal solution but because it is essential that there should be somebody able to protect the rights of the owners of commons and of commoners during this intervening period, which may not be very brief and will certainly be one of great danger to the commons. I hope that by now the Parliamentary Secretary will have been convinced that this is an important matter and that perhaps he will go some distance towards meeting our representations. I beg to move.

Amendment moved—

Page 2, line 6, leave out from ("vested") to end of line 7 and insert ("in the Public Trustee until Parliament shall otherwise determine.").—(*Lord Molson.*)

4.14 p.m.

LORD MITCHISON: My Lords, I hope that I can save the time of the House by speaking now to this Amendment. May I first correct the noble Lord on one point? This Bill was introduced not because we have nothing better to do pending further legislation; it was introduced because this was a matter which had been thoroughly investigated by a Royal Commission and had the blessing of two Conservative Ministers of Agriculture, but over a number of years they had done nothing about it. We thought that it was time to do something. That is the real reason why this Bill is before the House.

Having been contentious so far, I think I need go no farther down the road of contention. I do not think I invented the word "lacuna"—I hope I did not, because I do not like it very much. There are two points here. The first is that under the Bill the ownership of town or village greens, when the owner has not appeared, goes into the hands of the local council. Commons, on the other hand, do not, and their fate is left for Parliament to determine later—that is to say, in the second stage of legislation that we have all had in mind. Consequently, it is true to say that at some time—and I will come to exactly when in a minute—there will be no known or apparent owner of these commons. The reason why I do not think that this problem is so formidable is partly that this state of affairs has gone on for a long time, and though there may not have been a formal decision in many cases it would have been known that there was no owner or no recognisable owner.

The object of the remarks of the noble Lord, Lord Molson, and other noble Lords on Committee stage is slightly different. It is not so much a question of an owner as the need to have someone who may be able to exert the rights which an absent owner is not there to exert, particularly in connection with preventing encroachment, the taking of turf and other kinds of disturbances to the common. It is true that there are considerable powers in this respect already in the Law of Property Act and other legislation—for instance, as regards caravans. I do not need to go into that. But I think that what was said on Committee stage had some force in it—that the apparent absence of an owner might make it difficult for anyone to exercise the powers it was intended should be exercised by somebody. I need not go into the degree of damage that might be so caused.

I must say that I am much indebted to the noble Lords, Lord Molson and Lord Hurcomb, and to the members of the Commons, Open Spaces and Footpaths Preservation Society who came to see me yesterday. We had a long talk

[Lord Mitchison.]

about this matter. This is the kind of thing where some practical experience of what goes on is very useful, and there is no doubt that all these gentlemen have considerable practical experience of this problem and desire to apply their experience in the public interest. I hope I shall not be felt to be prejudiced in any way by having been at one time a member of the Executive Committee of the Society when I say that they are one of the bodies whose co-operation, not only in this Bill but also in the second stage legislation, we are anxious to have.

I think that the right way of dealing with this—and I believe we all finally agreed on the matter—is to leave the question of ownership in the Bill (there would be serious difficulties in doing anything else), but to enable someone to step into the shoes of the absent, or apparently absent, owner on questions of prosecution or proceedings to restrain encroachment, pilfering and various other damage that can wrongfully be done to commons.

What we therefore agreed on among ourselves—it is in no way binding on your Lordships, of course—was that something to this effect should be drafted and put into the Bill, subject to getting the consent of the people who will have to act in place of the absent owner. Here, again, I think we agreed (I hope the noble Lord, Lord Molson, does not feel there is any breach of confidence in my saying this: I am glad to see his indication that he does not) that the right people were the registration authorities.

This discussion took place only yesterday; I have not yet had the opportunity of consulting the registration authorities, and I have had some legal points put up to me upon which I am not in a position to pronounce now. Therefore, I have been unable to put down any Amendment on the Marshalled List—indeed, I should have been too late to do so—and I cannot absolutely promise that I can get it done in time for Third Reading in your Lordships' House, but I do say, on behalf of the Government, that we will carry out the promise then given. We will do it if we can in this House, but, if not, we will do it in another place. We will do it as quickly as we can. On the other hand, there is no point in getting this wrong in trying to hurry too much. I must repeat what I said just now: that I think it is not only courteous but necessary in this case to take the views of the county councils and the county boroughs, and particularly the county councils, through their Associations. We have not yet had time to do this.

I want to be clear as to what we are proposing to do. First of all, there is the question of time before the gap, the lacuna, or whatever one calls it, begins. You cannot do anything until the end of the registration period, because the owner may come on the last day of the three years and say: "Here I am. I am the owner." He may be right; and whatever his reasons for the long delay, the only penalty will be that he will incur an expenditure of £5, which he would not have incurred if he had come earlier. Accordingly, that is the earliest moment.

One suggestion made was that if after that the matter went, as it will go under Clause 8, to a Commons Commissioner, one ought to wait until the Commons Commissioner had adjudicated on it. Having thought it over, I do not think that is necessary. Of course, if and when the Commons Commissioner finds the true owner, the functions of the local authority as a temporary policeman will cease, because the owner can then fend for himself. Therefore, my feeling is that this ought to begin as soon as the registration period is over; that there ought to be provision for what must happen if the true owner is found by the Commons Commissioner, and it ought to continue until "Parliament otherwise determines", which is the phrase in the Bill used to indicate the second stage legislation that we all have in mind. I do not think there will be any difficulty about that.

But there is the second point. I used the word "proceedings", and my present impression (I did not go beyond this in speaking to noble Lords and the representatives of the Society yesterday) is that this ought to be confined to criminal proceedings. I think that if you try to deal with civil remedies in this way you get into other difficulties. As I have said, I still have to take full advice about this matter, but that is my present opinion, and I should not wish to give any promise to go beyond criminal proceedings, whatever they are for. I hope I have made myself clear.

I have certainly tried to thank both noble Lords who came to see me and the officers of this Society, not only for coming, but for what they have done to improve the Bill.

Before I sit down, I would say one thing which really arises on this Amendment. It is my firm belief that everyone in this House, or practically everyone, really wants this business of commons to be dealt with; that, apart from minor questions on the form of this Bill, and apart, too, from what may be rather more serious differences of opinion when we come to the second stage, we still share a common determination to deal with a matter which has been left for far too long (I am not talking of Party politics over the last few years, but about centuries), and which has resulted in the loss of a large number of acres of our commons which can be of use to the inhabitants, whether by way of access and recreation or by way of agriculture and pasture. I think we are of one mind over that.

I earnestly hope that, while we conduct our differences in the usual and proper fashion of a democratic society, we shall at the end of the day do all we possibly can to get the co-operation of the people concerned. I do not think this is something which can be done by Parliament or by a Ministry. It depends particularly, perhaps, upon the local authorities, and also upon those men and women of good will who are represented in this and in other societies and who have the amenities of the country of England and of Wales so much at heart. I hope, therefore, that what I have said to-day will enable the noble Lord, Lord Molson, the noble Lord, Lord Hurcomb (if he wishes to speak) and any other noble Lords to be in agreement with this, as I think, reasonable solution of this rather difficult question. One could say more about it, but I think it is a satisfactory solution and that it has been found so by those concerned. In these circumstances, and in view of the promise I have given, I hope that the noble Lord will be able to withdraw the Amendment. I have not dealt with the question of the Public Trustee and the Custodian. There are obvious difficulties there which I think the noble Lord recognises.

LORD MOLSON: My Lords, I should like to thank the Parliamentary Secretary very much indeed for the reply which he has given. He said when he rejected one of my Amendments on the Committee stage that he felt "an awful beast". I then said:

> "I noted with great satisfaction that the Parliamentary Secretary felt that he had been rather a beast to me. I hope that he will not forget that he feels he has been a beast, when some of the more important Amendments I have put forward are considered on Report stage, and that he will take action in order that I may be able to say that he has not been a beast, but the kind of friendly, conciliatory and statesmanlike Parliamentary Secretary I really believe him to be."—[OFFICIAL REPORT, Vol. 263 (No. 45), col. 1120, March 2, 1965.]

He has come up to my expectations and has shown himself to have all those merits.

I would only say, in a sentence, that I hope he will look carefully at this matter of civil remedies. In the case of commons, largely as a result of the great building programme, both for houses and also for roads, the illegitimate quarrying of sand, gravel and stone can be extremely profitable to wrongdoers. It may well be that a small criminal prosecution will not prevent people from engaging on a large scale in what can bring in a very large sum of money. I know the Parliamentary Secretary will discuss this matter with his legal advisers, and if it is found to be desirable to extend it into the civil realm, perhaps, in some particular cases, I am sure that he will do so. But in view of his most sympathetic reply, which covers the main point of my Amendment, I beg leave to withdraw it.

Amendment, by leave, withdrawn.

Clause 2:

Registration authorities

2.—(1) The registration authority for the purposes of this Act shall be—

(*a*) in relation to any land situated in any county or county borough, the council of that county or county borough; and

. . . . . .

except where an agreement under this section otherwise provides.

. . . . . .

4.30 p.m.

LORD GRIMSTON OF WESTBURY moved, in subsection (1)(*a*), to leave out the words "county or" where they first occur. The noble Lord said: My Lords, I rise to move Amendment No. 3. The

[Lord Grimston of Westbury.]

other Amendments on the Paper standing in my name are consequential on this one. Your Lordships may remember that we discussed this matter in Committee, and that these Amendments raise the issue as to whether the registration authorities are to be the county boroughs and the county councils, or whether they should be the smaller authorities, the boroughs and the county district councils. The boroughs, of course, are mentioned in the Amendments in the name of my noble friend Lord Ilford.

During the Committee stage the noble Lord, the Parliamentary Secretary, while making it perfectly clear that he adhered to the view that the registration authorities should be the larger bodies, nevertheless said that he would be prepared to think about the matter again, to see any deputations which cared to see him, and that in those circumstances we might like to withdraw the Amendments on Committee stage and put them down again on Report. That is the course which we have followed. I should like to thank him for the great courtesy he has shown, and for the time he has spent in seeing a deputation and obviously considering this matter again. I rather hope that perhaps we have shifted him a little, because on Committee stage he said:

> "If we allowed these Amendments, the difficulty would be that the Bill would not work".—[OFFICIAL REPORT, Vol. 263 (No. 42), col. 750, February 23, 1965.]

I rather hope that we have shifted him off that particular pedestal and made him come to the conclusion that the matter is a question of balance and of coming down on the right side.

I do not wish to go over all the arguments again, but briefly I would put it like this. The smaller authorities can do the job. In the main they have the staffs for it—in fact, pretty well all of them have the staffs for it—and they already do similar sort of work. I am advised that in no case will an extra grant be required, so there is no question of more money being required for this work. There is no doubt that if the smaller authorities are the registration authorities, it will be a far greater convenience to the local people. Instead of having to go miles to the nearest county hall, they will be able to deal with their own local council office to which they are accustomed to go in connection with local matters.

That is all on the one side. On the other side, it is true that if these smaller authorities are made the registration authorities there will be far more of them—we concede that point—and it will not be so convenient for the Government Department concerned. They will have to communicate with more authorities than they would otherwise have to do. But I suggest to your Lordships that if there is any sort of principle involved here of the convenience of the public, and so on, Departmental convenience is not a consideration which should weigh heavily with your Lordships.

There is another consideration which I would venture to put to your Lordships. We are living in times when more and more work is being taken away from the smaller authorities and put with the larger ones, and local government is becoming more and more removed from local people. Here is a chance to give to the smaller local authorities a job which they can do. It is a chance—I would put it in this way—to strengthen representative government at its roots. I suggest to your Lordships that that is a consideration which should have great weight, and certainly against any question of convenience for a large Government Department.

I do not wish to detain your Lordships, because we had quite a long debate about this point on the last occasion. There is no conceivable Party issue involved in it, and I would conclude by again thanking the Parliamentary Secretary for the time and courtesy he has shown in listening to us, and express the hope that, having shifted him so far, we shall during this debate be successful in shifting him the whole way, and that he will eventually accept our Amendments. I beg to move.

Amendment moved—

Page 2, line 10, leave out ("county or").—(*Lord Grimston of Westbury.*)

LORD INGLEWOOD: My Lords, before the Minister replies may I ask him one question? I am sorry that I was not here at the earlier debate. Would it be possible, if the wording in the Bill remains as it is, for a county council to delegate to the county districts the actual

job, rather in the
with planning orders?
work of the registration
ights is going to be uneven
nout the whole county, and
ough there are some country districts which may have the staffs (and I think they are not all so over-staffed as the noble Lord has led us to believe that they can take on extra work) and where the work of registration may not be very heavy, there will be others that will have a far bigger task and may be less well equipped to do it. Consequently, my feeling is to prefer the words of the Bill, rather than the words my noble friend is proposing. On the other hand, I should like to feel that there was a power in the Bill for a county council, where it felt the work was going to be done better by a district council and that local contacts would be better maintained, to allow the actual routine to be done by the district council.

LORD MITCHISON: My Lords, would it be convenient if I answered that question, and then asked the leave of the House to speak again? The responsibility under the Bill rests with the registration authority; that is to say, with the county councils and county borough councils, and they cannot divest themselves of that. On the other hand, as a matter of practice I should have thought there was little doubt that they would have to ask for the help of the district councils. I give that point to noble Lords opposite who have been speaking on the matter.

LORD INGLEWOOD: In other words, act as sort of agents.

LORD MITCHISON: Yes. It is an informal sort of arrangement which has already happened to a considerable extent. Your Lordships will remember that the Royal Commission Report contains a good deal of information, and I think it appears in the Report that that information was collected from, or through, the county councils. In collecting that, they clearly had to go, at some points, at any rate, to the district councils—and, indeed, to the parish councils, and to various other people. Somebody pointed out at some stage during the discussions (it was perhaps not in the House but elsewhere) that they also went to the county archivist. There is no delegation to him, but they collected the information in that way. I hope that I have made myself clear.

4.40 p.m.

LORD ILFORD: My Lords, the two Amendments, Nos. 4 and 7, which stand in my name on the Order Paper and which we shall reach in a few moments, deal with the same point as the Amendment that has been moved by my noble friend. With the leave of the House, I propose to say what I have to say now and to move my Amendments, when we reach them, formally. As my noble friend has said, this Amendment is identical with an Amendment which he moved at the Committee stage. The same is true of the two Amendments which stand in my name.

The noble Lord the Parliamentary Secretary at the Committee stage invited us to take part in a discussion with him, although I am bound to say he held out little hope that that discussion would result in resolving his opposition. I should like to join in the appreciation which has been expressed by my noble friend of the sympathetic manner in which the noble Lord received us and the patience with which he listened for quite a protracted period to what we had to say. We are most grateful to the noble Lord for that.

As my noble friend has said, the reasons which have prompted these Amendments can be very shortly stated. County districts in fact keep many more registers than the county councils, and they have a registration staff which they consider will be sufficient to enable them to undertake this additional duty of registering of common lands, town greens and village greens under this Bill. They keep the register of local land charges, building by-laws, road charges, improvement grants and outstanding sanitary charges, and, where planning is delegated to them, as it is in most counties to-day, they keep the register of the charges arising under town planning legislation.

It is really much more convenient that these registers should be kept locally than that they should be kept at the county town. If they are at the county town it means that persons who desire to consult them—and quite a large number of people do consult them in connection with sales of land—have to make a journey of perhaps twenty or thirty miles to do so.

[Lord Ilford.]

I should have thought that the registration of common land was essentially a local service. County districts are the authorities which are really local. Councillors and officials are local people; they know the neighbourhood in which they live; and local knowledge is of great value in matters of this nature. It was, I think, because of the general convenience of these registers being kept locally, and not by the county councils, that in 1951 the Stainton Committee on Local Land Charges recommended that the registers of local land charges should be kept by the district councils and that county council registers should be absorbed into them. I do not think that has ever been done, and this Bill provides an opportunity for doing so now.

But there is one reason to which I think some of your Lordships may attach greater importance than to these matters of convenience. My noble friend has already referred to it, and I should like to add a few words. These county district authorities have in recent years experienced great curtailment of their powers. That perhaps has been inevitable, with the growth of the cost of local government, the intricacy of modern social services and the need that they should be administered over a wide area; but it is a process which I think the House has always regretted. I think that your Lordships have always desired, if it is possible to do so, to restore to these truly local authorities some functions which are of value in the administration of the country. Here is an opportunity to do that. Here is something which district councils can do more conveniently for the public, and with less expense than the authority which is proposed.

I should have thought—and I hope your Lordships will consider that this is so—that this is an opportunity to do something to restore to these district councils some measure of the responsibilities which have passed from them in recent years. It is these councils that are really regarded by the public as the true manifestation of our local municipal democracy. The public think of them as their local government unit. The county council in most cases seems too remote, too distant and too detached.

In the course of his reply at the Committee stage of this Bill, the noble Lord the Parliamentary S
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cils and county borough cou
than the very much larger numb
county district councils. That was
argument which filled me with a certain measure of alarm. It would indeed be a poor lookout for local government, particularly for these smaller units of local government, if we were to decide the question of their powers and responsibilities by reference to the convenience of the central departments. I do not desire to add any unnecessary burden to that which is already carried by Government Departments, but one cannot allow those questions of convenience to stand before the much more important considerations of constitutional structure. I hope that your Lordships will take this opportunity to add something to the responsibilities of the county district councils.

LORD MITCHISON: My Lords, I am again grateful to the noble Lords and the representatives of the county district associations, if I may so describe them collectively, who came to see me on this matter. I said to them at the end of the meeting that I remained unconvinced; that I thought they had said everything possible that could be said on behalf of the district councils. Your Lordships will be aware that this is the phrase which is always used by the judge who has made up his mind long ago that you had a hopeless case and is going to decide against you: he always tells you that you have said everything you could say on behalf of your clients. I am sure he means it; at any rate, I do. I am quite serious about that.

This is not the first time that there has been a difference of opinion between county councils and county boroughs, on the one hand, and county districts, on the other, as to where was the right place to draw the line between their respective functions. I do not myself think that analogies are very helpful. I am not sure that the distinction is always a very logical one.

I think the nearest case to the particular matter we are now considering is the survey of footpaths by the county councils a little time ago. Be that as it may, the point to consider is who can do the job best—and here I entirely agree with what both noble Lords said—and

in what way will the public convenience be best served. I must point out that not only is the number of county districts greater, but their variety is greater too. There are very large county districts: one noble Lord spoke about Epsom during the discussion in Committee; that is a large county district. Then you get down to districts with a population of 500 in Wales—and they cannot spare anybody even to count their numbers accurately, I suspect, or we should not get such a rough figure—and 1,500 in England. It comes down to some very small units.

The other trouble is that the very small unit is in process of disappearing. I imagine that the existing boundaries of counties are not now likely to be greatly altered. With all respect to Rutland unless that was the case I do not see how Rutland could have survived. When we have regard to the county districts the county surveys are now in progress, and I think the general trend of the discussion on the Local Government Act, as it now is, was that efficiency was essential in local government, and that some of these districts were rather small for the purpose. It may be said, "That is all right; that will be a means of weeding out people who are unsuitable to become registration authorities". But I do not think we want, in an Act which is going to have a limited duration only, to rely on changes which are going to happen during the actual currency of the Act itself.

The second objection is the sheer number of county districts. This is not just a question of saving postage stamps or postal dues for Government Departments; it is a great deal more than that. We are trying to do a job which, in many ways, may not be too easy, largely because the variety of circumstances is so large in several respects and because we are dealing with cases that have grown old and in many cases grown obscure. It is essential that the registration authorities should be able to keep in touch with the Ministry, and the Ministry with the registration authorities. When you have to keep in touch with 1,350 or thereabouts, county districts, things become a little difficult.

Moreover, we have heard in the course of discussion, I think on this Bill, certainly in other respects, that some of the county councils have been more enthusiastic than others. That is exactly what one would expect. The enthusiastic councils would be ones like those in the North of England and, to take an instance in the South, Surrey, where there are a great many commons. But it is a little hard on councils which have very few, if any, commons, to expect them to take the same enthusiastic interest; and we have to encourage them as best we can. There will have to be quite a variety of circulars, exhortations and so on. Exhorting 1,350 district councils is rather a hopeless task. This is just a matter of common sense, and that is the real difficulty about that aspect of the question.

The problem of numbers has another aspect. Some stout mathematicians among those who came to see me said that there would not really be any difference to the number of cases where a common lies within the area of more than one authority. But I think there must be, because every county boundary is the boundary of county districts, and there are a large number of county district boundaries which are not county boundaries. The more boundaries you have, the more overlapping you get from one area to another. So the number of overlapping cases, if district councils are taken as the unit, is going to be much larger.

It is perfectly true that in the Bill there is a provision for dealing with overlapping—it is in Clause 8—and we had some talk about it in connection with the Malvern Hills, where the area lies within three counties. I do not say that is a wholly exceptional case; but think of what will happen if you have to make arrangements for co-operation, such as you would have to in that case, not between those three counties and perhaps some few other groups of counties but between all the district councils which will be concerned if they are used as the units. Co-operation, the selection of one of them to be the registration authority, would have to be very widespread indeed.

I feel over this Bill that one wants good will, and one wants it very badly. It is surely easier to get it on questions of co-operation and the selection of which authority is to be the registration authority between comparatively large units than between the smaller ones. It is not a question of the inherent wickedness of district councils; I do not believe

[Lord Mitchison.]

that. It is their sheer number and their small size that seem to me to represent the difficulty.

Then it is said, rightly, that if it is a question of the convenience of the individual against the convenience of a Ministry, there is no doubt which must prevail. I have already said I think it is rather more than the convenience of a Ministry. I think, too, when one turns to the individual, that it ought not to be, and I do not think it will be, a case of having to go every time to the office of the registration authority and deal with matters in that way. We have been talking about the Land Registry. There is a very great deal of land registered in the Land Registry. What has to be done there is not, of course, the same as has to be done under this Bill, but there are some points of resemblance. The flock of bewildered landowners who go to the actual doors of the Land Registry and seek to put their troubles in vocal form is, I understand, small if not non-existent. What in fact they do is to use the post and write, and I think that will happen over the commons registers too. It is quite true that there will have to be a lot of searching for information, but that argument cuts both ways. If you have to go to the county town to get your information instead of to the centre of the local district, you will, at any rate, get more information when you get there. You might well be met at the county district with the answer, "Yes, that is true enough here, but you are asking about something which unfortunately concerns the rural district round the corner". Really, to deal with these matters properly, I think the county council is the right size of authority covering the right sort of area.

I am sorry I got on to a pedestal; perhaps I did. I said I thought the Bill would not work if you had to deal with 1,350-odd district councils. I think I am still on the pedestal a bit, but it does not prevent my saying at the end of it that I think it is a matter of balance, in the sense that there are very strong arguments both ways and they have certainly been put very clearly and well on behalf of the district councils. I do not expect I have done so well as regards the county councils whom I have been supporting, I suppose, in this present division. But I think I am entitled to say that the Royal Commission considered this matter and that they had before them a claim, in black and white, from the urban district councils to fulfil just this function, and that they turned it down; that there was thereafter a Working Party under the Ministry of Agriculture which again had to consider this claim, and they turned it down, too. While I would not rest too heavily on authority when perhaps it is really a matter of sense and judgment, I still think that the weight of opinion that has been shown is really conclusive in a matter of this sort.

I hasten to say, even if I repeat a little of what was said on Committee, that I do not myself think that there has been a great shift of balance of work away from the urban and rural district councils to the county councils. I think that Parliament has laid increasing burdens on the councils as a whole. It has given them more and more work to do and taken but little away, and I simply do not believe that there are a large number of people sitting in district council offices waiting for some more work to do. I dare say they could manage this because it is not a very great job; but I think it would strain the smaller ones severely. I would add that they have certainly got a great many responsible and difficult functions already, including, of course—I was going to say their paramount function, but let me say their highly important function of being housing authorities. But this is not the kind of task that they will do so well as the county councils.

I have tried to be fair to all concerned because I do not think this is a matter for more than the usual difference of opinion between county districts and counties. I hope that your Lordships will feel that in this case the balance is in favour of the counties, and that whether you put it on the authority of those who have examined the matter or on the sense and judgment that I hope we all have, one is really bound to come down on that side. I would therefore, I am afraid, feel unable to accept either of the Amendments. I do not know what the movers will wish to do about them, but I hope that they will at any rate accept that we have tried hard to understand and to see their point of view, which personally, in many respects and in other matters, I have often shared.

LORD GRIMSTON OF WESTBURY: My Lords, I would again like to thank the Parliamentary Secretary for the care that he has taken over this, but I am afraid that I remain unconvinced that the balance is in the direction in which he says it is. Therefore, I think the only thing to do is to seek a decision from this House.

5.10 p.m.

On Question, Whether the said Amendment (No. 3) shall be agreed to?

Their Lordships divided: Content, 21; Not-Contents, 32.

CONTENTS

Bethell, L.	Grimston of Westbury, L. [*Teller.*]	Mountevans, L.
Boston, L.	Hawke, L.	Moyne, L.
Brocket, L.	Howard of Glossop, L.	Redesdale, L.
Colgrain, L.	Ilford, L. [*Teller.*]	St. Just, L.
Congleton, L.	Killearn, L.	Somers, L.
Dundonald, E.	Long, V.	Soulbury, V.
Emmet of Amberley, Bs.		Spens, L.
Falkland, V.		

NOT-CONTENTS

Addison, V.	Fraser of North Cape, L.	Segal, L.
Archibald, L.	Gardiner, L. (*L. Chancellor.*)	Shannon, E.
Beswick, L. [*Teller.*]	Hughes, L.	Shepherd, L.
Brown, L.	Inglewood, L.	Silkin, L.
Champion, L.	Leatherland, L.	Snow, L.
Chorley, L.	Longford, E. (*L. Privy Seal.*)	Sorensen, L. [*Teller.*]
Citrine, L.	Merthyr, L.	Stonham, L.
Clifford of Chudleigh, L.	Mitchison, L.	Summerskill, Bs.
Collison, L.	Morris of Kenwood, L.	Williams, L.
Crook, L.	Phillips, Bs.	Williamson, L.
Forster of Harraby, L.	Robertson of Oakridge, L.	

Resolved in the negative, and Amendment disagreed to accordingly.

Clause 9 [*Effect of registration*]:

LORD MITCHISON: My Lords, this Amendment is one that I promised to make in these terms during proceedings in Committee. It is to make it quite clear that the rights referred to in this clause are those of common. I have always thought that the clause was clear enough, but it did not seem so clear to other noble Lords, including one noble and learned Lord. I felt that it was much better to meet any difficulties and to have the matter made perfectly clear to everyone. The Amendment therefore has the effect of ensuring that in Clause 9 the two categories which are conclusive evidence shall be those described as (*a*) and (*b*) in Clause 1 and not the category of ownership in paragraph (*c*). I beg to move.

Amendment moved—

Page 6, line 5, after ("rights") insert ("of commons").—(*Lord Mitchison.*)

On Question, Amendment agreed to.

POOLE CORPORATION BILL [H.L.]

The CHAIRMAN OF COMMITTEES informed the House that the opposition to the Bill was withdrawn: the Order made on February 11 last Discharged, and Bill committed to the Committee on Unopposed Bills.

House adjourned at a quarter past five o'clock.