

Lord Bach moved Amendment No. 131:

Before Clause 58, insert the following new clause—

"CRITERIA FOR DESIGNATING NATIONAL PARKS

(1) In section 5 of the National Parks and Access to the Countryside Act 1949 (c. 97) (criteria for designating National Parks), after subsection (2) insert—

"(2A) Natural England may—

(a) when applying subsection (2)(a) in relation to an area, take into account its wildlife and cultural heritage, and

(b) when applying subsection (2)(b) in relation to that area, take into account the extent to which it is possible to promote opportunities for the understanding and enjoyment of its special qualities by the public."

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(2) The amendment made by subsection (1) applies for the purposes of the confirmation or variation on or after the day on which this section comes into force of orders made before that day as it applies for the purposes of the confirmation or variation of orders made on or after that day."

The noble Lord said: My Lords, this group of amendments arises from a recent High Court judgment that is known as the Meyrick judgment. Government Amendment No. 131 will restore to the legislation the meaning which the Government and others had always understood it to have prior to the judgment being given. Amendment No. 133 is a purely stylistic change consequent on Amendment No. 131. Since Amendment No. 131 will introduce a new clause before Clause 58 which contains the first and full reference to the National Parks and Access to the Countryside Act 1949, subsequent references need do no more than refer to the "1949 Act". We do not need to worry about Amendment No. 133.

Amendments Nos. 132 and 170, tabled by the noble Baroness, Lady Byford, would consolidate the Meyrick interpretation by enshrining it in primary legislation. I can inform the House that my department has just learnt that it has been granted leave to appeal to the Court of Appeal in the Meyrick case. Lord Justice Keene stated:

"The grounds are properly arguable and, in any event, raise issues of importance which ought to be considered by the Court of Appeal".

But let us put that on one side for the moment and deal with the issues in Parliament.

The Meyrick judgment dealt with the criteria in the National Parks and Access to the Countryside Act 1949 that are used when deciding whether land should be designated as a national park. By treating the land in dispute in isolation from the rest of the New Forest in which it lies, the judgment was quite at odds with what the 1949 Act intended and with how it

has been applied over the years. For example, on the natural beauty criterion, Meyrick stated in relation to the land in dispute,

"well-maintained historic parkland providing the setting for a grade 1 listed building, and well-ordered dairy fields of dairy farms would seem to be the antithesis of naturalness".

Yet we know that such land features strongly in the existing national parks. One need look no further than the Chatsworth estate for an example of an historic house and parkland forming an integral part of a national park—in that case, the Peak District. The Chatsworth estate does not sit in isolation, but forms part of the extensive tract of diverse countryside, recognised for its natural beauty, that is the Peak District. And one need look no further than the Council for National Parks website to see that farmland of all kinds—not just dairy land—makes up an important part of our existing national parks. Agricultural land makes up 54 per cent of the Peak District National Park, for example.

Without further case law, one cannot be sure how far the ramifications of the Meyrick judgment might extend. But if parkland and dairy farms are not to meet the natural beauty test, what of arable land or woodlands, or indeed any land that has an orderly or

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managed appearance? If all those elements previously thought to form part of natural beauty—flora, fauna, geology, physiography—are now to be stripped out of the definition, what does that do to our concept of a national park?

5.30 pm

I could bring forward evidence in support of our claim that the Meyrick judgment is not consistent with established practice, by which I mean the method used to settle the boundaries of the eight national parks in England and three in Wales that were designated in the years following the 1949 Act. That Act implemented the 1947 report of the National Parks Committee, which recommended the areas that should be considered for designation and the arrangements for their administration. It included eight points, which it introduced with the words,

"The following considerations should in our opinion be taken into account in the precise definition of national park boundaries".

This is the first consideration:

"The first criterion should be the inclusion of areas of high landscape quality".

I pause to point out that there is no reference here to relative naturalness. The second consideration was to be,

"features of scientific historic or architectural value (e.g. nature reserves, important archaeological sites and ancient monuments) which are situated on the margins of a national park should be included where practicable".

Far from being ineligible for designation, we argue that it is more in keeping with the original 1947 intentions to include wildlife and historical sites on the boundary.

Further commentary on the intended operation of the 1949 Act was added by the Sandford committee in 1974 and the Edwards committee in 1991, which was adopted as government policy in circular 12/96. That 1996 circular noted that the Edwards committee had not recommended any change to the statutory criteria for designating land, but went on to endorse the committee's formulation of what it termed "the essence of national parks", which it described as,

"the striking quality and remoteness of much of their scenery, the harmony between man and nature it displays, and the opportunities it offers for suitable forms of recreation".

The conclusion I am asking the House to make is that the criteria for withdrawing national park boundaries have always been based on the combination of the concise words used in the 1949 Act and the commentary on them contained in administrative documents such as the ones I have mentioned. The Meyrick judgment has substituted a new commentary, which, if we do not change it, whether on appeal or within this legislation, will trump a long line of such reports going back to the 1947 report of the National Parks Committee.

Looking at the wider implications of the judgment, our concern is not just about national parks. National parks share the same test, as far as natural beauty is

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concerned, with areas of outstanding beauty. AONBs were also introduced in 1949 to conserve those landscapes that had the same outstanding qualities of natural beauty but often, because of their more intensively farmed nature, did not offer the same opportunities for public recreation. They cover areas, as the House will know, such as Dedham Vale—Constable country, of course—the Kent Weald and the Cotswolds. The implications of the Meyrick judgment to them are potentially even more significant. The Countryside Agency has no area in the process of being designated as an AONB, but it is regularly asked by local authorities and others to review the boundaries of an AONB. If that were done without the amendments brought today, it would radically change the basis for considering AONB designations, and could reduce sharply the level of protection afforded to our most cherished landscapes.

On a broader point, a requirement in Section 17 of the Agriculture Act 1986 for the Minister in discharging any functions connected with agriculture in relation to any land is to take into account, among other things,

"the conservation and enhancement of the natural beauty of the countryside".

It seems unlikely that it was intended to exclude dairy farms from this requirement.

We do not accept the Meyrick concept of what a national park should be, or the learned High Court judge's definition of "natural beauty" as expressed in that case, which would be applied to AONBs. As I say, we have just received news that we have leave to appeal, but we want to take this opportunity to clarify the 1949 Act as the preferable and clearer route to dispel the uncertainty that has been created. I shall talk about our Amendment No. 131, which will

clarify the interpretation of the criteria in Section 5 of the National Parks and Access to the Countryside Act 1949 for a national park, and return its interpretation to how I argue it was generally understood prior to the Meyrick judgment in the challenge to the New Forest national park designation confirmation order. As I have argued, the former understanding can be traced back over the past 56 years.

The amendment addresses the interface between the national park purposes and the criteria that are used for deciding whether land should be designated. We had always understood purposes and criteria to be two sides of the same coin, but the Meyrick judgment said they were not connected, with the purposes coming into play only after designation. The amendment addresses that issue by adjusting the wording of the criteria to include, "for the purposes", to make it clear that national park purposes are behind them.

New Clause 97, which I am afraid I mistakenly moved in Committee, but which I intended to retable with identical wording on Report once further work had been completed on the criteria amendment, addresses the degree of naturalness needed to meet the natural beauty criterion. It does so by providing that certain factors need not preclude a finding of natural beauty, and will apply to areas of outstanding natural

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beauty as well as the national parks, and in other contexts. It takes into account the fact that no landscape in the United Kingdom has escaped human influence, and I hope Clause 97 will remain part of the Bill.

I remind noble Lords that the Countryside Agency must consult widely before making a national park or AONB designation order, and that any local authority objection would trigger a public inquiry. That inquiry is before an independent inspector who hears evidence on the merits of the designation and scrutinises every length of proposed boundary in detail. This public inquiry is the correct forum in which to consider complex judgments about whether a particular piece of land meets the criteria for designation. Our amendment to Section 5 of the 1949 Act criteria merely ensures that the inquiry can consider the full range of matters that have been considered in previous designations since 1949. It does not prejudge the outcome in any particular case.

I know several noble Lords are concerned that our amendments will make it in some sense easier to designate national parks and therefore lead to a new wave of designation. My reply is that our intention is to return the criteria to where we believe they were before the Meyrick judgment. Let us examine briefly what happened pre-Meyrick. In the past 50 years in England, there have been just three areas considered for national park status: the Norfolk and Suffolk broads, the New Forest and the South Downs. All three of those areas were proposed as national parks in the 1940s. No decision has yet been taken on the South Downs. Of course I cannot commit future governments, but on this evidence the application of the pre-Meyrick interpretation did not lead to a steady stream of fresh proposals; indeed, quite the reverse. I think that is where I should sit down and let the noble Baroness speak to her amendment.

Baroness Byford: My Lords, I am grateful to the Minister for going so carefully through the reasons why the Government have come forward with their amendment and I will try and do the same with ours, because obviously there was a disagreement over where these criteria for national parks should be. I have again listened carefully to what he has said, but we still have serious reservations and oppose his Amendment No. 131 in favour of our Amendment No.

132. At the beginning I would like to put on record—again—that we support national parks. There has been a view that perhaps we are a party that does not believe in or support national parks. The Minister is shaking his head. Quite rightly, he knows that is not true, but, in case anybody following this discussion later on should be in any doubt, I would like to clarify that before I start.

I believe that in 1947 the Hobhouse report came before Parliament. Two years later, the 1949 Act was passed through the House. For whatever reason, the criteria it contained were not included on the face of the Bill. The Minister may want to comment on that. The fact that farmed and managed land has been

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included in our national parks without challenge is, in fact, a strength of the present arrangement as this has been done in a voluntary fashion.

I turn now to my Amendments Nos. 132 and 170. Noble Lords will be aware of the substance of my first amendment on criteria for the designation of national parks. Amendment No. 170 goes very well with Amendment No. 132 as it is to do with the terminology "natural beauty" and probes the Government's precise meaning of that phrase. I have to say I was disappointed in Committee; first, that we were not given the proper opportunity to debate the government amendment, which has changed subtly since then. Secondly, I was surprised to see that the crucial clause on the definition of natural beauty was moved, as the noble Lord has acknowledged today, by accident, without a proper debate, but is still to be included in the Bill. I believe it is only fair to put on record that the whole process of the debate on national parks has been a disgrace. We asked for a Committee session in lieu of the failure to have a proper debate on this topic in Committee, but I was told that this would not be tenable. This has left us in a most unsatisfactory state of affairs. As a consequence, if Amendment No. 131 is agreed to, Members in another place will not have debated the national park criteria at all.

Our Amendment No. 132 is very clear. It seeks to clarify, once and for all, the criteria for the designation of national parks and to ensure that they are not widened by the latest suggestion from the Government. Amendment No. 170 backs that up by tightening the definition of natural beauty. In Committee, the Minister took care to state that when it comes to the designation of national parks:

"The intention, and the current practice, is that wildlife and cultural heritage considerations are factored into the natural beauty assessment rather than being free-standing tests in their own right".—[*Official Report*, 27/2/06; col. 79.]

In which case, I wonder why the newly drafted criteria are quite so ambiguous, and further, why, when natural beauty is so central to the designation of national parks, it has a separate definition tucked away at the back of the Bill under miscellaneous provisions.

I am glad that we now have the opportunity to debate these new measures fully. The approach to natural beauty during the debate and via amendments on this Bill has been confusing, to say the very least. The 1949 Act places reasons of "natural beauty", "opportunities . . . for open-air recreation" and the situation regarding "centres of population" on a level playing field. That is what has worked for the past 60 years or so, until the Meyrick case.

Yet proposed new subsection (2A) in the Government's amendment would expand that definition of natural beauty by allowing Natural England to consider "wildlife and cultural heritage" as part of that. The addition of "wildlife" is, at best, nominal. "Natural beauty" has already been extended to include flora and fauna in Section 114 of the Countryside Act 1968. Perhaps the Minister will tell us what he intends to achieve by including "wildlife" into

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a natural beauty clause. Likewise, "cultural heritage" has no clear meaning in the context of natural beauty. It is not defined anywhere else in this Bill.

Clause 97 ensures that even if land is used for agriculture or woodlands or has an area whose flora, fauna or physiographical features are partly the product of a human intervention in the landscape, it could still be treated as being naturally beautiful. Even if it is not naturally beautiful—if, say, the designators are considering Anglo-Saxon burial grounds in the South Downs—it can still be treated as being an area of natural beauty. That land must simply not fall outside the criteria in Clause 97(a) to (c), and could, under existing proposals, be designated as a national park. If that is so, it is hard to imagine any of our countryside that would not come under any of those criteria.

5.45 pm

Our Amendment No. 170 seeks not only to tie in with the suggestion for clearer national park designation criteria, but to follow the legally tried-and-tested opinion of the judge in the Meyrick case, who stated that the current law requires the inclusion in the criteria of,

"a high degree of relative naturalness".

That is quite clear. The judge used the wording of the New Forest landscape assessor, who while acknowledging that none of our landscape was perfectly pristine, stated that the,

"terms of the Act must require a high degree of relative naturalness".

The proposed government amendment to the criteria would rewrite the legal basis for the designation of national parks. It is a change to the 60 year-old legislation, with little or no consultation. Indeed, I understand that the Council for National Parks, the Association of National Park Authorities and the Countryside Agency have been consulted, but surely the Minister and the Government must recognise that consultation must be wider than those three bodies, who stand to benefit most from the widening of the criteria—a question which has not been answered.

A landscape no longer has to afford the differences at the present, as in the 1949 Act, but can be assessed on its future potential for recreation. I quote the Government's amendment that seeks to,

"take into account the extent to which it is possible to promote opportunities",

to promote open-air recreation. That is not limited to the present.

To take a case in point, the deadline for public objection to the designation of the South Downs as a national park was 1 March 2003. Now that the criteria may change, either way,

will the Minister reassure the House that the objection process will be opened up again to enable the public to respond accordingly to the new terms? In the light of the pitfalls facing

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national parks at present, it seems odd that the Government are willing to rush into widening the designation.

We heard on 3 February that the Lake District will sadly have to close its information centres owing to a shortfall in the funds and a lack of increase in the authority which it was expecting. There has also been a recent fund freezing for Exmoor National Park, and what is more, the future of the national park funding from the Environment Stewardship Schemes looks unpromising following the agreed cuts in the ERDP budget at the end of the last year.

There are many other issues I could cover, but I hope I have laid out fairly clearly, for all noble Lords to understand, why we are bringing forward our amendment as opposed to accepting the Government's amendments. I understand that the Minister has said that indeed they have the right to appeal and that has been granted, but I believe it is up to Parliament to make this decision. This subject is complex, both in the way that it comes up in legislation and the range of interests that are affected by national park land. Let me say as I close that it is our intention to preserve the very best of our landscapes by using both areas of outstanding natural beauty and national park status. That can be done by applying them in a way that gives due consideration to the relative qualities and needs of our landscape.

Baroness Miller of Chilthorne Domer: My Lords, before speaking to this amendment I must declare an interest as a vice-president of the Council for National Parks.

I believe that the legislation has served us very well since 1949. When we debated the proposals in the Private Member's Bill of the noble Lord, Lord Renton of Mount Harry, and then under the Countryside and Rights of Way Act, I do not recall that we questioned whether the criteria were right. I think we accepted that the criteria were adequate at that point. We debated a great many issues, but the criteria were not among them.

I support the government amendments. My worry with Amendment No. 132, tabled by the noble Baroness, Lady Byford, is the question of where in England we could find,

"a high degree of relative naturalness".

I do not know Wales and Scotland so well, but perhaps it is possible to find areas there that can display,

"a high degree of relative naturalness".

However, I think that it would be the absolute nail in the coffin for the designation of any more national parks or AONBs in England. Looking at the areas I know best, such as the Holnicote estate on Exmoor—I will not take up your Lordships' time by listing them all—I can think of none that displays,

"a high degree of relative naturalness".

They are all very much man-made areas.

The Liberal Democrats will therefore be supporting the government amendments on the basis that the provisions have served us well. As for consultation,

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I believe that consultation has happened through the updating under the Countryside and Rights of Way Act 2000. It was, of course, the Meyrick judgment which changed the designation issue. When changes are made in that way, absolutely no consultation takes place. Nevertheless these debates have enabled us to air the issues. However, I join the noble Baroness, Lady Byford, in being puzzled that Clause 97 is dealt with under miscellaneous provisions rather than in this part of the Bill. I would be grateful if the Minister could explain why.

Finally, on the funding issue, I say to the noble Baroness, Lady Byford, that it would be tremendous to see always increasing funding for national parks. Realistically, however, the funding levels achieved over the past six years have meant a substantial increase since 1997. While I absolutely accept that several parks have issues about how to deal with all of the pressures with such funding, I do not believe there is a case for asking for greater funding across-the-board for national parks. Exactly how the common agricultural policy is to work out for less favoured areas—upland areas, in particular—will be a critical matter. That does not apply only to areas in national parks, it applies across the board. On funding, that is the sort of area that concerns me regardless of whether it is in a national park.

Earl Peel: My Lords, while supporting my noble friend's Amendments Nos. 132 and 170, I take this opportunity to oppose as strongly as I can government Amendment No. 131 to the 1949 national park Act. In my opinion—and I am sorry to use these words—this is no more than a crude and brazen attempt by the Government to widen the criteria for national park designation. As my noble friend said, that has been done without any proper national consultation whatever. It has profound implications for future designations of national parks and indeed for extensions to existing park boundaries.

The Minister pointed out when moving his amendment that before any new national park could be designated it would require a public inquiry. I accept that. Yet the public inquiry and the decisions that are made will be based on the legislation. If the legislation is changed, then those given that task will clearly have to take that into consideration. So I simply say how much better would it have been if the Government had simply acknowledged that fact and stopped trying to pretend that this is a mere tidying-up operation to help clarify a rather vague and esoteric misunderstanding that happened to lead to a clear judgment against them. As I said, in my view this is a deliberate attempt to widen the designation criteria for national park status. One consequence of that will undoubtedly be the upgrading of the South Downs AONB, despite the fact that such a move has already failed three times. The Minister said that no decision had been made on the South Downs AONB. A decision was not reached because the proposal was rejected three times. For very good reasons; it did not qualify.

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As I said in Committee, I found it deeply unsatisfactory and indeed—and I speak for many others in this respect—discourteous that such a profound change in legislation should be introduced at such a late stage of a Bill in your Lordships' House when the other place has not had the opportunity of giving it the high level of scrutiny that it deserves. The Government

continually remind your Lordships that it is our duty to bend to the supremacy of the elected Chamber, yet here we find them bringing in significant legislation that the other place will not have had an effective means of scrutinising.

The fact that the judgment on the Meyrick case came after the Bill had left the Commons is, to my way of thinking, quite irrelevant. Such a fundamental change in law should require it to go out to full consultation to all the stakeholders whom the Government are always so keen to get involved in such matters and then to come back at a later stage—even with a separate Bill, if needs be—when all relevant interests have been fully considered. I am bound to say that this is yet another example of the Government treating the countryside in a pretty shoddy way.

I turn to the amendment itself. Clearly, the amendments that the Government are proposing to the amendment they tabled to the 1949 Act in Committee place the words "wildlife" and "cultural heritage" as being subsidiary to the existing requirement for natural beauty, which has itself been substantially widened by Clause 97. None the less, that overturns the High Court decision in the Meyrick case, when the judge confirmed that these were irrelevant considerations in designating national parks. Furthermore, the fact that cultural heritage is not defined in the Act further confuses the matter.

The amendment under subsection (2A) to the open-air recreation criterion in the 1949 Act now includes the phrase:

"take into account the extent to which it is possible to promote opportunities"

for open-air recreation. As my noble friend Lady Byford said, that could apply to virtually any land and would certainly embrace all of the existing AONBs. Furthermore, I believe it undermines the special nature of the existing national parks.

From Addison, Dower and Hobhouse to Sandford and Edwards, there remains a common theme—that national parks should be very special areas, wild, beautiful and suitable for public access at the time of designation. The Government clearly want to undermine that principle. To illustrate that further, current government guidance on national parks also emphasises the importance of wildness. It states:

"Particular emphasis should be placed on identifying those qualities associated with their wide open spaces, and the wilderness and tranquillity which are to be found within them".

As I said, however, the Government maintain that they are simply attempting to clarify the law so as to fit in with their interpretation of the existing legislation before the Meyrick judgment. The truth is that, in 2000, the Countryside Agency tried to redefine the law by introducing a new policy on the designation

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criteria, without any consultation, and it was found wanting. So instead of going quietly, the Government are introducing legislation of national importance to comply with the judgment—and to the best of my knowledge, the only body that has been consulted is the Council for National Parks. Well, there's a surprise.

6 pm

There seems to be a view that the creation of a national park automatically results in a widespread echo of approval across the land. It is important not to forget that those whose real homes are in the park, and those who work in those areas, do not always share that euphoria. Designation means higher visitor pressure. It means extra constraints. It means a diminution of local democratic accountability. There are extra red tape and burdens on local businesses and communities, and a local house price distortion in favour of outside purchasers clampering for the distinction of having accommodation in a national park. Indeed, experience shows that in national parks starter homes are few and far between because of the inherent nature of restrictive planning policies. We must be under no illusion. Whereas national park status gives credit to the special nature of the landscape—well, it should do—it always delivers additional constraints to those who wish to make their living there, and such a designation is not always as welcome as some might think.

One further point needs addressing. I have tried to stress that the imposition of a national park designation has profound implications for those who live and work in such areas. However, perhaps we should ask, in contrast, what additional benefits will accrue to the general public from any further national park designations. When national parks were first designated, we lived in a very different world from the one that we live in today. Today, the countryside is littered with a variety of new designations. We have SSSIs, SPAs, SACs and the like. There are government grants for an array of land management schemes—we have entry level 1, entry level 2, and the CAP has moved away from production subsidies to support for land management. That is all good stuff—I love it. There are conservation sites and heritage sites, and the CROW Act offers access opportunities to all open country, with provisions for the Government to extend such areas when deemed appropriate. So can the Minister please tell me exactly what benefits will accrue to the general public should an AONB, for example, be upgraded to a national park? It is incumbent on the Government to spell out in some detail just what benefits will accrue to the public given the additional cost that will be incurred and the diminution of democratic accountability suffered by the local community with the Secretary of State appointing so many non-democratically elected members of a national park board.

These are hugely important issues and I do not believe they can be taken lightly. Given the nature of the amendment, a strong body of opinion feels that the

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Government should withdraw it and come back another day with a clear conscience in the knowledge that the job has been done properly. I know that that is not likely, and in the mean time I have great pleasure in supporting the two amendments tabled by my noble friend Lady Byford. To my way of thinking, they are at least akin to the original designation criteria.

Lord Chorley: My Lords, I start by declaring that I am a vice-president of the Council for National Parks. It so happens that at the weekend I went back to my original copy of the 1949 Act; that is to say, before Section 5(1), the purposes section, was amended by the 1995 Act. The original Section 5(1) is entirely consistent with the criterion section, Section 5(2). They both refer to "natural beauty". It is obvious to me that what happened in 1995 was that either parliamentary counsel thought it was unnecessary to make the words the same in both Sections 5(1) and 5(2), or, dare one say it, Homer nodded.

Amendment No. 131 puts us back to what we thought we had done 11 years ago in 1995. I therefore find it difficult to follow noble Lords—I have particularly in mind the noble Earl, Lord Peel, but also the noble Baroness—who think this is a fundamental amendment—I think "fundamental enlargement" were the noble Baroness's words—and that we are rewriting in haste fundamental national park criteria, purposes and so on. Nor do I agree with the CLA's briefing material on this. It is not true that the Countryside Agency changed its policy for designating national parks in 2000. The judge did not criticise this new policy. What he did was to criticise the definition, or lack of definition, in the 1949 Act. He simply ignored consistent policy from Dower and Hobhouse—in whom I declare a quasi-interest, as my father was a member of the Hobhouse committee—to Sandford and Edwards. I could go on, but others have spoken in the same vein.

I strongly support the Government on Amendment No. 131 and not the noble Baroness's amendment. As the Minister said, all that Amendment No. 132 does is to enshrine Meyrick in the statute book. I can see that there are some who regard the whole concept of national parks as anathema. I do not accuse the noble Baroness of that. However, if that is one's point of view, then one must regard the judge as something of a saviour, for he effectively torpedoed any new national park. We have already referred to the proposed South Downs national park.

What intrigues me is what would have happened if the Hinton estate, the subject of the Meyrick case, had been in the middle of the New Forest. The Minister put his remarks rather better than I have done here in speculating what our existing national parks would have been like if Meyrick had obtained in those days. The Minister mentioned Chatsworth, which is a good example. I immediately think of my part of the world, the Lake District. First, of course, all the towns and villages would be excluded, as would all the parkland, including Muncaster, Dalemain, Lowther and so on, and many other smaller parks. It would not stop there, because almost every major dale consists largely and

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importantly of farmland that depends entirely on the hand of man for its appearance and beauty. That is the whole basis of Wordsworth's poetry. One cannot conceivably argue that the typical lakeland dale exhibits a high degree of relative naturalness. How on earth, for example, would you distinguish between the typical parkland at Dalemain and a farm at the head of Langdale?

The national park, all national parks, would be like a Swiss cheese, with more holes than substance. Any idea of having co-ordinated planning policies involving the totality of the landscape would be blown sky high. I am sure that that is not what the noble Baroness seeks. It is certainly not what Lord Sandford wanted in his report of 1974. He was not only a member of her party, but he was at the time of his report a member of her government.

Lord Monro of Langholm: My Lords, I felt that my noble friend Lord Peel gave valuable evidence to this House of some of the difficulties that arise when a national park is designated. Over the years the 1949 Act has weathered extremely well and the criteria laid down then have been adequate ever since over the 50 years that the Act has been in operation. We tend to forget that if we increase the number of national parks even by three, four or five, it devalues all the national parks. It is important that we try to keep a national park as something very special, to be so designated only if it has exceptional qualities. If one does have a national park designated, one can see and know of the problems that arise. Of course, it encourages a substantial increase in tourism. But that in turn requires facilities, restrooms,

cafes and hotels, better roads and so on—and what was a quiet backwater of beauty sometimes becomes a honey pot of hell. We have to be very careful before we go down the route of creating more national parks. We really cannot have it both ways. If we want to have quiet beauty and the opportunity to tour about in one's car to see the countryside, then we cannot expect it to remain that way if it is designated a national park, with all the developments that take place in parks.

I visited all the national parks when I was the Minister responsible. At the same time I was able to feel some of the tensions between the national parks boards or authorities, the local authority and indeed the government. It was never a very happy relationship. In terms of housing and other facilities, many people felt that by living in a national park, they were hard done by—as the noble Earl, Lord Peel, rightly said. We have to try to find a way forward which allows us to retain our present situation. After all, the AONBs do extremely well. They are easily designated, can be understood by all and sundry, and do not need the detailed problems of planning and local authority involvement that they would need if they became a national park.

One does not like to be political about these things, but one tends to feel that the Government designate national parks because they think it will be popular with the public. When the public think about what happens subsequently, however, they may rather wish

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they were not living in a national park, or that more and more were not designated. In my mind, that goes for Scotland, too, which we are not discussing tonight. I know all the areas under consideration there and the difficulties. Whether we are talking about transmission lines, a windmill, or goodness knows what else, we have to try to concentrate on retaining the beauty of our national parks and not devalue them by making them commercial enterprises so that they can be viable.

Finally, and most importantly, the noble Earl, Lord Peel, rightly put forward the point that we have had no consultation on this very important change. I think the Minister should try to explain why he has not had detailed consultation and why there is no time for it to happen in future. There are, after all, a lot more people in the national parks authorities who want to give their views, including all the wildlife and countryside interests. They have been put to one side and have not been consulted. I believe that the amendment of my noble friend Lady Byford is marginally better than the Minister's and does not make it easier to create national parks.

The Earl of Selborne: My Lords, I declare an interest in that I farm in an area within the proposed designated area of the South Downs national park. I am afraid that I do not like either of these amendments. I cannot support my noble friend Lord Peel because the Meyrick definition of a degree of relative naturalness, enshrined into the criteria, would be far too restrictive. The Minister makes a perfectly sound case to say that, however you define such words, the amendments would exclude some of the national parks which we clearly value in England at the moment. I recognise that the Minister, in trying to clear up what he feels is a maverick judgment in the Meyrick case, is quite certainly adding to the criteria. My noble friend Lord Peel makes that point and I accept it. Unlike him, I am sometimes prepared to accept that new national parks might be an advantage. Indeed, I did something that I am sure he thinks totally eccentric: I opted to have more rather than less of my farm included within the designated area of the South Downs national park. I simply took the view that if we were

going to have it—expensive though it was likely to be—we had better derive the benefits rather than be excluded. I recognise that once you have changed the criteria, there are issues which extend to all people, whether visiting, working or living in these areas. If, on the back of this judgment, we are to slip new criteria into this Bill, it is very reasonable that there should be a proper period of consultation once more. That includes those who may already have been consulted in such areas as the South Downs designated area. I oppose the Minister and I will be abstaining on the amendment of my noble friend Lord Peel.

6.15 pm

Lord Hylton : My Lords, I have to confess to being even more sceptical than any of those who have already spoken on this group of amendments. For a relatively small country, we probably have about

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enough parks and areas of outstanding beauty already. It sounds as if we are finding that we cannot afford the degree of facilities, in national parks, to which we have become accustomed. This happens at a time when, apparently, we cannot afford sufficient nurses to run our hospitals, and when the raising of greater amounts of taxation is widely unpopular. For all these kinds of reasons, it is time to have second thoughts on all these amendments, and perhaps to leave things well alone.

Lord Bach: My Lords, this has been a passionate and very good debate. Emotions run high on this issue. There is a real difference of opinion here and it is much better to acknowledge that than to pretend there is none. I will try to pick up one or two of the questions before concluding my remarks: Why is Clause 97 in Part 9, headed "Miscellaneous"? Because it covers wider issues than those dealt with in Part 5, headed "National Parks and the Broads". Clause 97 covers the definition of natural beauty for nature reserves, AONBs and SSSIs. That is why it is placed where it is in the Bill.

We believe we are restoring the law to what we and others believed it to be before the Meyrick judgment. We are not trying to change the criteria from what we believed them to be before the Meyrick judgement. That is the basis upon which my amendment, Amendment No. 131, is laid. I know that there is some concern—great concern in some quarters—that this has not been debated in the elected Chamber. That is right, it has not been. As the noble Earl acknowledged himself, however, the Meyrick judgment was post the transfer of the Bill from the Commons to this House. It would have been impossible for that to have happened, if this were to be part of the Bill.

The noble Earl also asked what additional benefits to the public there would be with any new national parks. The South Downs is the last area referred to in Hobhouse that is still outstanding. National parks have two purposes. One is the conservation and enhancement of natural beauty and so on, and the other is the promotion, understanding and enjoyment of natural beauty. AONBs have just one purpose—the conservation and enhancement of natural beauty. In our view, AONBs do not provide the same opportunities for outdoor informal recreation as do national parks.

The noble Baroness properly asked why the Hobhouse criterion was not included in the 1949 Act. The Act needed to be flexible in general and did not need to go into detail. She also asked why the new criteria are ambiguous. The meaning of "natural beauty" is not expanded;

it simply clarifies what we already understand it to mean. The word "wildlife" is in our amendment as it helps to determine how landscape is formed. The term "cultural heritage" simply reflects how man has helped to shape landscape through the ages. I would argue that the existing national parks have strongly reflected that in practice, but I remind the House that inquiries have to be held in considering new designations. I was asked whether

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the objection process would be open to the public over the new terms for the South Downs. This could well result in the reopening of the inquiry, and the inquiry inspector will consider what needs to be asked of interested parties.

I turn to Amendment No. 132 in the name of the noble Baroness, Lady Byford. I do not think that the noble Baroness would disagree that it would have the effect of putting the Meyrick interpretation unambiguously into primary legislation. With regard to natural beauty, it would specify that only the physical beauty of the land would be considered and that it would need to have a high degree of relative naturalness. The noble Baroness suggested that it was clear what that meant, but I disagree with her. I agree that the expression used is too restrictive, but what does,

"a high degree of relative naturalness",

mean? That phrase is not defined but I assume that it is intended to remove parkland, dairy farms and any other well maintained farmland from national parks. It would also exclude wildlife and cultural heritage considerations—factors which contribute to the landscapes that we all cherish and which, as I have shown, were certainly considered eligible for inclusion in the 11 national parks designated immediately after the 1949 Act.

Amendment No. 132 would also narrow the second criterion for designation—namely, the opportunities which the land affords for open-air recreation. It seeks to restrict that only to opportunities which the land affords "at the present time"—a phrase which I take to refer to the time that the assessment of a given piece of land is carried out. That could exclude potentially suitable land just because, for example, it did not happen to have a voluntary access agreement in place when the assessment was made and it might preclude the taking into account of the reasonably foreseeable fruits of a national park authority's role in promoting such agreements. What of rights of way that were in very poor condition at the time of the assessment? Would that mean that opportunities were not in evidence "at the present time"? It is inherent in the word "opportunities" that an appropriate degree of looking to the future was intended by the 1949 Act. That point was accepted by both sides—claimants and judge—in the Meyrick judgment. In our opinion, Amendment No. 132 seeks to go well beyond the Meyrick judgment in narrowing the designation criteria for national parks.

As I have said, the Government's amendment, when read together with our new Clause 47, and those of the loyal Opposition offer two quite different visions of national parks. The Government's amendments offer a continuation of previous policies in which national parks contain a mix of land types offering a range of recreational experiences. The contrary vision offered by the Meyrick judgment and Amendments Nos. 132 and 170 is that, in effect, national parks should be a much more exclusive concept. Indeed, it is difficult to disagree with those who have said that it is hard to see any way in which national parks could now be created and that they would perhaps be difficult to find in the

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UK, being made up only of land which is wild and relatively untouched by man and where there is already a high level of access for public recreation. I hope that, of the two alternatives which have been set fairly before the House, your Lordships will prefer the Government's version.

6.24 pm

On Question, Whether the said amendment (No. 131) shall be agreed to?

Their Lordships divided: Contents, 195; Not-Contents, 104.

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Resolved in the affirmative, and amendment agreed to accordingly.

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7.36 pm

[Amendment No. 132 not moved.]

Clause 58 [*Procedure for orders designating National Parks*]:

Lord Bach moved Amendment No. 133:

Page 23, line 29, leave out from first "the" to "as" and insert "1949 Act"