Public Bill Committee

LOCALISM BILL

Tenth Sitting
Tuesday 8 February 2011
(Afternoon)

CONTENTS
Clauses 40 to 56 agreed to.
Schedules 5 and 6 agreed to.
Clauses 57 to 64 agreed to.
Schedule 7 agreed to.
Clause 65 agreed to.
Adjourned till Thursday 10 February at half-past Nine o’clock.
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Saturday 12 February 2011

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The Committee consisted of the following Members:

Chairs: Mr David Amess, † Hugh Bayley

† Alexander, Heidi (Lewisham East) (Lab)
† Barwell, Gavin (Croydon Central) (Con)
† Bruce, Fiona (Congleton) (Con)
† Cairns, Alun (Vale of Glamorgan) (Con)
† Clark, Greg (Minister of State, Department for Communities and Local Government)
† Dakin, Nic (Scunthorpe) (Lab)
† Elliott, Jack (Birmingham, Erdington) (Lab)
† Gilbert, Stephen (St Austell and Newquay) (LD)
† Howell, John (Henley) (Con)
† Keeley, Barbara (Worsley and Eccles South) (Lab)
† Lewis, Brandon (Great Yarmouth) (Con)
† McDonagh, Siobhain (Mitcham and Morden) (Lab)
† Mearns, Ian (Gateshead) (Lab)
† Morris, James (Halesowen and Rowley Regis) (Con)
† Neill, Robert (Parliamentary Under-Secretary of State for Communities and Local Government)
† Ollerenshaw, Eric (Lancaster and Fleetwood) (Con)
† Raynsford, Mr Nick (Greenwich and Woolwich) (Lab)
† Reynolds, Jonathan (Stalybridge and Hyde) (Lab/Co-op)
† Seabeck, Alison (Plymouth, Moor View) (Lab)
† Simpson, David (Upper Bann) (DUP)
† Smith, Henry (Crawley) (Con)
† Stewart, Iain (Milton Keynes South) (Con)
† Stunell, Andrew (Parliamentary Under-Secretary of State for Communities and Local Government)
† Ward, Mr David (Bradford East) (LD)
† Wiggin, Bill (North Herefordshire) (Con)

Sarah Davies, Committee Clerk

† attended the Committee
Public Bill Committee

Tuesday 8 February 2011

(Afternoon)

[Hugh Bayley in the Chair]

Localism Bill

Clause 40

Petition for local referendum

Amendment proposed (this day): 123, in clause 40, page 29, line 10, leave out subsection (2).—(Stephen Gilbert.)

4 pm

Question again proposed. That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following: amendment 81, in clause 41, page 30, line 2, leave out ‘5%’ and insert ‘10%’.

Amendment 82, in clause 41, page 30, line 3, leave out subsection (2).

Amendment 83, in clause 41, page 30, line 3, leave out ‘or lower’.

Stephen Gilbert was in the middle of an intervention on Barbara Keeley, and I take it that it was a short intervention.

Barbara Keeley (Worsley and Eccles South) (Lab): I welcome you, Mr Bayley, and I am pleased to be speaking with you as Chair again. The difficulty with obliging is that it would be hard to do so without any consideration of the subject matter and the financial implications of having a referendum. There is an interplay between such things that is important for the Committee to consider. I do not know whether I should reply my last sentence from this morning, but I was discussing the difficulty at the ward level. If the trigger level for a referendum is only 5%, that would be 400 signatures only. Many of us know that it is not difficult to collect 400 signatures, and that might cause a plethora of requests.

On amendment 82, the Secretary of State takes so many powers that we have to return again to that anti-localist theme. It was interesting that we had some late written evidence from Henry Peterson, who said:

“For this measure, the argument given for central imposition of local arrangements is that ‘local authorities will need to adhere to robust processes’ and hence ‘Government involvement is appropriate.’”

He continues:

“This is not localism. Local authorities are perfectly capable of holding robust referendums, under present legislation, where this is seen as an effective way of airing and deciding an issue.”

This morning, we discussed the fact that Greater Manchester had an effective referendum on whether to implement congestion charging, and I certainly agree with Mr Peterson that, either together or separately, local authorities are “perfectly capable of holding robust referendums”.

He added an interesting thought for the Committee, which was that the Government should contemplate applying the measures to their own workings before imposing them on a local government. It is, however, hard to see why the Government feel that there is a need for the Secretary of State to take a power to set the required percentage of signatures that would trigger a local referendum.

Amendment 83 is an alternative, because it would mean that even if we had a situation where the Secretary of State is taking the power to specify a different percentage, it would have to be higher. If we are querying whether 5% is too low, which we are, it does not seem appropriate to consider measures that would let the Secretary of State make it even lower. As I said, at ward level, 5% of the local electorate is as low as 400 signatures, so it hard to see why less than 5% would be necessary. The amendments are sensible in the context of the current financial restraints on local government, and I hope that the Committee can support them.

The Chair: I call Mr Lewis—Yes, Brandon Lewis.

Brandon Lewis (Great Yarmouth) (Con): Thank you, Mr Bayley. It is an honour to be known by you now and to speak with you in the Chair. I do not want to keep the Committee too long; I just want to outline why we should be completely against changing the threshold.

As I mentioned earlier when I intervened on the hon. Member for Worsley and Eccles South, amendment 81 seems to be extremely inconsistent—I would not go as far as hypocritical—given that the Opposition are suggesting 10% when they, when in Government, had 5% as the threshold for local referendums for directly elected mayors. In my constituency, we had a referendum for such a mayor on the 5% threshold. I understand the hon. Lady’s point that, in some areas, it can be too easy to achieve, and I spoke to people in my area who signed the petition for that referendum with a complete misunderstanding of what it was about. It had been put across to them in a way that was quite different from what it actually means to have a directly elected mayor in a two-tier authority. That threshold is there and it was seen as right by the Labour Government that that would be an appropriate threshold for a local community to consider changing the way it is governed, so why it should be any different for any other issue that might be important to a community is beyond me. Indeed, there are organisations such as Keep Britain Tidy that say that even 5% is too high a threshold. So there are arguments both ways, but I think the Government have got it right this time in keeping the threshold—if there
is going to be one—consistent with that which already exists for directly elected mayors. It makes sense to me to keep it that way.

The Parliamentary Under-Secretary of State for Communities and Local Government (Andrew Stunell): If I may pick up some specific points raised in the debate by way of questioning, I think it was the hon. Member for Worsley and Eccles South who asked about the cost of ward referendums. Obviously the cost depends on the number of electors in the ward, and they are of hugely different sizes across the country, but the evidence we have is that a referendum held at the same time as a local election can cost 50p per head, and if not held with an election the cost is around £1.50 per head. Obviously if there were multiple referendums on the same day you would not have to multiply by £1.50 each time.

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): The Minister will recall the evidence we heard from Sir Simon Milton who quoted figures of a £5 million cost if a Greater London authority referendum was held on the same day as an election, and £11 million if it was held separately. That is a different ratio from the cost figures the Minister has given us of 50p for a ward election held on the same day as an election and £1.50 if held separately. Does the Minister have any idea as to why there should be that discrepancy between the two sets of figures?

Andrew Stunell: I have got a very good idea. There is a significant fixed cost to having any election, so at a ward level the number is different from, let us say, that on a GLA basis. That said, I was going on to say that for instance in Salford, the local authority of the hon. Member for Worsley and Eccles South, the average ward size is approximately 8,300 so the cost would be over £4,000 if the referendum was held with an election, and over £12,000 if held independently. For Birmingham, which has one of the largest ward sizes in the country with an average of 18,500, the equivalent costs are £9,000 and £28,000.

A number of early speakers in the debate talked about the council having the power to vary the threshold. I want to make it clear that a council has no power to vary the threshold. The issue under discussion at that point was whether, having failed to reach the threshold—let us say 4.9% rather than 5% turning out to be the number—the council should have the leeway to say fair enough, it was a good attempt, we will have a referendum on that issue. My hon. Friend the Member for St Austell and Newquay, in moving amendment 123, asked whether we need this provision at all, because, as he quite rightly pointed out, the council—entirely independently of a petition for a referendum being raised—can determine by majority that it is going to hold a referendum in any case. That is obviously the case, but we had in mind a situation where, say 4.9% had been reached but not 5%, there might be scope for argument, even possibly challenge, that despite the council having a separate power it would be convenient for them to have this additional power. I would describe it as belt and braces.

So I say to the my hon. Friend the Member for St Austell and Newquay that in a sense, whether he is successful in defeating me or I am successful in defeating him, it makes no difference to the council’s capacity to hold a referendum on that issue should it choose to do so. However, we believed in bringing the Bill forward that it was right to have a provision that put beyond any doubt the fact that the council, even if the referendum result had failed by a margin, could still go ahead.

Perhaps I could say to the right hon. Member for Greenwich and Woolwich that the brains behind the scenes tell me that the 50p and £1.50 per elector figures are based on recent experience of referendums in Tower Hamlets, and that is set out in paragraph 32 of the impact assessment.

The hon. Member for Worsley and Eccles South said that she thought that 10% would be a safer figure because it would prevent a large number of potentially vexatious and time-wasting referendums from being called. That is somewhat in opposition to what she told the Committee last Thursday:

“Collecting 5% of signatures—if that remains the amount required—will not be easy.”—[Official Report, Localism Public Bill Committee, 3 February 2011; c. 332.]

I do not think that it will be that easy, and I made the point before lunch that I have no doubt that an alert local authority and alert local elected representatives will want to indicate to their communities that they do not have only a referendum through which to get their point across. Our 5% figure, reflecting as it does on exactly the same practice as the previous Government did, is the right one to have.

Amendment 83 would limit the Secretary of State’s power in making variations to the power to make the percentage go up and not down. Perhaps I should first say something about the Secretary of State’s powers, because it is important to understand that we have not included every detail of the procedures, and have made it clear that there is a subsequent process to establish the criteria, which has to be carried out in discussion with local authorities and others who will be directly affected. It seems right, therefore, to retain in the legislation the Secretary of State’s capacity to reflect on the consultation, and on the views and experience over time, and to vary the conditions if that is appropriate.

It was also suggested, I think, that we were trying in some way to replace petitions with referendums, and that somehow weakened the relationship between elected members and the communities they represented. The opposite is the case, and the fact that citizens can have a referendum does not weaken their relationship with their elected representatives. In fact, it strengthens it in two ways. First, by giving people a voice through a referendum there is an incentive for their elected representatives to listen and to engage, and if an elected representative was tempted not to give their community the attention that they should, that community could resort to having their say through a referendum. The fact that they can do that, will incentivise representatives to play a full and active part in exactly what the name says: representative democracy.

Secondly, a referendum can be an effective vehicle though which a community can make clear to their representatives their views on a particular issue. The hon. Member for Worsley and Eccles South and I have both referred to the referendum on congestion charging in Greater Manchester. She referred to it as a binding referendum; it was not binding in a legal sense, but it was in the sense that the authorities that undertook the referendum undertook to listen to the outcome and
Act on it. A non-binding referendum does not require representatives to act in a particular way, but it brings the community’s view loudly and clearly before them, so that they can take their decisions in no doubt at all about the views of the people they represent. In other words, referendums can enhance, not diminish, representative democracy.

4.15 pm

I want to pick up one of the quite understandable points that the hon. Member for Lewisham East raised in the earlier debate, on the applicability and the appropriateness of referendums for all kinds of issues. We do not see the referendum regime duplicating other regimes where people in communities can have their say. Orders under clause 44 allow matters to be excluded from the scope of local referendums. We want to consider carefully what those matters should be.

A number of sensible and appropriate suggestions have been made during the course of today’s debate, and we want to reflect on those. It could well be the case that there is reason for planning to be treated in a different way, because there is scope for representations to be made in a different form. When we get to that part of the Bill and the neighbourhood planning system, there will be ample scope for local communities to make their views clear, not only in a non-binding referendum, but to establish the planning framework for their communities in a binding referendum.

Heidi Alexander (Lewisham East) (Lab): Will the Minister clarify whether, by saying “by order” under clause 44, it is the Government’s intention to exempt planning and licensing applications from referendum?

Andrew Stunell: What I said is that we would carefully consider what matters should be excluded. If I can avoid it, I do not want to get into drawing up a list on the hoof, in Committee. We have heard what has been said, and we will carefully consider how we might proceed, taking account of the views that have been expressed here and in evidence.

Nic Dakin (Scunthorpe) (Lab): It seems odd that we have not got this information before us now. It is putting the cart before the horse. I will give him another hypothetical situation. A community is outraged about its local forest being sold off and there is a referendum on it. What is the point of that referendum? I can understand why a community might be outraged, frustrated and want a referendum. That would give a clear message to their local representatives, but those local representatives knew about the community’s views to start off with. I am concerned that there is reference to information that will be dealt with, when that information should be before us today, so that we can make a proper and correct decision.

Andrew Stunell: I had rather hoped that the Committee would welcome us taking a flexible approach on the points that have been made in debate. It is our intention to carefully consider the matters that have been raised and to come forward with what we would see as the appropriate next steps in due course.

Mr Raynsford: Does the Minister not understand that this is setting out a constitutional concept that is completely alien from the one that should guide our proceedings? We are here to scrutinise this piece of legislation. I fully understand the Minister saying that he wants time to reflect on this. That would have been entirely acceptable if we had a pre-legislative scrutiny phase. He would have had a chance to reflect, and the Bill would have been presented with the detailed provisions for us to consider when debating that Bill. As it is, the only Committee charged with scrutinising the Bill in this House is being asked to take it on the Minister’s say-so, without a chance to look at the detail. That is not acceptable, and I sincerely hope that when they come to scrutinise this in another place, they will draw conclusions from the fact that this House has not been able to fulfil its constitutional obligation to scrutinise this Bill properly.

Andrew Stunell: The right hon. Gentleman makes his point forcefully, but he overlooks the fact that the existing provision, which allows local councils to have referendums, is not hedged with many restrictions on their topics. What we are looking at, in the light of the discussion that we have had, is whether we should simply roll that provision forward so that local communities can commission a non-binding referendum, as councils already can, unconditionally, or broadly unconditionally—or unconditionally in the context of the discussions that we have had so far; perhaps someone can find some conditions that do apply. It is now being suggested that we should look more carefully at whether that unconditional remit should be available for publicly community-initiated referendums, and we are taking stock of those points.

Jack Dromey (Birmingham, Erdington) (Lab): There is the important issue of whether the provision will include planning. The Minister makes the Delphic oracle look like a beacon of clarity by way of comparison. Can we be absolutely clear about this? First, will planning be exempt from what is being proposed in respect of referendums? Secondly, can the Minister give some examples of what he is talking about? He said that he does not want to give references on the hoof, but at least a flavour of his thinking would be helpful.

Andrew Stunell: A flavour of my thinking is that I am thinking about the evidence that was given to us at the opening of our Committee’s deliberations, and I am reflecting on the points that have been made in this debate. I shall not say that, as a matter of course, all planning decisions will be exempt from referendums. There will be issues raised by the national planning policy framework which it would obviously be appropriate for referendums to consider, and there might be others where it would be important to reflect on the scale or impact of a development. I do not want to be drawn into that, but it is right and appropriate to give the matter further consideration.

The hon. Member for Lewisham East mentioned licensing. There may be other topics for which members of the public, the Committee and Parliament would see another route for local communities to make their views known effectively. In such cases, it might be sensible to exclude local referendums if effective alternative ways already exist for communities to get their point across.
Heidi Alexander: I thank the Minister for his generosity in giving way. Could he explain the discrepancy between his comments in Committee today and the comments of the Minister of State, Department for Communities and Local Government, the right hon. Member for Tunbridge Wells, when we were questioning the external witnesses. I had a look at Hansard for 25 January—the transcript of the debate that took place. The Minister of State said that “there is no referendum that impacts on any planning application.” 137

—I (Official Report, Localism Public Bill Committee, 25 January 2011; c. 77, Q126.) I am a little confused, because this Minister is now saying that he will consider these matters. Could he clear up the confusion for me?

Andrew Stunell: It is probably better at this stage for me to say that I will write to members of the Committee and clear up the confusion. Let me make it clear that my right hon. Friend the Minister of State and I are making exactly the same points in questions and comments today. We want an effective power for local communities to call non-binding referendums, and for those referendums to be taken seriously as an important element of democratic accountability. It is important that we get that precisely right, and these are issues which I am trying to assure the Committee we shall work on and deliver.

Stephen Gilbert: When my hon. Friend the Member for Bradford East and I tabled the amendment, we wanted to challenge the need to have subsection (2) in the clause. The Minister refers to my defeating him or his defeating me, but perhaps we can accept a score draw, because it seems that the belt-and-braces approach to which he alluded might be entirely correct. However, the subsection does not need to be part of the clause. Overall—we will come to this under clause 50—I have some worries that the Bill could give an awful lot of influence to local authorities, allowing them to frame the terms of a referendum, rather than do what the Minister said—and what I agree with—and give the powers to local people. With that score draw, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 40 ordered to stand part of the Bill.

Clause 41

The required percentage

Amendment proposed: 81, in clause 41, page 30, line 2, leave out ‘5%’ and insert ‘10%’.—(Barbara Keeley.) Question put. That the amendment be made.

The Committee divided: Ayes 10, Noes 14.

Division No. 18]

AYES

Alexander, Heidi
Dakin, Nic
Dromey, Jack
Elliott, Julie
Keeley, Barbara

NOES

Barwell, Gavin
Bruce, Fiona
Cairns, Alun
Clark, rh Greg
Gilbert, Stephen
Howell, John
Lewis, Brandon

Question accordingly negatived.

Amendment proposed: 82, in clause 41, page 30, line 3, leave out subsection (2).—(Barbara Keeley.) Question put. That the amendment be made.

The Committee divided: Ayes 10, Noes 14.

Division No. 19]

AYES

Alexander, Heidi
Dakin, Nic
Dromey, Jack
Elliott, Julie
Keeley, Barbara

NOES

Barwell, Gavin
Bruce, Fiona
Cairns, Alun
Clark, rh Greg
Gilbert, Stephen
Howell, John
Lewis, Brandon

Question accordingly negatived.

Amendment proposed: 83, in clause 41, page 30, line 3, leave out ‘or lower’.—(Barbara Keeley.) Question put. That the amendment be made.

The Committee divided: Ayes 10, Noes 14.

Division No. 17]

AYES

Alexander, Heidi
Dakin, Nic
Dromey, Jack
Elliott, Julie
Keeley, Barbara

NOES

Barwell, Gavin
Bruce, Fiona
Cairns, Alun
Clark, rh Greg
Gilbert, Stephen
Howell, John
Lewis, Brandon

Question accordingly negatived.

Clause 41 ordered to stand part of the Bill.

Clause 42

Request for referendum

Barbara Keeley: I beg to move amendment 84, in clause 42, page 30, line 10, leave out paragraphs (b) and (c) and insert—
Bill says that (c) and, in its place, insert two new paragraphs. The amendment would delete subsection (1)(b) to the clause. The amendment would increase the level of support necessary for a request from members to hold a local referendum. Setting the level at one or more members, as the Bill does, means that a councillor from a single-member ward, or two or three members from one ward, could make a request for a local referendum. The amendment aims to ensure that those councillors also have the support of councillors from other words.

This is a sensible measure aimed at ensuring that the local referendum process is manageable for local authorities. As the Minister said, the decision on whether to hold a local referendum in response to a request will be taken at a full council meeting. However, unless there is some indication of the level of support needed, local authorities could find themselves receiving constant requests for local referendums from a small minority of councillors. As I mentioned earlier, some councils have the unfortunate difficulty of obstinate minorities, sometimes from extreme parties. Clearly, a single councillor from such a party, or a little group of them from one or more wards, could employ the tactic of constantly putting in referendum requests and then going to the local population and saying, “They never agree to any of our requests.” It would require a bit more work, but requiring 25% of members to support a request for a referendum is reasonable.

In the House, through early-day motions, we try to show that a particular matter, issue or proposition has a certain level of support by gathering signatures. The idea is similar to that. The amendment could help make the process more manageable, so I hope that the Committee can support it.

Mr Raynsford: My hon. Friend almost lost my support by citing early-day motions as a reason for backing her amendment. I regard early-day motions with considerable suspicion. They seem to me to be a form of parliamentary incontinence. Having had an encounter with the Under-Secretary of State for Communities and Local Government, the hon. Member for Hazel Grove, at a debate on housing in the autumn, I can say that he probably regrets having signed as many early-day motions as he clearly did, because such things come back to haunt one.

That aside, I want to come on to the proposed change to the clause. The amendment would delete subsection (1)(b) and (c) and, in its place, insert two new paragraphs. The Bill says that “A request to a...local authority complies with this section if...(b) each member who requests the local referendum is a member for an electoral area in that relevant area” and “(c) in the case of an electoral area with more than one member, all of the members or a majority of the members for the area make the request”.

That seems to lay the whole provision wide open to exactly the kinds of problems that we identified and discussed in earlier debates. There could be particular pressure from small areas in a local authority where the councillors might be pressured unduly by particular interest groups that are opposed to a scheme or a type of development—something that is not popular—and where councillors could easily be pushed into agreeing to put their names to a request for a local referendum.

The threshold seems quite small, leaving the provision wide open to the abuse already identified. We all know that that is likely. Among the many submissions of evidence that we have received is one from RenewableUK, a highly responsible organisation that the Government ought to support, given their aspiration to be a green Government. However, the organisation is clearly extremely alarmed at the scope for local referendums to be used to stop the development of renewable energy schemes, which are extremely difficult to get through the planning process because they tend to engender very strong feelings.

We have a classic illustration of the Government’s green objectives and revolutionary objectives potentially being in conflict, with no evidence whatever of a sensible way to resolve the conflict. That is a characteristic that we have identified all the way through the Bill, and we will go on identifying it while we are in Committee—which, I fear, will be for a long time this evening, so we might have a great deal more to say on the subject. The contradictions, and the lack of coherence and detailed thinking on how such arrangements can best work, are all too clear.

We have had a submission from Mr Henry Peterson, to which my hon. Friend the Member for Worsley and Eccles South has rightly referred on a couple of occasions. Mr Peterson will be known to many people here; he has been a distinguished local government officer. He served for a long period in the London borough of Hammersmith and Fulham—so long that I was actually the Member of Parliament for that area when he started his service—and he continued there until 2005. In the course of a long and distinguished career as director, deputy chief executive and monitoring officer, he developed a number of extremely thoughtful and intelligent observations about the success and failures of various initiatives taken over that long period to try to extend community empowerment, and some of the tensions and difficulties that that can create.

I strongly recommend Mr Peterson’s submission to all members of the Committee who have not yet read it, because it is full of wisdom. It is a sensible paper that sets out some of the difficulties, problems and pitfalls that will befall us if the provisions in the Bill go through without substantial amendment. In his submission, he gives the very apposite warning that “There is the risk that the complex processes initiated by the Bill will lead to no point of decision, other than through expensive legal proceedings in the courts.”

Government Members would do well to reflect on the extent to which one of the unintended consequences of
the Bill that they are promoting is to bring a great deal of business to m’learned friends. They will benefit because there will be constant scope for challenge: challenge if the procedures have not been applied properly; challenge if a local authority is felt to have taken a decision that is not entirely in keeping with the legislation; and challenge if a local councillor has or has not failed to act in the way that a local community group that is keen to promote a particular cause feels that the councillor should have acted.

I fear, therefore, that there is scope for litigation. There is certainly scope for confusion and ill-feeling, and for undermining the position of local councillors. The amendment tabled by my hon. Friend the Member for Worsley and Eccles South gives a much sounder basis for the consideration of the process that we are discussing. I am not terribly wedded to that process; as I have said on previous occasions, it is a contradiction to say that the Government wish to devolve more say and scope to local authorities, and then to prescribe, in extraordinary detail, precisely how one of these referendum processes should operate. That does not seem to be entirely in line with the spirit of localism. However, if we are going to do that—the Government seem determined to do so—we should do it on a much sounder basis than that set out in clause 42. We should instead be prepared to set a reasonably tough threshold. The threshold of at least 25% members of an authority is a real safeguard against an unrepresentative group, who may be strong in one particular locality of the authority, hijacking the whole agenda.

**Gavin Barwell** (Croydon Central) (Con): The right hon. Gentleman makes some valid points, but could I put to him an opposite argument? He will know that there are many local authorities where the minority group on the council is less than 25% of the members of the council. Is there not a danger that if we set the threshold at 25% of the council, the majority groups could essentially prevent any councillor from a minority group from pressing for a referendum in their area?

**Mr Raynsford**: I absolutely accept the hon. Gentleman’s point, and that is the difficulty about trying to be too prescriptive. That is why I said, in advance of making these comments, that I doubted the wisdom of being as prescriptive as the Bill is on something that is supposed to be devolutionary and to give more say to a local authority. Having done that, however, I feel that we should have safeguards against the specific problem that I have identified. I have risen to speak in support of the amendment tabled by my hon. Friend the Member for Worsley and Eccles South, which has the figure of 25%. I accept that that might have a downside in certain circumstances, but I can see it having an upside in other circumstances, where an unrepresentative group tries to hijack the agenda.

The amendment is not perfect by any means, but it is better than the provisions in clause 42 unamended. I sincerely hope that those members of the Committee who are open-minded and want us to do our job of scrutinising the legislation, rather than leaving Ministers an extraordinary carte blanche to decide all these things afterwards, after ruminating—or not—on the debates in Committee but having evaded proper scrutiny, make the decisions.

4.45 pm

**Andrew Stunell**: I find the amendment rather strange. The hon. Member for Worsley and Eccles South herself said that the key point is not the number of councillors who request a referendum, but that, at some point, the majority of the council has to agree to it—it has to be agreed by the full council. Whether it is one local authority member, 25% of them or 49% of them, what matters is that, when the final decision is taken, it is 50% plus one of them. From that point of view, the amendment seems not to achieve any of her objectives, because the wider support she said was an important component is provided by the council’s decision, not by somebody—either an individual or more than an individual—coming forward in the council.

The hon. Lady said it was important to ensure that small minorities cannot take command of the agenda, and the right hon. Member for Greenwich and Woolwich referred to the agenda being hijacked by a small minority. When I was first elected to a local authority, in 1979, I was one of a four-person group on a 60-councillor authority. If I remember, the Conservatives held 40 of the 60 seats, so one political party had an overwhelming majority. We were the newcomers, and we were seen as extremists. [Interjection.] I would be delighted if the Committee thought that was still true.

We should be very careful about advancing an argument in this place that there should be rules designed to exclude small numbers of democratically elected councillors, however unpleasant their views may seem to us. The clause does not do that. A ward councillor in a district with a single-councillor ward could bring a referendum forward; if it is a three-person ward, it requires a majority of the councillors to bring a referendum forward. To initiate a referendum would require the support of the councillors covering the area in which it is to be held.

The right hon. Gentleman made a wide-ranging attack on the Bill, but he absolutely failed to address the amendment—I suspect because he knows in his heart that the amendment is not worthy of support. He picked out many things that he thinks are wrong with the provision, all of which carry exactly the same risks in the petition duty, which we have just disconnected, because it could be hijacked by an endless procession of referendums being called by a minority group member under some external influence. How much more is that true of petitions? How much more is that true of the formulation that he so vigorously defended only two or three days ago?

I am sure when we get outside, the right hon. Gentleman and I will give each other a bit of a grin, but the argument he put to us cannot possibly have been real or substantial.

**Ian Mearns** (Gateshead) (Lab): Anyone who has experience of local government will be aware of individual members of councils who, for their own ends, deliberately try to clog up the system. In the authority of which I was a member for 27 years, there were one or two individuals—in fact, there were probably more than that during that period—who had a bee in their bonnet and, for example, spuriously referred matters to the ombudsman. It takes up an awful lot of officer time to establish, first and foremost, whether there is a case
to be answered; and then, if the case is referred to the ombudsman or if it goes directly to ombudsman, an investigation has to be carried out. In probably about 95% of those cases, the ombudsman reported back to the authority that there was no case to answer.

In such a situation, individual councillors could for their own political or personal reasons or because they are “under the influence”—those are the words I think the Minister used—clog up the system by repeatedly asking for referendums on a whole range of issues. The local authority would, quite rightly, have to ensure in each case that the argument for having a referendum or not was properly investigated. If one, two or three members of an authority are repeatedly and deliberately attempting to clog up the system—there has been experience of that—the Bill allows them far too much leeway.

Andrew Stunell: I really cannot accept that. I say to the hon. Gentleman that if he can point to any respect at all in which the mischief he has described is greater with this provision than it was with the petitions provision, I would willingly give way. However, it seems that every word he has spoken and that the right hon. Member for Greenwich and Woolwich had to say on the subject is exactly the same criticism as that made for petitions. The fact of the matter is that minorities in a democracy are a pain in the neck for those in the majority. Part of the whole business of accountability—indeed, the very work of this Committee—is about the minority challenging the majority and pressing us on our case. It cannot be right for Opposition Members to argue differently.

Nic Dakin: I thank the Minister—he is being very generous in giving way. The point he makes about the balance between majorities and minorities is fair. On the circumstances that my hon. Friend the Member for Gateshead described in relation to how mischief can be made, the Minister said that that case can be made for petitions as well as for referendums. The key issue is that referendums will be a far more complex, time-consuming, costly process. I foresee circumstances in which referendums disturb the focus of a local government organisation from its major purpose. It could end up spending a lot of time dealing with and managing the process of referendums, when it should be directly focusing on serving the people it has been elected to serve. Not having the legislation properly grounded could result in the good intentions that we recognise within the Bill having quite a perverse outcome.

The Chair: Order. May I remind hon. Members that interventions are meant to be short? There is nothing to prevent Members who are intervening from making speeches if they wish to do so. Could you bring your intervention to an end, Mr Dakin?

Nic Dakin: Thank you, Mr Bayley. I had just finished.

Andrew Stunell: The hon. Gentleman did not adduce a single reason to justify his claim that the petition was somehow superior to the referendum. Of course, the point he makes about a referendum being more serious and all that kind of stuff is right, but it is still not going to happen unless a majority of councillors vote for it to happen. If a councillor-initiated request comes forward, the council still has the power to stop it if it does not want it.

Mr David Ward (Bradford East) (LD): I am loth to give advice on how referendums, which I do not support at all, should be conducted, but my ears pricked up at mention of the protection of the minority. Again, there is an inconsistency. I accept many of the arguments put forward about the protection of minority rights on a council group. Like the Minister, I was part of a minority group, but I was also a minority councillor within my ward—one of three at one point. We could have a situation in a ward in which 100% of the electorate sign up to a petition for a referendum, but two out of the three councillors in a ward stop it. Is that right?

Andrew Stunell: I can absolutely assure my hon. Friend that that is not right. There are different ways in which a referendum may be triggered and they are in parallel, not in series. In other words, if 100% sign up to a petition—it is pretty obvious what the result of the referendum will be—the council does not have the option; it has to do it. In default of that, it is possible for local councillors to promote the idea that the council should have such a referendum. That becomes effective only if a majority of the council agrees with the ward councillors that that should be the case.

We have focused on wards. There is nothing here that requires it to be either the whole council area or an individual ward area. It might be that it is more than one ward. It might be an area committee area or some other grouping. Whatever the grouping, if the councillor route for requesting a referendum was in play, it would need a majority of councillors in that area. I am sorry, but I have to say to my hon. Friend the Member for Bradford East that if a minority in a ward wants a referendum, they have had it unless they can persuade the 5% to sign up to a public requisition.

Mr Raynsford: The Minister sets out his argument for the circumstances that were outlined by the hon. Member for Bradford East in which 100% of the electorate were in favour of a referendum but two out of the three councillors were not. I can see that the council would still be able to treat this as a petition that complied with the legislation through clause 40, even though it does not comply with clause 42. Let me put to the Minister a slightly less extreme illustration where there is sufficient support for a referendum to generate the numbers above the threshold, but two out of the three councillors are still opposed. What happens in those circumstances? Will there still be an automatic referendum, or will there be an element of doubt?

Andrew Stunell: There will be an automatic referendum. The public requisition trumps the other methods of securing such a vote. I said some time ago—my Whip thinks it was too long ago—that amendment 84 is of no practical use and actually reduces the capacity of local representatives to represent their communities in the council. I very much hope that the hon. Member for Worsley and Eccles South will withdraw her amendment and not put it to a vote.
Barbara Keeley: I will not detain the Committee for too much longer. A number of points have been made about the objectives of the amendment. All the Opposition's amendments are about making the process of running a referendum more manageable. That is what we are trying to do. With a piece of legislation that has never been tested, consulted on or had any form of scrutiny, it is perfectly valid that we propose ideas that the Minister might not agree with, or that he thinks are fanciful, because each of these aspects and propositions of the Bill need to be tested.

There will be a divide in this Committee, I think, between people who support petitions and those who are constantly running down the whole notion of a petition when the petition is in itself a trigger for a local referendum. It seems bizarre to be constantly running down the idea of a petition. We do not have to go back to Greece, but it has an absolutely honourable tradition. I can say why I think a petition is better: it is cheap and flexible. It does not need 5% or 10%; it can be presented with 25, 105 or 100,000 names. We said in the early stages of debate that a petition is one of the most understood forms of participation, with the highest rates. When asked, most people will say that they have signed one in the past 12 months.

Brandon Lewis: Does the hon. Lady not accept that one of the problems with a petition as opposed to a referendum is that it represents only one side of the story? One of the Opposition's criticisms has been that, at a 5% threshold, a small group could get a referendum, but a small group could get a petition stating only one side of the case. At least with a referendum, both sides are heard and the case is made for and against. [Interruption.]

Barbara Keeley: My hon. Friend the Member for Plymouth, Moor View is saying, rightly, that it depends on the question. Sometimes there are big questions, such as, “Shall we impose congestion charging across the whole of Greater Manchester?” which have a big impact on the people affected; sometimes the questions deal with smaller subjects, such as “Is the lighting sufficient in the street down to our day nursery?” which I mentioned in last week's sitting. We must have manageable and affordable processes, and petitions are cheap and flexible.

5 pm

Nic Dakin: The other point that my hon. Friend made, which is worth reinforcing, is that the use of petitions and their value are understood. There is no illusion with them, but there is great possibility for illusion with referendums. The illusion of power rather than its reality is a big concern.

Barbara Keeley: Indeed. I must also defend my comments on early-day motions. I cited them only in terms of the principle of getting support for an idea. I agree that the problem with early-day motions is that people outside this place think that they carry more weight than they do, which is a fraud on such people. We are all constantly asked to sign such motions and people think that, because of that, something will happen.

Mr Ward: There is nothing to stop anyone from getting up a counter-petition, which we have all done hundreds of times.

Barbara Keeley: Yes, indeed. There is a hierarchy of methods: some are cheap, easy to carry out and flexible; others are more expensive and should be used only at certain times when there is a deal of support.

To conclude my comments on early-day motions, I speak as someone who—this is a badge of honour—got most signatures from Members for supporting carers week, for which I was a champion. I knew as I was doing that, however, that it did not have a point and I hoped that I was not deluding people. We need to be careful about such matters.

We cannot have a mechanism at the heart of local referendums and then talk about the mischief caused by petitions, which will stay. If there is confusion, however, it is about centralising and taking powers for the Secretary of State over the process, and then being unwilling to consider any sensible amendments to make that process manageable. I shall continue to say that the Bill creates a new duty and a new burden. We are the people who are charged with scrutinising its clauses, so it is right that we consider different aspects and methods. I hope that the Ministers listen. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 42 ordered to stand part of the Bill.

Clause 43

DUTY TO DETERMINE APPROPRIATENESS OF REFERENDUM

Question proposed, That the clause stand part of the Bill.

Ian Mearns: I should like to examine how subsections (3) and (4) relate to clauses 40(1)(a), 41(1) and 40(2). Under subsection (3),

“subsection (2) does not apply to a petition or request if...it is received by a district council whose area is part of the area of a county council, and...the district council thinks the question stated in the petition or request relates (in whole or in part) to the functions of a partner authority of the county council other than the district council.”

If a district council receives a petition that fulfils the criterion in clause 41(1)—in other words, the 5% criterion—and determines that the question does not relate to it as a district council but that it relates to the county then, according to clause 43(4)(b),

“the county council must consider a petition so referred as if it had received it from the petitioner”.

If the 5% criterion has been fulfilled in a district and the question is passed to the county, will the county, in making its determination, decide that the 5% criterion has been fulfilled in its area? A district is usually much smaller than a county, so although the 5% criterion might have been fulfilled in the district sense, but it certainly might not have been in the county sense. I know that there is latitude in clauses that we debated earlier, but that seems to be an automatic contradiction, because the 5% that fulfils the district criterion might be so much less than the 5% that fulfils the county council criterion that the petition will not be properly considered.
Andrew Stunell: I completely assure the hon. Gentleman that that situation will not arise, because the threshold is 5% within the area where the referendum is intended to be held. Whether the petition was from a ward or from the whole of a district, if the 5% is reached for a referendum to be held in the area, it would still be the same 5% of the same area when it goes forward to the county. It might be only part of a county division, or it might be several county divisions comprising a shire district. The measurement is of the area within which the referendum is to be held. I hope that provides some reassurance.

Ian Mearns: It does not, because it may be that the petition comes from a particular district council ward that does not replicate the county council ward. Would it therefore be appropriate for a county council to hold a referendum in a sub-division that it does not recognise as part of its electoral area—in other words, a district council ward or division that is totally different from a county council ward or division? Would it be appropriate for a county council to hold a referendum based on a district council ward? I assume not.

Andrew Stunell: That could happen within a district area, even with a request to a district, because a parish, for instance, does not necessarily conform to a district ward or a combination of district wards. There are already circumstances at the district level, where a referendum would be held on a non-ward basis. I alluded to that in responding to the previous debate, and that is exactly the same situation as might apply with shire districts in a parished area. I assure the hon. Gentleman that that is the procedure. It is not exceptional, and it is what is proposed in the Bill.

Ian Mearns: May I suggest that the Minister should follow that up? There are significant grounds for misunderstanding how the provision will apply on a local level. I take it that the Minister will follow that up with some significant explanatory notes.

Several hon. Members rose—

The Chair: Perhaps, as we are having a slightly wider debate, I will call a number of Back Benchers, and then come back to the Minister.

Mr Raynsford: We have had an interesting discussion about the provisions that apply where there may be an element of doubt as to whether an issue for referendum is more appropriately dealt with by the district council or the county council, but I do not see any provisions in the Bill that relate to a possible conflict between a London borough council and the Greater London authority.

When the Greater London authority was set up, it was very much part of our thinking that, wherever possible, it should not have an overlap of responsibilities with the London borough councils. The belief was that the Greater London authority should be a strategic body and the councils should remain the bodies charged with delivering services locally. The purpose was to avoid the kind of conflicts that, unfortunately, characterised relations between the old Greater London Council and the London boroughs. Generally, that mechanism has worked. As time has gone on, however, and as Mayors have become more rapacious, seeking ever greater powers, and as Governments of all persuasions have been inclined to humour Mayors by giving them greater powers, we are moving into a world where there will be a greater overlap between the Mayor’s powers and the powers of the London boroughs.

Housing is an obvious example: in the original provisions for the Greater London authority, we did not give the Mayor specific housing powers, because we felt that that was best left for the boroughs. An arrangement was included for dividing the strategic planning powers from the boroughs’ local planning powers, but that was as far as it got. Now, of course, the Mayor has substantial housing powers and, inevitably, there will be conflict between the Mayor and the boroughs. Into that, one can see a situation where people pushing a cause seek to advance it through a referendum. It might be a member of the Greater London authority trying to do so, although in clause 42, I see that members are precluded from requesting a referendum themselves. That would not, of course, preclude them from talking to a colleague in a local authority, who could request a referendum in that authority. Were that to happen, the Mayor and indeed, the GLA, might feel that that was an inappropriate use of the referendum power to push a point of view that was hostile to the policy of the GLA or the Mayor, on the part of an individual local authority.

Although the Bill does not seem to have any mechanism to deal with such circumstances, I look forward to the Minister’s response, and I hope that he can assure me that there is such a mechanism. I cannot see it, however, and in its absence, I feel nervous. There will be malicious use of these powers to foment disagreement between boroughs and the GLA, which is not in the interests of good governance in London. As the Government clearly recognise that there might be a problem in two-tier areas outside London and a mechanism has been set in place for resolving that, would it not be appropriate to give further thought to a mechanism within London to ensure that any such conflict between London boroughs and the GLA can be resolved? I hope that inspiration is finding its way rapidly to the Minister, and that he can give me a response.

Andrew Stunell: First, I defer to the right hon. Gentleman in the matter of how the current governance of London was established and its subsequent evolution and development. As extra powers are given to successive Mayors, it is true that what he has described becomes more of a possibility. I am happy to report to the right hon. Gentleman that if a borough receives a petition for a referendum on an issue that is the responsibility of the GLA, the borough must hold a referendum if it considers that it has influence on the issue, or if any of its partner authorities have influence over it—and Transport for London is a partner authority. In other words, as I understand what I have in front of me, if there were a request for a petition in the London borough of Lewisham, or of Greenwich, which was valid in all respects from residents to, for example, fares in London, it would be right and in order for that London borough to conduct a non-binding referendum. I believe that the right hon. Gentleman is right in saying that there is no direct referral mechanism to the GLA.
We may need to write to Members about this matter. I certainly do not want to give a misleading impression, but I believe that what I have said to the Committee is a correct interpretation of the Bill.

Gavin Barwell: I want to assist my hon. Friend by giving him time to find the inspiration he seeks.

The right hon. Member for Greenwich and Woolwich has made a sensible, constructive point that needs looking at. Although that may not happen now, perhaps there will be an opportunity to clarify whether it is only TfL that is a partner body, or whether other branches of the GLA family are included. For example, the Bill gives power to the Mayor in relation to mayoral development corporations. One could envisage a situation where constituents of London Members petition, or councillors on a particular local authority wish to have a referendum on such a proposal, which clearly would be the responsibility of neither the TfL nor the national partner authority, but the Greater London Authority. At some point, having a clarification on whether amendments are required to deal with that, or whether the Bill as drafted takes account of those issues, will be helpful to the Committee.

5.15 pm

Andrew Stunell: I thank my hon. Friend for speaking at that precise moment in the way that he did.

For the GLA to hold a referendum as a result of a petition, that petition must relate to the GLA, and it must be above the 5% threshold for the whole of the GLA area. A borough referendum, as we discussed, would require 5% within that borough.

The right hon. Member for Greenwich and Woolwich asked a question that probably bears a little bit more inspection, and it might be better for me to write to members of the Committee to make it exactly clear what we are proposing. I point out that there will be a later stage of the Bill when we deal with powers in London, and it might be appropriate then to take a second look at the matter.

Question put and agreed to.

Clause 43 accordingly ordered to stand part of the Bill.

Clause 44

GROUNDS FOR DETERMINATION

Barbara Keeley: I beg to move amendment 86, in clause 44, page 31, line 25, leave out subsection (5).

The Chair: With this it will be convenient to discuss amendment 124, in clause 44, page 31, line 25, leave out subsections (5) and (6).

Barbara Keeley: I find myself again in the familiar territory of tabling an amendment that would remove from the Bill extra powers for the Secretary of State, which is what amendment 86 aims to do. We want to ask why the Secretary of State thinks he is able to determine for a local authority what a local matter is. It seems quite a ridiculous idea, and is in itself very centralising. Straightforwardly, I say this: taking on a power to decide what is a local matter is centralising by definition, and it should be removed.

I know that the hon. Members for Bradford East and for St Austell and Newquay have also tabled an amendment to remove those powers. Those on both sides of the Committee are questioning why the Secretary of State feels the need to use such powers, and I hope that Ministers can tell us why.

Stephen Gilbert: As the hon. Lady said, my hon. Friend the Member for Bradford East and I have tabled a similar amendment, but it is slightly more encompassing given that we are seeking to delete both subsections (5) and (6) in order to remove the Secretary of State’s current power to determine what may constitute a local matter. Crucially for me, there is an inference there that he will be able to determine what might not be considered to be a local matter.

I want to paint a scenario that I hope is accurate, and I am sure that Ministers will correct me if I am wrong. There is a live issue in my constituency that may well fall within the remit of the Secretary of State’s intervention. St Dennis is a small village in my constituency, with a population of about 2,000, smack bang in the middle of the former clay-mining district. There is a proposal for a mass-burn incinerator that can take 250,000 tonnes of rubbish each year. Not only the local parish council, but all the adjoining parish councils, are against it. The district council, before it was abolished under local government reorganisation, was also against the proposal, and Cornwall county council turned down the planning application in March 2009.

However, as that facility has wider implications for Cornwall, arguably for the south-west and possibly for the UK’s obligations for climate change and emissions levels—all arguments that I refute, but they are arguments that can and have been made—it may be deemed by the Secretary of State not to be a local issue, but an other-than-local issue, if I can put it in those terms. I shall give some other examples.

Wind farms could clearly be a matter of concern within the local area but may arguably be of national concern when it comes to energy security and provisions to ensure that the lights do not go out. We recently saw the well-led protests against airport expansion in the south-east, but over the next couple of decades that will be a problem for most parts of the country; it undeniably has a local impact, but it is clearly wrapped up in matters to do with regional economic growth and the national transport strategy. We can see that sort of complexity in other areas—for example, in education policy, with the advent of free schools and the drive for more academies. Whatever one’s view on that, it affects the local area but is also part of our national policy.

I believe that true localism would allow local people, through their elected representatives and through local offices, to take a view about local issues. I find it quite bizarre that the Localism Bill should include a clause that allows a national politician to determine what those local issues are—and, more crucially, what those local issues may not be, and therefore the matters on which people may be denied the chance to have a referendum. Are we really saying that having an incinerator in my constituency would not be a legitimate subject for a referendum, or that the airport expansions in the south-east, wind farms or whatever else were not legitimate subjects?
[Stephen Gilbert]

There is a huge conflict at the heart of the clause, and huge scope for local people to be denied votes by a Secretary of State—I hasten to tell my hon. Friends that I do not mean the present Secretary of State—on those issues that concern them most. Amendment 124 is a probing amendment to see whether these matters have been thought through by the ministerial team and to help me understand their thinking on why it should be appropriate for a national politician to decide what is a local issue, and by implication to be able to decide what is not one. I hope that the Minister will tell us what further consideration he will give to this matter, both within the Department and within the GLA.

Mr Raynsford: I congratulate the hon. Member for St Austell and Newquay on his amendment. I hope that he will not treat it as a probing amendment, because it has a great deal of merit. The hon. Member for Bradford East identified its merit; it is inappropriate in legislation that is supposedly about localism to give such extensive powers to the Secretary of State to determine these matters.

The hon. Member for St Austell and Newquay put it far better than anyone, so I shall not repeat what he said, but he made the case that, in a Localism Bill, it is absurd to give the Secretary of State power to define what is or is not a matter to be determined locally.

Gavin Barwell: Both my hon. Friend the Member for St Austell and Newquay and the right hon. Gentleman are right to say that we need some reassurance about how such wide-ranging powers will be used. As a former Minister, does the right hon. Gentleman foresee circumstances in which it would be inappropriate for local authorities to hold referendums? I shall give an example.

If, during the previous Parliament, Conservative local authorities had all chosen to organise referendums on the then Government’s failure to hold a referendum on the Lisbon treaty, from a local perspective would he have a problem with authorities using such a power in that way?

Mr Raynsford: That is a very good question, and I give the straightforward answer that I have given on many occasions. In my view, the general power of competence in the Bill is in a sense a bit of a fraud. In my view, it is not appropriate for local authorities to conduct foreign policy matters. That is why I prefer the previous definition, which was a power to pursue the well-being of the area, defined broadly to cover its economic, environmental and social well-being, but without any temptation for authorities to venture into this territory. I shall not give examples; we all know of celebrated instances of local authorities indulging in a certain amount of grandstanding on matters way beyond their area’s interests. I would not regard that as appropriate.

There must be safeguards, and I do not think that the Bill as drafted gets them right. It dangles the possibility of localism without setting proper parameters, but then leaves a lot of issues, such as this one, up in the air and absolutely at the mercy of the Secretary of State’s decision by order, not Parliament’s decision by statute.

To my mind, that is an outrage. I have said during earlier debates that it is not acceptable to ask the Committee to agree something that clearly allows the Secretary of State to tell a local authority what it may or may not do when we do not know how that power will be used. We should be thoroughly, properly briefed before we are asked to give an informed view on a section of statute concerning how the Secretary of State will use such powers.

Gavin Barwell: The right hon. Gentleman has accepted that some safeguards on the power are needed. If a local authority chose to hold a referendum on something that all Committee members would agree was inappropriate, would there not be a difficulty passing primary legislation in time to deal with it before the referendum? I understand his point of principle, but I am not sure whether leaving such matters to primary legislation would provide such a safeguard.

Mr Raynsford: I probably did not explain myself correctly. I prefer retaining the power of well-being rather than general competence because well-being is so defined as to leave no doubt, and it would have been ultra vires to conduct a referendum on foreign policy matters. That is the point that I was making. The hon. Gentleman might not agree, but I think that localism is important and that clear parameters must be set for what is and is not acceptable. I have my view. He may have a different view, but I think that we can both agree that it is better that it is absolutely clear in statute and is not subject to the whim of a Secretary of State who may use the order-making powers at any point to change the ground rules. That does not seem at all right on issues so fundamental.

Mr Ward: On the Lisbon treaty, clause 44 includes in the grounds for determination the local authority’s right to make such decisions. For instance, clause 44(4)(a)(i) says that a local matter is one that “relates to the economic, social or environmental well-being of the area”.

It is covered. It does not need to be second-guessed by a Secretary of State when the local authority can make that decision itself.

Mr Raynsford: I agree wholeheartedly. That is the point that I was making in response to the hon. Member for Croydon Central: one needs such things to be clearly defined in statute. I expressed my preference for the general framework of the power of well-being, which, as the hon. Gentleman rightly points out, is specifically referred to in subsection (4)(a)(i). I would be perfectly happy to rest on that. I do not regard it as acceptable for the Secretary of State to be able to trump that and say, whatever the local authority thinks, “I’m coming in with regulations which haven’t been agreed by Parliament, other than under the statutory instrument procedure. They are not in statute, simply in a statutory instrument.” I regard that as an inappropriate use of the Secretary of State’s power, and I suspect that the hon. Gentleman and I agree on that. I hope that his friend the hon. Member for St Austell and Newquay, and possibly the hon. Member for Croydon Central, will agree as well.
We might then see the proportion of votes in the Committee shift even more positively towards an outcome that we can all applaud.

Andrew Stunell: May I respond first to my hon. Friend the Member for St Austell and Newquay? He made a thoughtful contribution, particularly about St Dennis in his constituency. Earlier today, we discussed how planning applications might or should be circumscribed in the conditions and regulations relating to the measures. I assure him, as I did earlier, that those matters are receiving careful consideration.

5.30 pm

Stephen Gilbert: I chose the examples explicitly because they relate to both planning policy and other policies. The incinerator is obviously a planning issue, but it is also a waste issue, while free schools are education policy issues and airports are transport policy issues. They are interlinked.

Andrew Stunell: I agree with my hon. Friend. I have already made a couple of references to the national planning policy framework, and we will debate its relationship to council plans, local plans and neighbourhood plans at a later stage. We also discussed earlier the relevance of subjecting factors in the national planning policy to a referendum. However, I think that my hon. Friend's broader point is about what limitations should be placed, either in primary or secondary legislation, on a local authority's capacity to decide what should or should not be subject to a referendum. Bear in mind that it is for the local authority to decide whether it is a local matter and whether it is vexatious and so on. They are the people with their hand on the windpipe of the proposal in terms of what to let through.

The question is whether any overriding issues should be excluded or included. By introducing this Bill, we believe that that could be the case. It is difficult to convey this to a sceptical Committee, but it is not our intention to give an extreme power to the Secretary of State. He has an order-making power, but it must be used in consultation with local authorities and other interested bodies in order to establish what the framework should be.

Nic Dakin: Does the Minister understand why we are a sceptical Committee? The information is not before us and it has not gone through consultation, so we are basically being asked to take on trust the centralising powers of the Secretary of State. That makes this more of a centrist Bill than a localist one, which is its central contradiction.

Andrew Stunell: No, I do not accept that, and I have set out my case on it several times. We are providing an important capacity for local communities to challenge their local authorities and to put their local representatives on their mettle through the non-binding referendum procedure. It is absolutely right that Parliament should decide the exact context for that, and clause 44 sets out what we believe to be the right context. It is right that we set out the parameters we expect local authorities to operate within when exercising this additional opportunity, and the Opposition have not established anything to the contrary.

I say to my hon. Friend the Member for St Austell and Newquay and to the hon. Member for Worsley and Eccles South, who tabled amendment 56, that the issue is about making sure that we have a business-like proposition that will be useful to local communities and that will not be open to abuse or misuse. As has been rightly pointed out, in earlier times there was a tendency for certain local authorities to venture into foreign policy and other matters that were none of their business, which is exactly why clause 44(4) appears as it does. It is also right to include subsections (5) and (6) to make sure that, in the light of what are, at present, unforeseen circumstances—they have certainly not yet been articulated—it is possible to amend and vary the power.

As we envisage it, the provision does not mean that, when a referendum is proposed, the Secretary of State will step in and say that it is not on a valid topic. It is a question of establishing a framework in which decisions can be taken. There might be a whole range of issues. I do not want to speculate on what they might be. I guess if one had a nuclear submarine base within the local authority area, there might be some very important reasons why the Secretary of State might take a view about that kind of project. I do not want to pre-empt a decision, but I give it merely as an illustration of the fact that it is not quite as straightforward and simple as some Members may have imagined.

Heidi Alexander: Will the Minister give way?

Andrew Stunell: I will, not that I think she has a nuclear submarine base in her constituency.

Heidi Alexander: If there is such a base in Lewisham East, I am certainly not aware of it. I am interested in the Minister's remarks about creating a framework for decisions. Does he envisage any read-across from this section of the Bill to that we were discussing—I have lost track of when—about EU fines. Does setting out whether an issue is local enough for a referendum reflect on the culpability of an authority in having to pay a share of EU fines?

The hon. Member for St Austell and Newquay raised the issue of the incinerator, which could have a direct knock-on effect on the ability of an authority to meet targets under the landfill directive. Does the Minister see the establishment of a framework for decisions as having a read-across to the sections of the Bill dealing with EU fines?

Andrew Stunell: I will want to reflect on that. It seems to me that if a local authority had pursued a course of action that led to it being liable to refund or pay some EU fines, I can well imagine that local residents might want to express a view on that. I will want to reflect a bit more on whether that is the kind of issue that would be excluded as a matter of principle from the starting point.

I hope, Mr Bayley, that I have done sufficient to encourage my hon. Friend the Member for St Austell and Newquay not to press his amendment. I say to the hon. Member for Worsley and Eccles South that, as
someone who has served in Government and knows how it is necessary to proceed to produce workable and worthwhile legislation, she will recognise that subsections (5) and (6) are sensible mechanisms and safeguards that are open to consultation and are entirely appropriate. I hope that she, too, will not press her amendments.

Barbara Keeley: Sadly, I will have to disappoint the Minister. I do not feel that the first pass at scrutiny of a piece of legislation that is quite ragged in places can be described as workable and worthwhile. It could be, if Ministers were more prepared to listen, and more prepared to consider amendments. However, it is not being improved as we go along. It is the duty of the Opposition to press those amendments to a Division.

I hope the Minister can see that it would have helped our debate today if we had had some view of that framework he talked about. The Minister of State, Department for Communities and Local Government, the right hon. Member for Tunbridge Wells did say to us in his contribution to evidence that he would be prepared to go through the powers one by one and check whether they are centralising. Yet, whenever we come to this debate, all the time we are told, “It’s okay because I say it’s okay. Just wait and see.” We cannot do that. With regard to comments made earlier, it is rather arrogant of the Government to say that this Committee, which is meant to be scrutinising the Bill, should just accept every assurance on every power. We do not, so I am afraid I will push the amendment to a vote.

Question proposed, That the amendment be made.

The Committee divided: Ayes 10, Noes 13.

Division No. 20]

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Question accordingly negatived.

Question proposed, That the clause stand part of the Bill.

Barbara Keeley: I stand by the comment that I have made, namely that it would help the Committee if we could see something of the framework that has been laid out. It would help to allay some of the fears that exist outside the House. We have had a fair number of comments from local authorities that are concerned about the new duty and what it will mean to them, and I know of more local authorities with such concerns.

I did not find the interpretation provisions helpful. Partner authorities are mentioned many times, but none of the documentation relating to the Bill specifies what they are, as far as I can see. They are mentioned, for example, in clause 44. I looked it up online, and the bodies alongside the local authority to which local referendum questions may be directed include primary care trusts, NHS trusts, foundation trusts, police authorities, transport authorities and others. The list is longer than that, and it would have helped me to have such a list when I started thinking about the question. If the Minister can provide members of the Committee with one, that would be helpful.

While we are debating this in Committee, can the Minister tell us any more about the framework? He has talked about seeing a framework that will develop around this, and on which there will be consultation. It does not seem as though this is one of the aspects of the community empowerment part of the Bill on which the Department has launched a consultation. We are aware that two consultation documents were launched last Friday, but they did not seem to cover this question. The Opposition are still short of information.

Stephen Gilbert: I would like to press a little harder on the point about the interaction between the Secretary of State and the local council in determining which of the issues that I have outlined are local, and which national. I fully accept that the current Secretary of State is of such largesse that even if there were any doubt, he would award the benefit of the doubt to the local community and allow a referendum to take place. When incineration is discussed in the context of national waste policy; when airports are discussed in the context of transport policy; and when schools are discussed in the context of education policy, however, a potential tension arises. The Secretary of State might decide that something is a non-local matter, but local people might want to express themselves on the issue through a referendum. We need more information from Ministers about how some of those tensions might be resolved.

I am not referring to this Secretary of State, but to a future Secretary of State who might not even be in this place yet, but who will arrive with an ability to prevent local people from holding a referendum on the issues that matter to them. I push the Minister a final time on whether he will undertake to consult the Local Government Association on bringing forward proposals that would deal with some of the issues that we have teased out.

5.45 pm

Andrew Stunell: My right hon. Friend—I mean my hon. Friend; I do not want to jump the gun—is seeking a liberal interpretation of the provision. The hon. Member for Worsley and Eccles South is right. We have not launched a formal consultation, but we will consult, and the Local Government Association will be an important partner in that. We will be open to hearing the views of other appropriate bodies about the matters that should be included or excluded. For what it is worth, and probably at the risk of my head being put on a platter somewhere, I want to be inclusive with that, but we also have to take account of the practicalities that that raises.

The hon. Member for Worsley and Eccles South asked the meaning of a partner authority. I am assured that it is a term of art in the drafting of legislation. It
has the same meaning as set out in chapter 1 of part 5 of the Local Government and Public Involvement in Health Act 2007.

Jack Dromey: The hon. Member for St Austell and Newquay makes a valid point: it is important that we do not mislead communities about what they can have a referendum on and what they cannot. Can we tease that out further? This morning, I referred to the debate that will take place tomorrow on the cuts being made to Birmingham city council’s budget, which will impact on the citizens advice bureaux in Birmingham. Would that be a possible subject for a referendum?

Andrew Stunell: Quite clearly it would. Matters that pertain to the council’s services, or the way in which it spends money on services provided by others, are clearly appropriate and would be covered by subsection (4)(a). If the council were closing its nuclear submarine base, I suppose it might be a different issue. However, we should not make jokes in Committee, and I should seek to withdraw those words. Perhaps Birmingham does have a nuclear submarine base.

Jack Dromey: Birmingham certainly badly needs high-quality advice services for local people, including those provided by the citizens advice bureaux. I want to tease out a second issue to do with the cuts being made, as a consequence of the Government’s decisions, to 2,400 members of the police service in the west midlands, 1,200 of whom will be police officers. Considerable concern has been expressed by the police about the consequences, including for their work with the local authority on issues such as domestic violence and child protection. Would the impact of those cuts be a possible subject for a referendum?

Andrew Stunell: We could clearly have a long series of interventions. I thought that I had covered that point by saying that matters that are paid for by the council and by central Government taxation—and by the council tax, in respect of the police service—would clearly be legitimate matters for a referendum if a sufficient number of people thought it appropriate.

Let me give some assurance, if I can. The order-making power is not about intervention on a case-by-case basis. It is not a question of a referendum popping up and the Secretary of State getting up in the morning and saying, “You can’t do that.” It is not about stopping a council doing what it wants. It is about proscribing a matter that is not to be treated as a local matter. Hence the council would not be required to hold a referendum if it received a petition that was otherwise in order, if it came under something in the list of requirements that the Secretary of State produced after consultation. There would not be a prohibition on a council having a referendum on something completely different, if it chose to do so—although I may get a shake of the head from somewhere—on issues such as the abolition of the monarchy, or other matters of that sort.

Jack Dromey: It would be helpful to the conduct of this debate if we did not trivialise it. These are matters of enormous public and community concern. My understanding of what the Minister has said is that it would be appropriate to have a referendum, should the people of Birmingham so wish, on the impact of cuts to the police service. Can I tease out another example, relating to the cuts being made to the fire service in Birmingham? Once again, the fire service works in close co-operation with the local authority on a whole number of fronts—on, among other things, fire prevention and community safety. Very considerable concern has been expressed on the cuts to the fire service. Would that possibly be subject to a referendum, should the people of Birmingham so wish?

Andrew Stunell: As with all the hon. Gentleman’s previous examples, I would say that it was clearly covered by clause 44(4)(b).

Nic Dakin: I found the examples helpful, because by asking the Minister questions about them, we are beginning to get clarity on what would be acceptable and where the Secretary of State may use his or her draconian powers to restrict a referendum. I have a question: what if a free school is being located in a community, and only a small number of people want it, and the overwhelming majority of that community does not? Would that be an appropriate subject for a referendum, and how do those different localisms marry in those circumstances?

Andrew Stunell: First, I want to respond to the hon. Member for Birmingham, Erdington. It was not my intention to trivialise either the specifics of the issues that he raised, or how we handle this Bill. If anything that I said was seen to have done that, I apologise to the hon. Member for Scunthorpe. I say that for all these examples, Members can look at clause 44(4) and see a clear and comprehensive definition of what a local matter is. I hope that that reassures them that there is nothing in the provision that would muzzle a local community or authority that decided that it wanted a referendum on those matters.

Jack Dromey: Forgive me for raising examples that I mentioned earlier, but I want to press the Minister further with some other examples. The problem is that what is being said to us is, “Here is the power; trust us. In due course, we will make it clear how that power might be used.” Inevitably, questions are already being asked of us, including by our constituents, such as, “What exactly does that mean? If it is said that we are being empowered, how are we being empowered? To speak on what?” The Minister has to come forward with the views that must have been discussed in Government.

I cannot believe that the measure is being bought forward to give a voice without consideration having been given to how that voice might most appropriately be used. We have had a broad drawing of the line, in terms of what would not be appropriate. Everyone agrees on the example of the independent nuclear deterrent, but there is a complete lack of clarity on precisely what the Government mean. I want to press the Minister further, so that he fleshes out the Government’s thinking, on the assumption that there has been some thinking on this clause.

May I give some further examples that are live issues in my constituency? Considerable concern has been expressed about the closure of post offices in Birmingham, and there is a desire to see a particular post office in
Jack Dromey:

Perry Common reopened. The ageing population are unable to travel the best part of a mile in either direction to avail themselves of other postal services. If the people of Birmingham so wished, could such an issue be the subject of a referendum?

I shall give one more example: it is yet more extraneous, but we need clarity. When Rover closed in 2005, it was an immense tragedy for the city of Birmingham. I was deeply involved in the efforts made, with all-party support, to save the factory from closure. Had the people of Birmingham so desired, could that matter have been the subject of a referendum under the clause? Forgive me if I keep pressing the Minister on this issue, but what we have heard is simply not good enough.

Brandon Lewis: I am struggling with the concept of the argument. In general, referendums are about giving power to people. Clause 44(4) supports that general remit. It says that the Secretary of State might be used. I would be free to decide. We must tease out how the Secretary of State might be used. I take it that in the bowels of Government there has been a discussion on what can or cannot be done would defeat the object of localism and of giving people in that area the power to call a referendum in the first place. Again, there seems to be an inconsistency between localism and central control.

Jack Dromey: If the hon. Gentleman is struggling—

Brandon Lewis: I am struggling with the hon. Gentleman's argument. The Opposition's case seems to be conflicting. They claim that they support localism, but where the Bill gives local people power, they want to provide a list of centrally controlled areas in which that power can be exercised. That seems a complete contradiction.

Jack Dromey: On the contrary, the Secretary of State, wishing to exercise one of his 143 Henry VIII powers, says that he will maintain the right to say what is and is not appropriate. It is said to us that, subject to how that power is exercised—we have constantly been given the example of the independent nuclear deterrent—local communities would be free to decide. The Minister was then pressed to say on what matters those communities would be free to decide. We must tease out how the reserve power of the Secretary of State might be used. I will press the Minister once again. I take it that in the bowels of Government there has been a discussion on why the measure was brought forward.

Ian Mearns: I would like to pursue the examples given. It is not just a question of nuclear submarine bases; earlier, my hon. Friend the Member for Scunthorpe gave the example of the instigation of a free school. The power to instigate a free school does not rest with the local authority, but with the Secretary of State for Education. That is one of the 47 Henry VIII powers that the Secretary of State for Education is taking in the Bill that is currently being discussed in the Chamber. Would not a referendum on whether a free school was established be ultra vires, given that the local authority does not have the power to block it in any way?

Jack Dromey: My hon. Friend asks a good question. Once again, we will be looking for clarification on that matter from Ministers. He is right to say that there are a number of reserve powers in the Bill, and there is a complete lack of clarity as to how they might be used. We must press this matter further, so that we can give straight answers to straight questions from those who ask us how the Government propose to use the powers. It is simply not right for the Minister to ask us to buy a pig in a poke when there is a complete lack of clarity. Once again, will the Minister share with the Committee and Parliament the thinking that has gone on in Government about what is and what is not an appropriate matter for a referendum? Would he care to give further examples of what he thinks might constitute suitable subjects for referendums?

6 pm

Mr Raynsford: I have two points on which I would like to make an observation. The hon. Member for Great Yarmouth had a go at the Opposition on the grounds that we were adopting some kind of centralist position by seeking clarity about the powers in subsections (5) and (6). I must put it to him that subsections (5) and (6) are the most extraordinarily centralising powers. Subsection (5) states:

“The Secretary of State may by order provide that a matter specified in the order is not to be treated as a local matter.”

In other words, no referendum. Subsection (6) goes even further. The third ground for determining that it is not appropriate to hold a referendum is simply that the referendum “relates to a matter specified by order by the Secretary of State.” Those are very centralising powers in the Bill. The hon. Gentleman voted against our amendment, which would have removed those two provisions from the Bill. We were arguing the localist cause; he, I am afraid, voted for a centralising one.

My second observation is that the Minister made a very persuasive argument about the merits of subsection (4), which is well phrased. I admire the “economic, social or environmental well-being” definition, for reasons that I outlined earlier. The way in which paragraph (b) is phrased to allow not only principal local authorities but partner authorities with an influence over the subject to have grounds for holding the referendum seems elegant, and it seems a pretty all-embracing definition. But as the Minister will recognise, that is unfortunately trumped—to use a word that he used in an earlier debate—by the Secretary of State’s power in subsections (5) and (6).

A local or partner authority may feel that a particular subject is within the remit because it is to do with the “economic, social or environmental well-being” of the area, or may feel that it has an influence over the subject, and may want to hold a referendum; but it could be told, for reasons that we do not know—the Minister cannot tell us today in Committee—that the Secretary of State has decided that the issue should not apply. That is the problem with the Government’s position. I would not necessarily use the phrase “pig in a poke” that my hon. Friend the Member for Birmingham, Erdington, used, but they are certainly asking us to take this on trust.

It is not our role as members of a Committee scrutinising legislation to take things on trust. We have to probe and seek clarification. I have already said that if we fail to do so, I have no doubt that our colleagues in another...
place, when they come to consider the matter, will want much clearer indications of how the Government intend to use those very considerable powers. Those powers trump the good intentions of subsection (4), which I have applauded and which the Minister elegantly defended, because unfortunately subsection (4) could be rendered entirely ineffective as a result of the Secretary of State’s use of powers in subsections (5) or (6). The Government’s position is unconvincing, and I would find it difficult to vote for the clause.

Andrew Stunell: We have had a considerable debate on whether something can be subject to a referendum. First, a council can hold a referendum on anything under existing legislation, anyway. What is at issue is whether, on receiving a petition, a council must hold a referendum. We have already discussed the fact that if it receives a petition, it has to do so, whether it wants to or not. We are now discussing the reasons that we can give local authorities for saying, “Actually, you don’t have to do this one.” We have given a definition in subsection (4), but we are also—

Nic Dakin: Will the Minister give way?

Andrew Stunell: I thought I might just finish the sentence, if that is okay. We are also saying in subsections (5) and (6) that there may be other areas, some of which we have debated to an extent, where we will give local authorities the freedom not to hold a referendum on a particular subject even if, on the face of it, it complies with subsection (4), because there are good reasons for discounting it and not holding it. That is not a prohibition on their doing it; it is simply allowing them the power to rule something out of order.

The only order-making power in the provision is one where the Secretary of State can say that a local matter is not to be treated as such when an evaluation of a request or a requisition has been made. Of course, local authorities continue to have the power under existing legislation to hold non-binding referendums on topics of their choice, if they choose to do so.

The question of partner authorities has come up now for a second time, and it would perhaps be helpful if I circulated a list of what partner authorities are under previous legislation, so that that is on the record and people fully understand what they are.

Nic Dakin: It struck me that the arguments that we made about a code of conduct in earlier discussions—about allowing local authorities to determine things themselves, and trusting them in the way in which the Bill is predicated—ought to apply to the determination of what a local matter is for a local referendum. That would be the logical extension of that principle to this situation, so I am confused as to why the approach here is to centralise powers to the Secretary of State.

Andrew Stunell: We are not centralising powers to the Secretary of State, but providing local authorities with a reason for deciding not to conduct a referendum, despite having received what is, on the face of it, a valid request that is not vexatious and is local, but just happens to be about getting rid of the nuclear submarine base, if we take that as our working example. A local authority, having received a valid request, and knowing what the Secretary of State has ruled to be not a local issue, could still decide to say, “We know that it is not a local issue, but we are going to have a referendum anyway.” The Secretary of State is putting in place a filter that would potentially allow the local authority to prevent certain referendums from being held. However, a local authority, under existing legislation, can decide—it would not be ultra vires—that notwithstanding the Secretary of State’s filter, it intends to conduct a referendum on that point.

Ian Mearns: I would like to press the Minister on the example that we gave previously, as the closure of a nuclear submarine base would relate to few places in the country. Conflict between the Secretary of State for Communities and Local Government, a local authority and the Secretary of State for Education may come about where there is a call for a referendum on a free school. How will that be dealt with?

Andrew Stunell: I will do my best to explain again what I thought I had said before. If a petition was received, perhaps from a particular ward, to say that it wanted a referendum on whether a free school should be set up in the area, and if it was valid and came before the council, the council could decide that that was a local issue, and it could have a referendum. If some future Secretary of State had erected a filter or barrier that said that free schools were not a local matter, the council could still say, “Fine. It is not a local matter, but we can still conduct a referendum under existing legislation, and we intend to do so.” That is established in the Bill as well. I may have—

Alison Seabeck (Plymouth, Moor View) (Lab): Will the Minister give way?

Andrew Stunell: Okay, but again I would prefer to get to the end of the sentence. Councils have the capacity to carry out referendums if they wish, and if they have a majority for that course of action. We are talking about the criteria that a council has to take into account when accepting a requisition for one.

Alison Seabeck: Labour Members are even more confused. I have a nuclear submarine base in my constituency—[HON. MEMBERS: “Hurrah!”] Go Plymouth! We have people on both sides of the argument in Plymouth: some like the fact that we have a nuclear base, and others do not. If those who do not like it decided to hold a referendum, and if the local authority was minded to let it go ahead because it did not want the nuclear base in the area, what regard would it have to take of the Secretary of State, who would doubtless be advised by the Ministry of Defence to say, “No, you shouldn’t allow that”? I am slightly confused. On the one hand, the Minister seems to suggest that such a referendum could still go ahead, but on the other, he is saying that it cannot. Help!

Andrew Stunell: The local authority would be empowered to carry out a referendum if it chose, but it would have a valid defence if it chose not to do so by relying on what
I would call the Secretary of State’s filter, through the use of the regulatory powers. I believe that we have exhausted this topic.

**Jack Dromey:** Will the Minister give way?

**Andrew Stunell:** I do not propose giving way at the moment.

There is an almost infinite number of local government powers and duties. I know that my council claims to provide 640 services, and I imagine that the answer will be the same all the way through under paragraphs (a) and (b) of clause 44(4). I hope that I have satisfied the Committee on this important topic.

**Jack Dromey:** May I make two points? It would seem that the Minister has made a persuasive argument, saying that local authorities have existing powers to conduct referendums. However, he seeks to defend his position by saying that they could use existing powers. I shall focus on the proposed powers, and carry forward the example of the nuclear submarine base mentioned by my hon. Friend the Member for Plymouth, Moor View.

I declare an interest; I was chairman of the defence union—I led for all the unions—in the dockyards of Devonport and Rosyth, in the Clyde submarine base, and in Faslane and Coulport. One lively issue that was under consideration for some years was not the maintenance of an independent nuclear deterrent but where redundant nuclear submarines should be decommissioned. They have to be decommissioned somewhere, but it was a deeply controversial matter. Whenever a proposal was made to use one of those dockyards or the base for that purpose, opinion was divided, to say the least, with significant opposition from local communities. Under the powers in the Bill—the new powers, for the avoidance of doubt—would a local community be able to trigger a referendum on whether nuclear submarines should be decommissioned within the local authority area?

**Andrew Stunell:** The local council could, and a local community probably could, depending on the outcome of the application of subsections (5) and (6).

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**Mr Raynsford:** I have increasing sympathy for the Minister, as he seems to be carrying a disproportionate share of the Front-Bench duties on this point. He made the case, which I hope that he genuinely thought was true, that we had exhausted all the subjects that could possibly be discussed. I shall not try the Committee’s patience by going too far, but the Minister will know from my earlier point that judicial review, and the risk of lawyers interfering in the process, hover over such matters in the absence of clarity.

A moment ago, the Minister’s defence was that we should not worry about the Secretary of State’s powers because, under existing legislation, local authorities can conduct referendums if they so wish, even if the subject is covered in the Secretary of State’s order under subsections (5) and (6). The danger in that situation relates to subjects that could be extremely controversial and where important commercial interests could be involved. We have talked about landfill sites, incinerators and nuclear submarine depots, and obviously considerable economic issues are involved in such cases.

It is not inconceivable in such a situation that a local authority that tried to proceed with a referendum that was seen as threatening to a particular commercial interest might use the fact that the Secretary of State had suggested under subsections (5) and (6) that the issue was not appropriate for a referendum to challenge the validity of the local authority’s action. Given the lack of clarity about the Secretary of State’s use of the powers, it is difficult for us to judge whether that is a serious risk. However, I am not persuaded that that will not come into play, and if it does, that poses a serious challenge to the Minister’s assumption that it will still be all right for a local authority to proceed with its referendum under different powers.

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**The Chair:** I should tell the Committee that I am inclined to put the question fairly soon, so if any members of the Committee have further issues that they wish to put to the Minister, perhaps we can hear them, and I will ask him to reply.

**Nic Dakin:** I want to push the example of the free school referendum a little further because it will help us to understand the powers, their impact and the reality and the illusions with which we are dealing. Let us assume that the referendum is clearly against the establishment of a free school. What would the local authority or, indeed, the Secretary of State do? Where would that leave us?

**The Chair:** Speak now or for ever hold your peace. I call the Minister to respond.

**Andrew Stunell:** In response to the right hon. Member for Greenwich and Woolwich, I am satisfied that there is no legal risk to a local authority conducting a referendum in the circumstances that he described. I wish to point out to the hon. Member for Scunthorpe that the referendums are non-binding.

**Question put and agreed to.**

Clause 44 accordingly ordered to stand part of the Bill.

**Clause 45**

**Mr Raynsford:** I wish to ask about subsection (5). Those who have studied the Bill carefully will see that, when a principal local authority has made a determination, it has a duty to notify the petition organiser and publish the determination. There are various other consequential provisions, one of which is probably quite sensible in terms of electronic notification. It allows a response electronically to someone who has petitioned electronically or when they are happy to receive an electronic communication, but otherwise not.
Under subsection (4), the authority is obliged to “give the reasons” if it has decided not to hold a referendum and to publish those reasons, but under subsection (5),

“A principal local authority is not obliged to publish those reasons if it thinks that in all the circumstances it would inappropriate to do so.”

I would like that to be clarified, because it makes nonsense of the previous requirement that an authority publish its decision, although I can foresee circumstances in which it would not be appropriate to do so.

I am not thinking of circumstances in which councillors or the chief executive of the local authority think that the people promoting the referendum proposal are nutters or pursuing it for vexatious purposes. That might be their view, but they should not be allowed to conceal it under the provisions of subsection (5).

I can foresee circumstances in which there are, say, sensitive community relations and there is a fear that one particular group is trying to stir a referendum on a sensitive issue that might cause grief, anguish and unhappiness to other sections of the community. A local authority might believe that such a referendum could damage race relations in an area that already has inherent problems, which would be a perfectly legitimate reason for it not to want to go into too much detail. But it would still help the Committee if the Minister could tell us the thinking behind the provision.

On several occasions we have asked about the Government’s intentions. On the face of it, subsection (5) is rather unsatisfactory, because it makes nonsense of the previous provisions. Could the Minister assure me that there is a good reason for it, and that it will be interpreted in that way? I do not want to appear to suggest that there ought to be further regulations telling local authorities how they should interpret this power.

Having given that caution, and having seen that inspiration has reached the Minister, I look forward to hearing his reply.

Andrew Stunell: I thank the right hon. Gentleman for his very helpful contribution. I welcome his satisfaction about the clause’s other provisions. He is right that the first set of circumstances could occur. One of the issues that the council has to judge is whether a request is vexatious or abusive. That would clearly be a material consideration in whether it gives extra publicity to it.

The other circumstances are very much as the right hon. Gentleman has outlined. There should be a high level of transparency, but there will be circumstances such as those he has helpfully outlined in which it would be completely inappropriate to do so. So subsection (5) will be exercised at the discretion of local authorities, which will take account of the circumstances. We do not intend to provide a long list of things that local authorities should take into account.

Question put and agreed to.
Clause 45 accordingly ordered to stand part of the Bill.
Clauses 46 to 49 ordered to stand part of the Bill.

The Chair: It is funny what progress we can make when the Government Whip steps out of the room.

Stephen Gilbert: I beg to move amendment 125, in clause 50, page 34, line 9, leave out subsections (4) and (5).

The Under-Secretary of State for Communities and Local Government, my hon. Friend the Member for Hazel Grove referred to me as right hon., so I shall not tempt fate. I fear that if I delay the Committee much longer, the chances of that happening will diminish by the day.

Members should reacquaint themselves with subsections (4) and (5). The purpose of the amendment is to stop a local authority from taking sides in a referendum, and so being able to spend a huge amount of taxpayers’ money to promote its particular view.

I have two examples to show why Members from both sides of the Committee would not find that acceptable. I ask my hon. Friends to imagine if Labour-controlled Lewisham council decided to have a vote on a new education policy for not allowing the establishment of free schools in the borough. Would we want that Labour authority to be able to plough thousands or hundreds of thousands of pounds into a promotional campaign to support that view? I ask Labour Members to imagine if Conservative and independant-controlled Cornwall council used all its resource to stop environmental groups gaining approval for a wind farm, by allowing a referendum on a policy to allow no more wind farms. Is not the reality that local authorities should be independent and impartial adjudicators of referendums, and not partisan participants in them, particularly as they will be spending the public’s money?

If hon. Members cannot see the potential for vast sums to be spent on highly political campaigns, especially in the run-up to an election, they have not been paying attention to recent politics. In reality, we know that money is not sufficient for winning an election, but it is a necessary condition. I hope that I am wrong, but the clause seems to give the local authority a ridiculous head start over any local group with which it disagrees. It can use its resource to publish and promote the opinions of the side that it wishes to encourage support for, or of the opposition to the question to be asked in the referendum. The local authority should be independent and impartial, and it should stand as the adjudicator for and not as a main participant in a referendum contest.

Gavin Barwell: I understand the concern that my hon. Friend is raising, but I will put two points to him. First, rather atypically, he is not arguing a localist cause, in that he is asking the Government to prohibit councils from doing something. Secondly, there might be issues on which it is unreasonable to expect the local authority to be neutral, because one of its published policies might be the issue at stake in a referendum.

Stephen Gilbert: My hon. Friend hits the nail on the head with his second point, but I am asking the Government to consider whether the wording of the Bill is sufficient to ensure adequate protections from the kind of politically motivated and well-resourced campaigns that we can all
Imagine. I do not want to take anything away from the localist agenda, but to ensure that we put in safeguards against pernicious political use of the provision by any party. I am not making a political point.

Ian Mearns: I entirely understand the sentiments behind what the hon. Gentleman says, but his proposal would take away from a local authority, which had determined that it was right to have a referendum, the ability to defend its policy on an issue that is pertinent to the area. That policy would be determined by the democratic process of correctly elected local councillors coming to a decision on an issue. The hon. Gentleman is saying that, if the vast majority of councillors agree with their properly established policy, that local authority would not have the powers to defend it.

Stephen Gilbert: I have managed to unite the Committee—perhaps my chances of becoming a right hon. Member have just improved. I have sympathy with the hon. Gentleman’s point, but I would not deprive the local authority of the ability to involve itself in the argument and to make its case; I suggest that, as the Bill stands, the local authority would effectively have the winning card almost all the time. There seems to be no role for balancing the resource that community groups would have in comparison with the local authority. For example, the Bill includes no role for the Electoral Commission.

6.30 pm

Alison Seabeck: In clause 51(2), on the conduct of local referendums:

“The Secretary of State may by regulations make provision as to the conduct”—although whether that is conduct of the referendum at the time or beforehand is not clear. Would it not be nice to see the regulations?

Stephen Gilbert: The hon. Lady tempts me, as always, to agree with her and make a point. However, she does make a point. We cannot simply allow the uncertainty and continuing vagueness about how the referendums will be conducted, what amounts of money can each party spend, who will enable that to happen and what happens later if there is a gross abuse of a local authority’s position.

I have no intention of pressing the amendment to a Division, but I moved it because of genuine concern. In our experience, we can all think of opportunities for a local authority that might be pushing and looking slightly over the horizon, at an election around the corner. Such an authority might well choose to promote, with all its resource, a particular slant in a referendum, with no safeguards for community groups and a huge in-built advantage.

Jack Dromey: The hon. Gentleman makes an interesting case which has undoubtedly merit: an abuse of power by the local authority would be inappropriate. Having said that, the local authority might well make decisions not only as an obligation, for example under the Equalities Act 2010, but with particular regard to the most vulnerable groups or parts of the community covered. A whole number of issues could be affected, from schools reorganisation through housing to how resources are committed to care for the elderly. In combination with legal advice about duties under equalities legislation, the local authority might make such decisions out of noble motives, determined to give legitimate priority to the most underprivileged and deprived. All too often the voice of the powerful is heard and not that of the powerless, and in the event that the powerful were to trigger a referendum, surely the local authority should have the right to argue that it is acting in accordance not only with the requirements of legislation but with the interests of the powerless.

Andrew Stunell: I can give my hon. Friend the Member for St Austell and Newquay the assurances he wants.

First, though, his amendment would allow no discretion for local authorities to publish material for or against any referendum question. They would be required to remain wholly neutral in any campaign, which would remain wholly neutral in any campaign, which would be against pernicious political use of the provision by any party. I entirely understand the sentiments behind what the hon. Gentleman says, but his proposal would take away from a local authority, which had determined that it was right to have a referendum, the ability to defend its policy on an issue that is pertinent to the area. That policy would be determined by the democratic process of correctly elected local councillors coming to a decision on an issue. The hon. Gentleman is saying that, if the vast majority of councillors agree with their properly established policy, that local authority would not have the powers to defend it.

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“where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.”

In other words, there may be cases where the council should provide information and evidence in support and in opposition to the referendum question. But that of course would not be possible in the event of the amendment tabled by my hon. Friend the Member for St Austell and Newquay being pressed to a vote.

Certainly, the Government understand the importance of the referendum being conducted in the context of a fair public debate and that citizens should have every opportunity to reach an informed view on the issues. But that does not always require local authorities to remain silent or to be completely neutral. Provided they observe the requirements of the code, we believe it is right and proper that they should choose in some circumstances to proceed on behalf of one side or the other of a referendum question. I ask my hon. Friend to withdraw his amendment.

Barbara Keeley: I have a question for the Minister. We have had assurances again and again that local referendums are to be advisory. Surprisingly, “A plain English guide to the Localism Bill” states that a local referendum “will give local people the right to suggest votes on any local issue that they think is important. Local authorities and other public bodies will be required to take the outcome into account as they make their decisions.”

Such a statement seems a substantial contravention of subsection (4):

“If the authority decides to take no steps to give effect to the result, it must publish that decision in such manner as it thinks appropriate”.

Such a statement seems a substantial contravention of subsection (4):

Subsection (8) provides similarly for partner authorities.

Plain English guides are good, but why does that one state that local authorities and other public bodies “will be required” to take the outcome into account, when clause 52 leads us to believe that it is entirely up to the local authority to decide whether to do so? Those statements are quite different.

Mr Raynsford: The application of the provision to parish councils is difficult, because such councils may have strong local preoccupations with particular issues, and only limited resources. Clause 53(3) is important, because the Secretary of State “may make or arrange for the making of payments to parish councils to enable them to meet the additional expenditure they incur as a result of regulations under this section.”

It is entirely understandable that parish councils may be compensated under such a framework—[Interruption.]}

The Chair: Order. The right hon. Gentleman is ahead of the debate. We have not yet come to clause 53 on parish councils; we are still considering clause 52. I shall take his contribution as notice that he wants to speak when we reach the next clause.

Ian Mearns: We have discussed how a local authority may hold a referendum on a power that affects its area, but is not at discretion to use its results—with the imposition of a free school, for example. When must another public body, including a Secretary of State, have regard to the outcome of a local referendum? That is important, because it brings into question holding a referendum in the first place. Referendums are not binding and are for an advisory purpose. If they concern powers being pursued by a Secretary of State for another Department, or for the Department for Communities and Local Government itself, surely their whole purpose is to ensure that the appropriate Secretary of State has regard to their outcomes as they affect a local area.

Andrew Stunell: Local authorities are required to take account of the decision; they are not required to obey it. The referendums are non-binding and are advisory, as the hon. Member for Gateshead has said. It is entirely up to the council what it does. When an authority makes a decision that relates to the issue at stake in the referendum, however, it must have regard to it. In other words, it must consider the result of the referendum when it reaches its conclusion. Such will be the effect when a non-binding referendum comes to the council. Clause 52 aims to ensure that the referendum is not simply put on the chief solicitor’s shelf for the next 50 years, but that the council gives some practical consideration to the matter at issue.

Barbara Keeley: I have drawn to the Minister’s attention a publication on the DCLG website that gives members of the public a confusing picture. I think the average person would consider that stating that local authorities will be required to take the outcome into account is much stronger wording. I do not know whether the Minister has constituents who take what he says or any Government Department says to the nth degree of interpretation, but I have at least one. I can envisage the letters because this person will be pushing and pushing and pushing to the extent of seeking compensation if the Government do something that he does not think is clear. There are people out there who do that. This is on
the Department’s website. If the words are as in the Bill, as I am sure they are, then the plain English guide needs to be brought into line.

6.45 pm

Andrew Stunell: I am quite happy to look at the point that the hon. Lady has raised. If there is wording on the website that needs adjusting we will certainly do so.

Question put and agreed to.
Clause 52 accordingly ordered to stand part of the Bill.

Clause 53

APPLICATION TO PARISH COUNCILS

Question proposed, That the clause stand part of the Bill.

Mr Raynsford: I apologise for inadvertently speaking too soon, largely because of the rapid rate of progress that we have been making recently. It seems perfectly reasonable that there should be provision for the holding of polls or referendums by parish councils. Indeed, there are existing provisions for parish polls so there is an obvious question about the interface between the Bill and the existing provisions. However, two areas are of particular interest to me. The one that I was beginning to talk about prematurely was the financial arrangements. As I am sure Members can understand, this could be a very open-ended indeed. One only has to have a cause that gets taken up by parish councils all over the country. Let me not be too indelicate in relation to Government Members, but the future of forestry may be of very real concern to parishes in many parts of the country, and many people might feel that their parish council could well hold a referendum on the future of the forest in their parish or in a neighbouring area.

If there were to be a flood of referendums promoted by parish councils, the call on resources from the Secretary of State to support them might be quite substantial. So I would welcome some indication from the Minister as to how this provision, which looks very open-ended, is to be interpreted and whether the Government have any estimate of the potential costs and how those costs will be met, if they are to be met. What estimated budgetary provision have or county councils might be troubled if they were suddenly notified that they would be expected to meet part of the costs of referendums held by parish councils in their areas. I hope that this is an unworthy suspicion on my part and that the Minister can assure me that he has absolutely no intention of interpreting these words in that way.

My hon. Friend has raised a valid point. Given the open-endedness of the financial commitment to which I have already referred, and the scope for referendums on an awful lot of issues that are relevant to parish councils, the Committee is owed an explanation as to just what the scope of these payments may be, and how they may be balanced with those made by the Secretary of State on behalf of the Government or those arranged by another party.

That does not end my concerns on this clause, because regulations under subsection (2) are also a matter of concern. These are extraordinarily wide-ranging powers. Subsection (2)(a) states:

“Regulations under this section may apply or reproduce, with or without modifications, any provision of, or any provision made under, this Chapter.”

Subsection (2)(b) states that these regulations may “amend, repeal or revoke any enactment (whenever passed or made).”

That is a Henry VIII power. I assume—one has to make this assumption—that those are enactments relating to parish councils. There may be a question as to whether any other statutes or enactments might be modified under this power, because of the way in which it is worded. That may cause other authorities or bodies concern. The ability of the Secretary of State to make such wide-ranging amendments to statute and to “apply or reproduce, with or without modifications, any provision of, or any provision made under, this Chapter” is a very wide-ranging power. The Minister owes us an explanation on how these powers are intended to be used by the Secretary of State. Once again, we are being asked to take something on trust.

Ian Mearns: My right hon. Friend has been very generous to the Government on the interpretation. Subsection (2)(a) states, “any provision made under, this Chapter”.

That is anything from clause 39 to 55, which is an extraordinarily wide provision for us to just meekly agree to.

Mr Raynsford: My hon. Friend has raised a legitimate concern. I think—I may be wrong—that we have some comfort in the provisions of subsection (1), which states: “The Secretary of State may by regulations make provision about the holding of polls or referendums by parish councils.”

We probably have a safeguard, because it is not open for the Secretary of State to use this widely, but there can be overlaps. The Minister will know that, on the issue of forestry, which I have raised, this is of concern to district councils, and possibly county councils, as well as parish councils. The potential overlap of these regulation-making powers with their effect on other authorities is a matter that we should probe a little.

In answering, I shall be grateful if the Minister will first tell us about the Government’s estimate of the potential costs and how those costs will be met, if they are to be met. What estimated budgetary provision have
the Government set aside for this? Secondly, how do the Government intend to use these substantial Henry VIII powers under subsection (2)? What is their purpose and why are such wide-ranging powers required? Is there a possibility, as my hon. Friend the Member for Gateshead said in his intervention, that those may apply more widely than simply to parish councils?

Andrew Stunell: I am happy to give both the right hon. Member for Greenwich and Woolwich and the hon. Member for Gateshead the assurances that they seek on this clause. The clause empowers the Secretary of State to apply the scheme to parish councils, with whatever modifications are necessary. The range of the Henry VIII powers—as the right hon. Gentleman has described them—that subsection (2) sets out, are in respect of the changes that are necessary to make the provisions applicable to parish councils.

Part 3 of schedule 12 to the Local Government Act 1972 already sets out arrangements for parish meetings and polls. A parish poll can be demanded on any question arising at the parish meeting. Under current rules, a poll can be held if the chairman consents, or if it is demanded by not less than 10, or one third of the electors present at the meeting—whichever is less. That threshold is very low. Once a poll has been triggered, it is carried out by the district council and the costs are met by the parish. There has been a long-standing recognition in the town and parish world that a review of those rules is necessary.

The clause allows the replacement of the existing parish poll regime with a modernised local referendum regime, tailored to the particular circumstances of parish councils. We intend to retain the important element of direct democracy that voters in parish areas have had for years, but we think that it is right to modernise the existing regime to make it fit for purpose in the modern world. We intend to work with key partners, such as the National Association of Local Councils, and the Society of Local Council Clerks—and both have indicated their willingness to participate—to ensure that the new arrangements are appropriate, proportionate and flexible, and we intend to consult widely before making any order under the clause.

Alison Seabeck: I have two simple questions. First, can the Minister guarantee that parish councils will not have to pick up any costs, and that there will be a new burden provision that applies to parish councils? Secondly, is it significant that subsection (3) is in italics, or is that only a printing error?

Andrew Stunell: It is very significant, because it relates to spending money, and that appears in a number of places in the Bill where money must be spent.

I want to pick up on a couple of specific points that the right hon. Member for Greenwich and Woolwich raised, about the wording “make or arrange for the making” of payments. His fear was that we were going to somehow screw somebody for it—which is the technical phrase—but in fact, the opposite is true. At the moment, there is no direct mechanism for the Secretary of State to give money to parish councils. The wording enables there to be a mechanism—for instance, by passing funds to district councils for onward transmission. In other words, it gives effect to the new burdens commitments. It is, therefore, the reverse of his concern, as far as that goes. I hope I have said enough to satisfy Members on both sides of the House.

Mr Raynsford: Before the Minister sits down, he will recall that I asked him for some indication of the quantum. What are the Government’s estimates of the likely costs? As I have said, this is quite open-ended.

Andrew Stunell: The right hon. Gentleman asked that question and I apologise, because it was in my note to reply. That will clearly depend on the outcome of the consultation, or the discussion—which I hope is a more appropriate word—with the NALC and the SLCC on exactly how the provision should proceed. At that point, we will make a proper assessment of the costs and how those might be met.

Jack Dromey: Thank you, Mr Chairman. I am looking for a response from Ministers on two points. First, this power, even by Henry VIII standards, is one at which Henry VIII himself would have salivated. It is extraordinary in its breadth; it could essentially be reworded to say, “I reserve the power to do what I want, when I want, wherever I want.” It is extraordinarily broad, and I draw attention to clause 53(2)(b), which states that regulations may “amend, repeal or revoke any enactment”.

Will the Minister clarify whether that is an enactment under this Bill, or does it refer to any other Act of Parliament or regulation laid by Parliament?

Secondly, legitimate concern has been expressed about parish councils. As we said earlier, parish councils at their best are admirable institutions. All of us know excellent examples around the country of parish councils that do outstanding work. The Minister of State said that research would be made available to us regarding how many parish council elections had been contested that do outstanding work. The Minister of State said that research would be made available to us regarding how many parish council elections had been contested and other matters. On a separate but related issue, there has been disclosure of some cost-impact assessments, which were the subject of an earlier debate. However, following what the Minister said about the anticipated modest cost, and given that costs relating to councils and referendums have been assessed, what is the calculation for parish council referendums?
Andrew Stunell: The power in the clause is limited to the purposes of holding polls and referendums by parish councils by clause 53(1). The regulations are also, of course, subject to affirmative procedure in this House: they have to be approved by a resolution of both Houses of Parliament. I hope that gives the hon. Member for Birmingham, Erdington the information he sought.

Regarding the variability of parish councils, the hon. Gentleman is right that they are diverse in size, sophistication and operation. A common feature is the parish poll provision, and any estimate of cost would have to take account of savings made by any changes. As I tried to indicate earlier, both sides are going to depend on the work we are doing with the National Association of Local Councils and the Society of Local Council Clerks. It is important to ensure that new arrangements are appropriate, proportionate and flexible. We intend to consult widely before making any order under the clause.

When we have developed a scheme that is fit for purpose and the consultation is complete, we would be in a position to evaluate the likely range of costs and savings that would result from dispensing with parish polls. The reform of parish polls is something which the parish sector, district councils and others have long pressed, and this is an opportunity to do so.

On the drafting of the clause, the hon. Member for Birmingham, Erdington asked whether it was solely confined to the Bill, and it is clearly not, because the clause refers to the altering of other enactments. The most obvious and relevant of those would be part 3 of schedule 12 to the Local Government Act 1972, which sets out the arrangements for parish meetings and polls. In pursuing reform, it may come to light that other enactments need to be modified, repealed or revoked, and whatever the other word was, to create a coherent poll scheme. I trust that that satisfies the hon. Gentleman. I have discussed the clause before, and I hope that the Committee is ready to approve it.

Jack Dromey: No, that does not answer the points that I raised. I know that the Minister of State will make that research available, and I look forward to seeing it in due course.

The Minister of State, Department for Communities and Local Government (Greg Clark): I will send the hon. Gentleman a letter tonight, and it will point out that the latest comprehensive survey on the characteristics of parish councils that we have been able to identify is some years old. “Parish and Town Councils in England: A Survey” was published by Her Majesty’s Stationery Office in 1992, and I will write to the hon. Gentleman with the details.

Jack Dromey: I am grateful, and we will perhaps reserve our comments until we receive that letter. It may be surprising that quite so much store has been set by parish councils, given that the research in question is 19 years old. We look forward eagerly to that evidence.

On costs, the Under-Secretary said that there would be savings on parish polls. What is the estimate for those savings? There will be costs, but they will be partly offset by those savings. What is the likely total expenditure impact on the public purse? In the impact assessments, costs have been worked out to almost the last decimal point, but not in relation to parish councils. I press the Minister to be clearer on that and to share with the Committee the work that has been done thus far. When we discuss savings and costs, what does that mean?

In the light of what the Minister has just said, the point about enactments is profoundly worrying because, on first reading, it appeared that we were discussing enactments only within the Bill. Is it the case that the Secretary of State is taking the power to set aside any other aspect of statute that is defined as an enactment, including, for example, obligations under the Equalities Act 2010?

Andrew Stunell: On the cost issue, the impact assessment will follow the preparation of a scheme. At the moment, we are simply opening the door to formal discussions with NALC and others to see how we might shape that. Until that is done, it is not possible to make a realistic estimate of savings, because we do not know what elements of parish polling would be retained. For very small parishes, polls might still be retained—I am speculating. Until we see that and what the new regime will be, we cannot make a realistic estimate of the savings. I understand the hon. Gentleman’s impatience, but he will have to wait for a scheme, which will emerge in a transparent way, following discussions with the partners who are most directly concerned.

“Any enactment” means any Act of Parliament and any secondary legislation, but all of that is subject to clause 53(1). In other words, any changes would have to be about the provision relating to the holding of parish polls and parish referendums.

Question put and agreed to.

Clause 53 accordingly ordered to stand part of the Bill.

Clause 54

Discharge of functions

Question proposed, That the clause stand part of the Bill.

Alison Seabeck: I have a query, which can best be illustrated by using an example from Plymouth. The council executive decided to site an incinerator in Plymouth—on the basis of a decision made by the South West Devon waste partnership. What would happen if local people subsequently applied for a referendum? As I understand it, the resolution to allow that referendum must be taken by the full council rather than the executive who made the original decision, which is slightly odd. If the referendum takes place at the same time as the planning application, which the executive has authorised, how does that work? Surely the planning application would have to be delayed. It is a strange way for a council to do business.

Mr Raynsford: My hon. Friend has made an interesting point about the potential interface between a planning application and a referendum, and the fact that different levels of decision making in the local authority would have to apply in those cases.

Will the Minister explain the logic behind this rather curious little clause? It appears to require any decisions regarding the referendum duties to be made by the whole council, not by the executive. In the case of the Greater London authority, decisions would be made...
not by the Mayor but jointly by the Mayor and the Greater London assembly. I would welcome confirmation that I have understood the clause correctly.

I can understand why a decision on a substantive resolution on one of the points of principle—how, for example, the council decides to respond to a petition—should be taken by the whole council. This chapter, however, contains a whole series of duties. In clause 43, the first duty is to decide whether a referendum is appropriate. In clause 43(4), another decision must be made over whether it is appropriate to refer the matter to another authority. Under clause 44, if the local authority does not intend to hold a referendum it must set out its grounds for not doing so. Clause 46 contains the administrative arrangements for holding the referendum. Clause 48 concerns the decision on the question to be asked in the referendum, and clause 52 deals with the decision about what the local authority will do as a consequence of the outcome of the referendum.

I can understand the latter decision, and possibly the decision on the question itself, being matters for the council, but is it really necessary for the whole council to make a decision on referring the matter from a district council to another tier of Government? That obligation appears to be imposed by the clause as it stands. If it is not, I would welcome clarification. Similarly, the arrangements in clause 46 for holding a referendum are purely administrative, and surely they do not require a resolution of the whole council. In the case of the simple matter of a specific arrangement for a referendum, that could be delegated.

8.15 pm

Henry Smith (Crawley) (Con): Before our break this afternoon, Opposition Members said a lot about how referendums as proposed were too easy to hold, or could be called on trivial matters. Now there seems to be an inconsistency, as the right hon. Member for Greenwich and Woolwich says the matter would need to go to the full council. It would have thought that he would welcome the provision.

Mr Raynsford: Perhaps I have not been explaining myself properly. My concern is that the provisions appear to require all decisions taken by the authority under the clauses to be decided by full council. I argue the devolutionist case. Surely it should be left to the authority to decide the appropriate way to handle things, except perhaps with respect to the fundamental outcome—what the authority will do as a result of the referendum—or at an earlier stage if it decides not to hold a referendum; I can understand that it might be regarded as appropriate for that question to go to the whole council, so that the decision is seen to be made by the whole council and not just a part of it.

I was arguing, in devolutionist mode, that administrative decisions on the nuts and bolts of holding a referendum should not require a resolution of the whole council. They should be left to the appropriate part of the council—officers or whoever—who would, under normal arrangements under the authority’s procedure for delegation, handle those matters. I may have got things wrong and misinterpreted the clause, but it appears to do as I have described. It states that

“passing a resolution under any provision of this Chapter”

is exempt from section 101 of the Local Government Act 1972, which allows the delegation of responsibilities in certain cases. It goes on to state:

“In the case of a principal local authority that is operating executive arrangements, a function of passing a resolution under this Chapter is not to be the responsibility of the authority’s executive”.

That seems to imply that any decision taken under the chapter, including some quite routine and mundane administrative ones, must be taken by the full council, rather than being subject to the normal scheme of delegation. I hope that I am wrong, but if I am not, will the Minister consider the provision again? It appears to me that it is not in the spirit of devolution.

Andrew Stunell: I am happy to assure the right hon. Gentleman that he is wrong. He wanted that assurance; usually when I give it to him he does not welcome it. On this occasion I direct him to the phraseology of clause 54(1). The function that is reserved is that of passing a resolution, so that is what must be done by the full council.

I would say that in the nature of these things, those with local authority service who find their way into this House have commonly spent much of that service in a majority group. I am one of those Members of Parliament who found his way here but who was not in a majority group, and I think it is right that there should be safeguards for minority groups on councils. One of those safeguards is transparency in decision making on such issues. Specifically, a single-party executive, which is of course the norm on majority-controlled authorities, would not provide the level of openness and transparency that would be given by the capacity to debate and pass a resolution in a full council of all members, of all persuasions, elected to that authority. I hope that the right hon. Gentleman will take in good part the fact that those of us who have trodden the narrow and harder road of opposition and minority participation believe that the provision comes to us in the right form.

Mr Raynsford: Can the Minister satisfy me on a worry? Clause 43 sets out what must be decided by the authority when it receives requests for a referendum—either a petition or a request from a councillor:

“The principal local authority must determine whether it is appropriate to hold a local referendum”.

The clause goes on to say that if the council decides that the matter relates to another authority, it should refer it to that authority. The phrase “must determine” implies a resolution of the council. Can there be a determination without a formal resolution of the council? If so, surely the provisions in the wording to which I have drawn attention will bite, as it is stated that any

“function of passing a resolution under any provision of this chapter”

is outside the normal scheme of delegation.

Andrew Stunell: I will take a deep breath on that one and perhaps return to it on another occasion, and will write to the right hon. Gentleman if necessary.

The clause relates to the passing of the resolution that is related specifically to the referendum. From my perspective—the right hon. Gentleman will not be surprised to hear me say this—if all these matters were taken in the council, I would not see it as a bad thing, but that
depends on one’s philosophical view about the efficacy and democracy of having a council executive. I would like to reassure him that in that respect the Bill is on his side, not mine, as the words “must determine” are used in clause 43, as he quite rightly says, so a resolution is not required. The determination, for instance, could be delegated to officers. I trust that the outcome of the discussion, if not entirely to my satisfaction, is entirely to his.

Question put and agreed to.
Clause 54 accordingly ordered to stand part of the Bill.
Clause 55 ordered to stand part of the Bill.

Clause 56

REFERENDUMS RELATING TO COUNCIL TAX INCREASES

Question proposed, That the clause stand part of the Bill.

Ian Mearns: Regarding the question on council tax referendums and consequential amendments, I remember the evidence submitted by Essex county council in document L 44. What it had to say was quite powerful: “Essex county council recognises that the council tax has become overloaded and unpopular—we have worked hard to deliver real-terms reductions in council tax over the past three years. We are however concerned that, by empowering the Secretary of State to determine ‘acceptable’ and ‘excessive’ council tax the Bill risks undermining elected councils’ ability to flex local taxes to meet gaps in funding. It is unlikely that electors will vote for tax increases—there have been few examples of non-binding referendums on council tax, but in all but one example, the electorate voted for the lower increase available to them.”

The council is saying that if it was thwarted from increasing council tax by 1%, the impact would be to put a burden of £5.6 million on it trying to meet services with a shortfall of that sum, for the want of 1% increase on council tax.

Iain Stewart (Milton Keynes South) (Con): I do not know which example the hon. Gentleman is referring to, but in 1999 in Milton Keynes, there was a referendum on appropriate council tax increases. The council then, which I believe was Labour-run, successfully argued that people should vote for the higher option, which is what they did. If the council has a good case, it is perfectly permissible for it to put that to the electorate, and his concerns may not be realised.

Ian Mearns: The point that I am making is that the evidence was submitted by Essex county council. It was submitted to me on 21 May 2012. The hon. Member for Milton Keynes South said that in Milton Keynes they voted against a council tax increase, but in Milton Keynes on 19 September 2001, there was a referendum, and 66% voted to increase council tax by 1%.

Barbara Keeley: Proposed new section 52ZR sets out the situations in which the Secretary of State can direct that referendum provisions on how to tax are not to apply. The paragraphs to subsection (1) state: “(a) the authority will be unable to discharge its functions in an effective manner, or (b) the authority will be unable to meet its financial obligations.”

I wish to explore what that means.

First, we assume that local authorities are struggling to make cuts, which may mean that they cannot discharge their functions in an “effective manner”. If children’s services budgets are slashed by 50%, will an authority be able to run its child protection services, or services for looked-after children? Will it be able to support children with special educational needs or disabilities? Will an authority be discharging its functions effectively if it sets the eligibility criteria for adult social care at “critical”? It would mean that all those adults with substantial or moderate care needs would not receive services. In fact, that is what it used to mean. Councils, including Birmingham city council, now propose a tighter criterion for eligibility for “critical personal needs”. Those new criteria exclude some critical needs.

Is an authority discharging its functions effectively if it closes all or nearly all its libraries? Local authorities have a duty under the Public Libraries and Museums Act 1964 to provide “a comprehensive and efficient library service for all persons desiring to make use thereof.”

On Saturday, thousands of protesters throughout the country made it clear that cuts like those proposed in Oxfordshire, which wants to cut 20 of its 43 libraries, or in North Yorkshire, which wants to cut funding to 24 of its 43 libraries, would mean that their authorities were not meeting that duty.

I have said in the Chamber that Ministers from other Departments cause confusion by what they say about protecting the services for which they are responsible. They believe that councils are not being effective if they cut services to the levels that I have mentioned today. The Under-Secretary of State for Culture, Olympics, Media and Sport, the hon. Member for Wantage (Mr Vaizey), who is responsible for libraries, said that local authorities have a statutory duty to provide a comprehensive and efficient library service, and he has written to councils to remind them of that.
As for adult care, the Minister of State, Department of Health, the hon. Member for Sutton and Cheam (Paul Burstow), who is responsible for care services, has said:

“There is no justification for local authorities to slash and burn or…tighten eligibility”—[Official Report, 6 December 2010; Vol. 520, c. 126.]

What levels of service are meant by the term used in proposed new section 52ZR on whether a local authority can discharge its functions in an effective manner?

Brandon Lewis: There is one thing about schedule 5 as it stands that is potentially positive for some communities. I spent a lot of the break this afternoon in a meeting of the all-party parliamentary group on coastal erosion and one issue that I have been discussing with colleagues—particularly the hon. Member for North Norfolk (Norman Lamb) and other Members who suffer from the problem—is the idea of a solidarity fund. One option that is exciting people in communities such as those around the coastline of Norfolk and Suffolk is the potential, linked to the ability to have a referendum, to allow councils to have what we would call a levy to tackle that kind of local issue.

Will the Minister clarify—perhaps the ministerial team could look at this and feed back later—whether, if communities in, for example, Norfolk and Suffolk, particularly Norfolk, come together and have a referendum and say that they are happy to have a levy, for want of a better phrase, it will be possible to put something on the council tax that is specifically for dealing with coastal erosion and measures to protect our coastline? Would that, if passed—if it has the required 5 per cent.—protect the county council from a council tax referendum because that levy puts it over and above the capping figure? It seems logical for the Secretary of State to be able to use his power to waive that right in a beneficial way, and that is where schedule 5 could benefit communities and allow such a development to happen. In an area such as Norfolk, we would be very excited about that.

Brandon Lewis: There is one thing about schedule 5 as it stands that is potentially positive for some communities.

Robert Neill: Perhaps it would be convenient, in addressing the three points raised, to set out briefly the purpose of schedule 5, which is one of the key elements of this part of the Bill. It is worth bearing in mind that this is, we submit, a liberalising power for local authorities. The stark point is that it has always been accepted that it is legitimate for central Government to put measures in place to protect council tax payers from what are regarded as excessive council tax increases. That has been common ground between the Labour party and the Conservative party. Up to now, that has been achieved by capping.

The effect of schedule 5 is to replace the capping provisions with what we may term the referendum provisions. That is clearly much more localist; under the current arrangement, the Secretary of State determines whether a proposed council tax increase is excessive. He can override the council—in effect without more ado—albeit by an extremely complex and elaborate mechanism of designations, in-year designations, and the consequent arrangements for re-billing and so on. It is a complex mechanism that has been used on several occasions—I think, in recent years, 36 authorities have been capped some 43 times in all—but it effectively means that central Government make the decision in the person of the Secretary of State. What we say here is that, rather
Robert Neill: than a Minister being the arbiter of what is an acceptable council tax rise, the community itself is given the power to decide.

The effect of the proposed new sections—I will not go through them all in detail, as much of the gist has not been raised—is to provide that the Secretary of State has the power to set out principles. Those are principles whereby he can determine a limit of excessiveness, but that excessiveness is only a trigger for a referendum; it is not the end of the matter any more.

The great advantage for councils is that if they believe that they have a case to put to their electorate that they should set a council tax increase greater than that set as the trigger by the Secretary of State, they can do so. Councils cannot do that at the moment. Therefore the council has the opportunity to make its case to the electorate about whether it should be allowed to impose a council tax increase above the trigger limit. That is a much more liberal approach from central Government.

If the electorate decide that that is what they wish to do and that is their informed choice, they choose to trade a higher level of council tax for what they perceive to be the benefits put forward by the council. The council can make a case—which it cannot do at the moment, as the Secretary of State can act arbitrarily—but more to the point, the residents who pay the council tax make the ultimate decision.

Nic Dakin: Can the Minister assist further by indicating what level of service cuts would be necessary for the Government to use its powers under proposed new section 52ZR?

Robert Neill: I will come back to proposed new section 52ZR in a moment, if I may, because one needs to provide just a little more context before doing so.

Mr Ward: In the spirit of liberalisation, does the Minister want to extend that further by allowing a referendum to local people if they consider the cuts to local authority services to be excessive?

Robert Neill: We have moved on from the non-binding referendums commenting on levels of service provision—we are now dealing specifically with a binding referendum relating to the level of council tax. If the local authority believed—in response to what it assessed as the view of its electorate—that it had an arguable case that council tax set above the threshold was required to maintain certain levels of service, it could act. I think it is legitimate that local authorities should be the initiators since ultimately they are legally obliged to set the council tax. However, of course, the people have the chance to make their case during the referendum campaign. I think that is the right way forward.

Before I deal with the particular point about proposed new section 52ZR, may I refer to the helpful point made by my hon. Friend the Member for Great Yarmouth? I agree with him, and it is an interesting example of how the much-derided Henry VIII power can be used benignly and advantageously to local authorities. One should not always condemn such a power as it can also be used for a deregulatory purpose.

On the specific point, the Government are sympathetic to the idea that my hon. Friend the Member for Great Yarmouth raised. The whole thrust of this part of the Bill is that local voters should decide on the level of taxation that they pay locally, and I shall happily discuss matters with him to ensure that there are means whereby that objective, when it genuinely represents the wishes of residents to pay for a level of service, can be achieved. I hope that he will accept my undertaking to look at a means to ensure that that can be done, if the current wording of the Bill does not already permit it. However, I suspect that we are in a position where it probably does.

I wish briefly to refer to the operation of proposed new section 52ZR, raised by the hon. Members for Gateshead, for Worsley and Eccles South and for Scunthorpe. It is important to consider that in the context of where we have been before. The capping principles will have been announced by a report of the Secretary of State to the House of Commons and will therefore have been voted on by the House, thus bringing about extra democratic legitimacy. The provision then permits that, in certain circumstances, there is, in effect, a reserve power under proposed new section 52ZR to propose new section 52ZW to cover circumstances in which the Secretary of State, by direction, can say that referendum provisions do not apply.

The key matters to bear in mind are, first, the test that the authority will be unable to discharge its functions. The hon. Member for Worsley and Eccles South made her argument by citing specific examples of reductions of spend to specific services. That is not the intention of the Bill. When local authorities have statutory obligations, they are obliged under legislation outwith the Bill to meet those statutory functions. In order to set a lawful budget, they will therefore have to ensure that they have put forward a budget requirement that enables them to fulfil such functions. However, the level to which they do so, how they procure those functions and how they provide them is rightly a matter for those local authorities.

Barbara Keeley: Will the Minister give way?

Robert Neill: If I can finish my point, I might make matters clearer to the hon. Lady.

The test of whether the local authority is unable to discharge its functions effectively relates to the totality of its functions, not to the levels of service for individual functions. Such a test is not relevant to determining an acceptable council tax requirement.

Barbara Keeley: I hope that the Minister will come on to financial obligations in respect of redundancy costs. Let us stick with that point for a minute because it is important. I think that Salford city council will retain its eligibility criteria at “moderate”. That is certainly what it is seeking to do. I gave the example of Birmingham city council, which has not only gone to “critical” in its eligibility criteria, but past that. The number of people receiving a service is so much less that it is almost the bare minimum.

There is an argument about how effective a council will be, if it is providing that absolute bare minimum of adult social care. I accept that contracting out and so on are different decisions, but now there is really too much
of a divergence between authorities that are offering a much wider care service and those that have restricted it to the absolute minimum. If the Minister does not mind my saying so, that makes nonsense of what he is saying, because it cannot be okay for such matters just to be a local decision. The vulnerable who live in cities such as Birmingham are left at the mercy of those decisions, and I personally do not find that acceptable.

Robert Neill: With respect to the hon. Lady, she has a deeply patronising attitude towards local electors. I am surprised that, with her experience, she adopts such an attitude. The reality is that her arguments, although genuine matters of political debate, have nothing to do with the exercise of the Secretary of State’s reserve power. That relates to the totality of the authority’s functions. Within any local authority, legitimate debate can take place about the priorities that are given to those.

8.45 pm

I accept that there might be a political case made, with people saying, “What we have received from central Government is not adequate to fulfil our functions.” I do not accept that that is the case, because I believe that the current funding settlement to local authorities is sufficient for them to deliver their purposes. If it were the case, however, the answer is not to use the Secretary of State’s reserve power to avoid the referendum, but to make the case to local voters in the referendum—to say, “We do not have enough; if we are to maintain certain levels of service, we need to put council tax up by more than the threshold level.” The reserve power is not about that; it is there to deal with real issues of crisis, which can, I suppose, occur. I hope that they never do, and that we scarcely ever have to use the power, particularly under this heading. It is intended to be used only very seldom.

That brings me to the second test, which is the authority being unable to meet its financial obligations. This does not refer to a situation where there are particular cost items such as redundancy, but the power would enable the Secretary of State to consider the financial position of each authority on its merits. It is not intended to be exercised frequently or readily, but it is quite broad so that it can take on board those sorts of tests if the need ever arises. In the case of redundancy costs, for example, where one would expect a local authority first to look at other means, such as the use of reserves, and capitalisation applications, a Secretary of State would have to be convinced that the authority really had no other financial remedy. Essentially, the second limb is aimed at such situations.

Jack Dromey: May I press the Minister further on the calculation of the redundancy costs? The figure of £2 billion was borne out not just by the LGA’s assessment, but by other, independent assessments that have been made. What is the Government’s view as to what the redundancy costs will be in year 1 commencing April 2011?

Robert Neill: The hon. Gentleman’s question has nothing whatever to do with the content of the schedule.

Jack Dromey: It potentially relates to the content of the clause—

Robert Neill: Not to the schedule at all.

Jack Dromey: Well, it goes to the point that has been made on advice from civil servants about circumstances in which local authorities might find themselves in extreme difficulty. I ask the Minister again: do the Government stand by the view that has been previously expressed, which rejected the £2 billion calculation? Is the LGA right or wrong?

Robert Neill: That is a global calculation, and has nothing to do with the purpose of the schedule to the Bill, which enables the Government to take action in relation to an individual authority if that authority finds itself to be in extreme financial circumstances. The hon. Gentleman raises an interesting point, but it is a complete red herring.

Barbara Keeley: With respect to the Minister, I think there is a point here for council tax payers of an area whose local authority has been pushed to the limit because it has to service redundancy payments to 1,500 or 2,000 employees and has no cash. I do not think that the Minister is saying that any of our local authorities have themselves the reserves that are not committed to other things for which they have to use the money,
whereby it will not be an issue. It is an issue, and it relates to proposed new section 52ZR. I have asked a question, and I think it is reasonable for the Minister to give an answer.

Robert Neill: I have two points. First, the figure that has been quoted by the LGA—I do not change the Government’s stance on the matter—relates to the current situation, while the schedule is about future situations.

Secondly, with respect, the hon. Lady misses the point. The proposed new section will give the Secretary of State a reserve power to remove a referendum in response to the particular needs of individual authorities, so quoting global figures does not assist at all. We will look at the particular authority and whether those issues are relevant to it at the time. The global figures that have been quoted are irrelevant to that consideration.

Mr Raynsford: I would like to turn to a slightly different issue, which is the comprehensibility of the contents of schedule 5. The Minister decently—he is a decent man—admitted that they were complex in his introduction. I must put it to him that they are not only complex, but very long. The Government just got away with it: the numbering starts with 52ZA and goes right through to 52ZY. Just two more, and they would have gone beyond Z and had to go round again.

The way that the schedule has been written, the language it has been written in and its presentation is basically totally incomprehensible to most of our constituents. Will there be a plain English version of the provisions? If so, when does he propose to issue it so that people other than the small number who understand local government finance, like the Schleswig-Holstein question, can understand the utterly opaque series of measures that we have been doing our best to wrestle with this evening?

The Chair: There were three who understood the Schleswig-Holstein question. We have the Minister and Nick Raynsford, but who is the lucky third?

Robert Neill: That is precisely the point in the speech of the right hon. Member for Greenwich and Woolwich that alarmed me, because there used to be three in the whole world who understood the Schleswig-Holstein question. I hope that there is at least one in each local authority who understands these issues.

I understand the right hon. Gentleman’s point, and I of course sympathise with it. He and I have been grappling with such issues over the years, and although they are complex and are not exactly the most penetrable of reading—it is a bit like the legislative version of listening to a Berg opera on the radio without the benefit of seeing the stage action—these are largely technical matters, likely to be predominantly consumed by local government finance officers, a breed particularly adept at navigating such issues. I take the right hon. Gentleman’s suggestion in the spirit it is made. We have done a plain English guide to the local government finance settlement. Since this is a new departure of handing power to communities, it would not be unreasonable to produce a simplified and digestible approach to a power of benefit to them.

Ian Mearns: An interesting thought came to mind as the Minister was speaking. There were some interesting offers on the table there. Will the Minister go one step further and do a plain English version of the local government funding formula?

Robert Neill: We did, in fact, do a plain English guide to the local government finance settlement. I am helpfully reminded that when we were consulting on the measures, we set out a plain English guide to the approach. That was in July–September 2010—time flies—but it is still available and can be obtained by the hon. Member for Gateshead. I hope it will be useful.

I did not refer to the hon. Gentleman’s point about Essex, but I hope to address that issue, in any event without bun-fights.

The Chair: The Minister has been generous in his offer to the Opposition. In the convoluted English I am supposed to use, I will now put the question.

Question put and agreed to.

Schedule 5 accordingly agreed to.

Schedule 6 agreed to.

Clause 57

POWERS OF THE NATIONAL ASSEMBLY FOR WALES

Alun Cairns (Vale of Glamorgan) (Con): I beg to move amendment 103, in clause 57, page 37, line 13, at end insert—

‘(2) Welsh Ministers must make provision to apply this Chapter, amended as appropriate, to relevant authorities in Wales.’

There is something of a dichotomy. The principle of the Localism Bill is to devolve power to communities and individuals. The Welsh Assembly Government have sought the powers and framework measures to receive the power that the Bill conveys on them. Yet, the Welsh Assembly Government are probably the most centralising Administration in the UK. They have made it clear that they have no intention of devolving the rights for referendums and other clauses within the Bill. My constituents are particularly angry that this power will not be used and devolved to individuals to challenge local authorities on the increase in council taxes.

The Welsh Assembly Government have an extremely centralised planning system; there has been a huge shift to hypothecated funding; and there is significant distrust between local authorities and the WAG. As a result, my constituents are pretty irritated that they will not have the opportunity, the privileges and rights that the Bill in general will convey, in particular those related to council tax. There is also a respect agenda with the UK Government and that is the origin of clause 57, conveying powers on the Welsh Assembly. That respect agenda needs to go in more than one way. It obviously goes between the UK Government and the Welsh Assembly Government and vice versa. It also needs to be between the Welsh Assembly Government and the electorate. That is why the amendment has been tabled: to insist that my constituents will have the right to challenge excessive council tax increases.

Respect has been shown by the UK Government, to give the framework powers to the National Assembly for Wales. The Local Government Minister in Wales has already said that he has absolutely no plans whatsoever to extend the right of referendums to individuals in
Wales, which flies in the face of the Bill and the principle of localism, which is accepted in all parts of the House—we have debated only the implementation of localism. The centralisation of power in Wales, in the Welsh Assembly Government and away from local authorities, undermines the whole thrust of localism, which is supported by all the political parties.

9 pm

Similar amendments could have been tabled to other chapters and clauses of the Bill, but I wanted to champion the issue in connection with council tax increases for good reason. Over the past 13 years, it is reasonable to compare the tax increases in the north-east of England with those in Wales. Wales saw council tax bills increase by 36.8% more than in the north-east of England, which has a similar demographic and industrial make-up. The north-east saw council tax increase by 190.6%, but in Wales the increase was 227.4%. That demonstrates the reason for the anger and concern.

My amendment, therefore, champions my constituents’ concerns about council tax increases and the lack of a Welsh Assembly Government policy to follow the clause through in Wales.

Robert Neill: I am grateful to my hon. Friend the Member for Vale of Glamorgan for how he put the amendment. Having heard the figures he quoted, I quite understand why he has raised the issue and the concerns of his constituents and others.

I sympathise with many of my hon. Friend’s points, but we have the “respect” agreement and the devolution to the Welsh Assembly, as well as further down, I hope. With local government finance matters devolved to Wales, the limit to what we can properly do as a UK Parliament, under the terms of the devolution settlement, is to give the Welsh Assembly the means whereby it can, if it wishes, adopt the same principles as in England and give my hon. Friend’s council tax payers the same protections as in England.

I am sorry to hear what my hon. Friend said, but it is not for me to say more. He has made his point, loud and clear. I hope his point will be heard on the other side of the Severn. However, ultimately, that legitimate political argument must be made in Wales. We simply enable the tools for that course to be taken, if he can persuade whoever is responsible in the future for the Welsh Assembly Government to go down the offered route. The decision must be theirs.

I hope, therefore, that my hon. Friend, having made his point, will understand the Government’s position and withdraw the amendment.

Alun Cairns: I will withdraw the amendment. The sheer shift of power that the Bill will produce will embarrass the Welsh Assembly Government, because that will highlight the right of individuals in England to call for referendums on a whole range of policy areas.

Jack Dromey: Will the hon. Gentleman join me in warmly congratulating the Minister on his refusal to tear up Labour’s great settlement for Wales in the form of the devolution of power and responsibility?

Alun Cairns: I think that the legislation stands, and that all parties have probably moved forward from the time when the devolution settlement was made. I draw the hon. Gentleman’s attention to the referendum that will take place in a month’s time, having been granted by the coalition Government, on whether to take that power even further. Of course, with that power, will come responsibility.

I stand by my point that, as the Bill will give new powers to individuals and communities in England, the pure thrust of such a change of policy will focus minds in Wales. When it comes to different elections, with parties that plan to empower communities in a similar way, I suspect that my constituents will continue to learn the lesson and to reject the centralised policies that some have pursued.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 57 ordered to stand part of the Bill.

Clauses 58 to 64 ordered to stand part of the Bill.

Schedule 7 agreed to.

Clause 65 ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned.

—(Bill Wiggin.)

9.7 pm

Adjourned till Thursday 10 February at half-past Nine o’clock.