PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

GROWTH AND INFRASTRUCTURE BILL

Fourteenth Sitting

Thursday 6 December 2012

(Afternoon)

CONTENTS

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED

£5·00

PBC (Bill 075) 2012 - 2013

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Monday 10 December 2012

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: Philip Davies, † Mr George Howarth

† Birtwistle, Gordon *(Burnley)* (LD)
† Blackman, Bob *(Harrow East)* (Con)
† Blackman-Woods, Roberta *(City of Durham)* (Lab)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Boles, Nick *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Bradley, Karen *(Staffordshire Moorlands)* (Con)
† Coffey, Dr Thérèse *(Suffolk Coastal)* (Con)
† Dakin, Nic *(Scunthorpe)* (Lab)
Danczuk, Simon *(Rochdale)* (Lab)
† Fallon, Michael *(Minister of State, Department for Business, Innovation and Skills)*
† Glen, John *(Salisbury)* (Con)
† Glindon, Mrs Mary *(North Tyneside)* (Lab)
† Howell, John *(Henley)* (Con)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
† Murray, Ian *(Edinburgh South)* (Lab)
† Raynsford, Mr Nick *(Greenwich and Woolwich)* (Lab)
Simpson, David *(Upper Bann)* (DUP)
† Smith, Henry *(Crawley)* (Con)
† Stunell, Andrew *(Hazel Grove)* (LD)

Steven Mark, John-Paul Flaherty, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 6 December 2012

(Afternoon)

[Mr George Howarth *in the Chair*]

Growth and Infrastructure Bill

Clause 23

Employee owners

Amendment proposed (this day): 105, in clause 23, page 29, line 2, at end insert—

'(c) the employee has entered into such an agreement on a voluntary basis.'.—*(Ian Murray.)*

2 pm

Question again proposed, That the amendment be made.

The Chair: I remind the Committee that with this we are discussing the following:

Amendment 106, in clause 23, page 29, line 2, at end insert—

'(1A) Before entering into an agreement with a company as set out in subsection (1), an individual is entitled to seek advice and assistance from anyone of the following—

(a) a trade union official;

(b) a workplace representative; or

(c) a legal representative;

and the costs of that advice and assistance shall be met by the company.'.

Amendment 115, in clause 23, page 29, line 2, at end insert—

'(1A) The Secretary of State shall make such regulations or issue such codes and advice as is necessary to provide that no employee who declines to enter into a voluntary agreement under subsection (1)(a) shall suffer any consequential detriment.'.

Amendment 116, in clause 23, page 29, line 31, at end add—

'(7) The Secretary of State shall issue such guidance as is necessary to provide that refusal to enter a voluntary agreement under subsection (1)(a) by any person shall not be grounds for reducing or withdrawing any state benefit to which they are entitled by virtue of their current employment status.'.

Roberta Blackman-Woods (City of Durham) (Lab): I wish to make a point of order, Mr Howarth. Is this an appropriate point at which to do so?

The Chair: I shall make the judgment once it has been made.

Roberta Blackman-Woods: When we were discussing clause 7, the Minister informed me that, contrary to what I believed at the time, BT had provided written evidence to the Committee. I am afraid that I have not been able to find that evidence, so will the Minister be able to help me look into the matter?

The Minister of State, Department for Business, Innovation and Skills (Michael Fallon): Further to that point of order, Mr Howarth, if I can assist the hon. Lady, then of course it will be my intention to do so.

The Chair: Although it was not a point of order that was, strictly speaking, a matter for the Chair, it nevertheless seems to have been satisfactorily concluded.

Michael Fallon: On behalf of the Committee, I welcome you back to the Chair, Mr Howarth, for what may well prove to be our final session. We started to debate the four amendments before you resumed the Chair.

Amendment 105 asks that individuals enter an employee owner employment contract on a voluntary basis and that that should be stated in the Bill, but nothing in the clause will make the new employment status mandatory. This is simply a new type of employment status that sits alongside the other employment statuses that are available to employers and individuals. If I am fortunate enough to catch your eye, Mr Howarth, and if you allow a stand part debate, I will discuss with the Committee the other statuses with which this one can be compared. For the purposes of the amendment, we see no reason to differentiate this employment status from the already established statuses of either employee or worker. In fact, the amendment is unnecessary because it confuses rather than clarifies the other types of employment status that are available to businesses and individuals.

With regard to amendment 106, an individual is already free to seek advice, as they can when considering any other type of employment contract—whether as an agency worker or with a fixed-term appointment and so on. The clause does not forbid any individual from seeking advice. This amendment would add an unnecessary cost and burden to the employer. It is not a requirement for an employer to pay for an individual's cost with regard to the other employment statuses, and it would not be sensible to change that approach for this type of additional status.

Amendments 115 and 116, which were tabled by my right hon. Friend the Member for Hazel Grove, seek to add protections for people should they refuse to accept an employee owner contract, whether they are existing employees or prospective new employee owners. I certainly understand his concerns and some of the concerns that were raised on Second Reading and, indeed, some of those that have been raised more generally across the Committee that the new employment status might somehow be forced on people. It is interesting to note in passing that the Opposition first suggested that no one would take this up and then said that it would be catastrophic if lots of people were to take it up. They probably need to make up their minds whether or not the new type of status will be popular. I certainly accept that they are right—and my right hon. Friend is right—to bring concerns to the Committee that employees should not be pressed into accepting the new status. As I understand my right hon. Friend's two amendments, they seek to address specifically those concerns.

It is important to remember that the new employment status is conditional on an individual agreeing to accept the shares and then agreeing to the new status. However, it is conceivable that, once a company has decided to issue shares, some existing employees may feel forced

into the new type of contract. I want to reassure my right hon. Friend and the Committee that changes to existing employee contracts of course need to be agreed by both the employee and the company. That is a vital point. Any changes outside those allowed by the contract that are made without the agreement of the individual are likely to be considered a breach of contract.

Amendment 115 would not quite meet my right hon. Friend's aim. Part of the amendment relies on a code of practice or guidance. Although guidance is essential to the policy's success, as we have outlined in our response to the consultation, it alone would not have the legal force that would satisfy my right hon. Friend's intentions. It would be possible to make a new right not to suffer a detriment, but even if we did that, it is not clear whether such a new protection would make a real difference to existing employees.

Andrew Stunell (Hazel Grove) (LD): I appreciate the spirit in which the Minister is responding, but he will have seen that amendment 115 provides the Secretary of State with some options, as it includes the possibility of regulations or codes and advice, to find what might be the appropriate mechanism to achieve what I think both he and I want.

Michael Fallon: I do understand that, and I read my right hon. Friend's amendment carefully. I am saying that it is not clear whether, if we created a new right not to suffer detriment, it would actually make a real difference to existing employees, other than in respect of the rights that already exist for breaches of contract, for example. I am happy to consider his point further.

Turning to amendment 116, which seeks to protect potential employee owners, I presume that my right hon. Friend wants to provide some protection for those people on jobseeker's allowance. We do not believe that the right way to provide the protection sought is to amend the clause, because the JSA system works on a case-by-case basis, with all decisions made on the merits of each case. He said that a refusal of employment would lead to a suspension of benefit, but that is not the current position. It might do, but it would depend on the assessment of an individual's circumstances, the various other benefits to which they are entitled and their previous job application record. All that is determined on a case-by-case basis.

Andrew Stunell: I understand the Minister's point about where such a proposal might best be located, but the Secretary of State for Work and Pensions issuing guidance to the officials who are evaluating the strength or the weakness of a refusal to accept employment might be a useful inducement for the correct decision to be reached.

Michael Fallon: I understand that. I believe that the existing JSA system is sufficiently flexible and that JSA decision makers, with support and guidance, will be able to adapt to the new employment status and understand the consequences for claimants. The point is a serious one, and I will reflect further on it as the Bill progresses.

Nic Dakin (Scunthorpe) (Lab): I thank the Minister for the helpful response to the right hon. Member for Hazel Grove.

At the crux of the matter, I am concerned that someone who is attracted to the sort of work or job offered can access it only if they accept the terms. Surely that, in a sense, is coercion rather than an equal process. If that issue was addressed in the Bill, it would meet the right hon. Gentleman's concerns, as well as create a level playing field of employment prospects for individuals seeking work.

Michael Fallon: I understand that, and I have undertaken to my right hon. Friend to reflect further on that point. He raised the example of low-paid staff and, quite fairly, was raising the position of those on jobseeker's allowance. They will, of course, also have to be offered shares to the full value of £2,000. Some members of the Committee might think that that is somewhat unlikely if people are lowly paid staff—as my right hon. Friend suggested—or job seekers. I am more than happy to reflect further on whether there is a case for strengthening guidance in the jobcentre network. I want to see whether we can address that as the Bill progresses.

Ian Murray (Edinburgh South) (Lab): Welcome back to the Chair, Mr Howarth. Just to put into context what you missed this morning, let me say that we have accepted eight Governments amendments, while they have accepted none of ours as yet. As a responsible Opposition, we are helping the Government to improve the Bill, and I hope that the Minister will perhaps return the favour at some point this afternoon.

Regarding the amendments, there are significant concerns about whether the status will be wholly voluntary. We have deliberately tabled the amendments to include in the Bill a strong commitment from the Government that the status will be voluntary. The right hon. Member for Hazel Grove has helpfully raised two further issues regarding the voluntary nature of the status. I take on board the Minister's undertaking to respond to those issues, we hope, before the Bill is debated on Report a week on Monday.

The Minister said at the start of his contribution that nothing in the Bill will make the status mandatory. I am not sure that that is good enough. Something that is not mandatory is not necessarily voluntary; it is just not mandatory under the Bill.

The Minister continued to say that some people may seem to be forced. I agree with that, and that is part of the issue. I can see why the Minister would take that view in a utopia. However, the amendments look at the dynamic of every relationship between an employer and an employee. That dynamic is not clear cut; nor is it black and white. Every circumstance will have something attached. When moving the amendment, I gave examples of people who are offered a promotion or an increase in salary, and people who are unemployed and are offered a job with an employee ownership status attached. There are big issues.

By not specifically declaring in the Bill that the status is voluntary, we could run into lots of difficulties. However, we will go away and examine whether there are further amendments that we can table on Report. Given that we will have a stand part debate on clause 23, I will seek to withdraw the amendment.

Andrew Stunell: I thank the Minister for responding helpfully. In return, I will not press my amendments to the vote. However, I want to put on the record that some issues have not been completely fixed down, and I will be looking hard at what Ministers propose in due course.

Ian Murray: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.15 pm

Michael Fallon: I beg to move amendment 121, in clause 23, page 29, line 19, at end insert—

"( ) Regulation 30 of the Additional Paternity Leave Regulations 2010 (S.I. 2010/1055) (requirement for employee to notify employer of intention to return to work during additional paternity leave period) is to be read in the case of an employee who is an employee owner as if for "six weeks' notice", in each place it appears, there were substituted "16 weeks' notice.'.

I hope that the amendment will not be quite as controversial as the previous two amendments and, possibly, not as controversial as the clause itself. Amendment 121 requires employee owners to give 16 weeks' notice if planning to return early from additional paternity leave. The point here is simple: it is to ensure that there is consistency in the procedure applying to employee owners returning early from additional paternity leave, from maternity leave, and from adoption leave.

Ian Murray: We will not dwell on this drafting error either, merely to say that here is yet another example of a significant drafting error in a piece of legislation that was thrown together in haste because the Chancellor is desperately trying to do something for growth.

Amendment 121 agreed to.

Amendments made: 122, in clause 23, page 29, line 28, at end insert—

"(5A) The Secretary of State may by order amend subsection (1) so as to increase the sum for the time being specified there.'.

Amendment 123, in clause 23, page 29, line 29, leave out from 'means' to end of line 31 and add—

(a) a company or overseas company (within the meaning, in each case, of the Companies Act 2006) which has a share capital, or

(b) a European Public Limited-Liability Company (or Societas Europaea) within the meaning of Council Regulation 2157/2001/EC of 8 October 2001 on the Statute for a European Company."'.

Amendment 124, in clause 23, page 29, line 31, at end add ',' and—

"parent undertaking" has the same meaning as in the Companies Act 2006'.—*(Michael Fallon.)*

Ian Murray: I beg to move amendment 107, in clause 23, page 29, line 31, at end add—

'(7) This section may not come into force until the Secretary of State has published a full analysis of the impact on employees' income tax and national insurance contributions of becoming an employee owner.'.

We have now had nine Government amendments that we happily accepted without Division, so I hope that the Minister, whom Opposition Members have grown to like very much during the Committee, will feel generous and be slightly more amenable to accepting one of our amendments.

The amendment is complicated in nature but it is straightforward in what it would seek to deliver. We ask the Secretary of State to publish a full analysis of employees' income tax and national insurance contributions if they accept the employee ownership contract.

We ask for a full assessment for a number of reasons, some of which we started to highlight in earlier amendments that we put forward. The amendment would require the Secretary of State to compile a full assessment of national insurance and income tax. That must be done openly, transparently and, crucially, the employee owner status will not be available to employers until the analysis is properly completed. We have tabled the amendment because the Government have been totally lacking in providing information to answer the concerns raised on national insurance and income tax in relation to this policy. As was mentioned in the debate on amendment 117 and its grouped amendments, the Government are at risk of creating tax loopholes and, as I said earlier, tax loopholes is one of the common themes of our tabled amendments.

As the Department's consultation response states, respondents expressed concern that

"the new status would be complex and costly to operate, with uncertainty around valuation and income tax implications for individuals."

In the Government's response to the consultation, which was made available to us only yesterday, the only thing we know is that

"The Government is considering options to reduce income tax and National Insurance contribution liabilities that arise when employee owners receive their shares."

That is not really helpful in terms of taking this forward, because there could be significant implications.

Let me run through some of the potential implications in terms of income tax and national insurance. Currently, under the Income Tax (Earnings and Pensions) Act 2003 part 7, when employees require "employee-related securities", they are required to pay "market value" for them. To the extent that they do not, they are required to pay income tax and national insurance contributions, and their employer is obliged to pay employer national insurance contributions on anything under market value.

To give an example, if somebody is handed £50,000 worth of shares today without paying for those shares, and those shares are deemed to be benefit in kind, they will be required to pay income tax and national insurance contributions on the entire £50,000 acquisition value. Any gains would be subject to capital gains tax—ignoring the restrictions on elements up to the initial £50,000 value—and everything else will be subject to some element of other taxation. Under the new rules, if they are handed £50,000 of free shares today, they will seemingly not be required to pay income tax and national insurance on their deemed benefit at acquisition. The Government have made much of the fact that employee owner shares will be free from capital gains tax, but they have now said that income tax will be due on such shares, although they have not said when that liability will arise or how it will be calculated. Employers are also likely to have to pay employers national insurance

contributions. Full details of the income tax and national insurance position are needed to assess properly how tax efficient employee owner shares will actually be.

This is a shambolic policy that will do nothing to instil confidence in employees and employers. It is just an attempt by a Chancellor so desperate to assert his authority on Whitehall and so desperate for growth that he is trying to deliver the ideologically driven Beecroft agenda by the back door, and such measures should be rejected.

I refer the Committee to an article in *The Guardian*—not perhaps a newspaper that the Minister reads regularly—assessing the 2012 autumn statement and the go-ahead for employee owners' contracts. The article quotes a partner at the law firm Pinsent Masons, Matthew Findley, who was mentioned earlier. He noted that the income tax positions of those receiving shares is still very unclear, and said:

"There is nothing in what the government has said so far that would stop senior executives or substantial shareholders from participating in the arrangement. This may mean that an opportunity still exists for such individuals, even if they may be viewed by some as the 'wrong' people politically",

to benefit from shareholder arrangements under which PAYE and national insurance are not attributed.

The industry and respondents to the consultation see a real problem in how PAYE and national insurance will be dealt with. We have ended up with a no-win situation, in which if PAYE and national insurance contributions are not payable, there is a risk that people will use the employee owners scheme to avoid paying them, but if PAYE and national insurance are attributable, low-paid workers given £2,000 in shares—the Minister referred to them earlier—would, because that value is in kind, have to pay PAYE and national insurance on the £2,000 and would have to do so not at the sale time, but when they receive the benefit. For a basic rate taxpayer, with the basic rate at 20%, that would be £400, plus the 12.8% national insurance contributions. On top of that, employers have to pay employers national insurance contributions. However the Minister looks at it—whether PAYE and national insurance are or are not involved in the scheme—it is a huge issue, so will he clarify the Government's position?

Michael Fallon: I thank the hon. Gentleman for moving the amendment. On his suggestion, which I think he also made this morning, that this is somehow Beecroft by the back door, he said that it was part of a cocktail, which got us into an unfortunate digression about the drinking habits of the hon. Member for North Tyneside—that was slightly too much information, so let us leave it aside.

I assure the hon. Gentleman and the Committee that this is not Beecroft by the back door: the new employee owner status is different from Beecroft's no-fault dismissal proposal, because individuals become shareholders of the company at the start of the employment relationship. That is an important benefit that is conferred by employee owner status, which, unlike no-fault dismissal, will be freely agreed between employers and employees in contractual negotiations. Indeed, employers will also be free to offer more extensive contractual terms, such as contractual redundancy pay, in an employee owner contract. After reviewing the evidence supplied in the consultation on Beecroft, the Government found no compelling reason to implement the no-fault dismissal proposal, which is why it is not contained in the Enterprise and Regulatory Reform Bill that is currently before Parliament.

On the amendment, a requirement to carry out a tax impact analysis before the employment status can come into force is an unnecessary addition to the Bill. How much tax is due, and the point at which income tax and national insurance contributions are chargeable, will obviously depend on the type and the value of the shares that are awarded. The Government do not want to be too prescriptive about that; we want to allow companies to design arrangements that meet their own commercial requirements. It certainly would not be possible for the Government to cover every possible situation in one analysis document.

I am grateful to the hon. Gentleman for tabling the amendment, however, because it enables me to address directly some of his concerns about possible tax avoidance, which he has already discussed in Committee. As I said this morning, we are planning to bring forward draft legislation in the Finance Bill specifically to address concerns about tax avoidance. We will consult on the proposed rules on the capital gains tax exemptions so that we can ensure that the safeguards are as robust and as effective as possible. That draft legislation will be published on 11 December.

The amendment also gives me the opportunity to remind the hon. Gentleman of something the Chancellor announced yesterday in his autumn statement. In his enthusiasm for that statement, the hon. Gentleman may have missed paragraph 1.122, which states:

"The Government is also considering options to reduce income tax and National Insurance contributions (NICs) liabilities that arise when employee shareholders receive their shares, including an option to deem that employee shareholders have paid £2,000 for shares they receive. This option would mean that the first £2,000 of shares received under the new status would be free from income tax and NICs."

I repeat that the Government will provide guidance to help individuals better understand the implications of employee owner status, including the tax implications. Her Majesty's Revenue and Customs will update its guidance to take the income tax and national insurance contribution position of employee owner shares into account.

Ian Murray: The Minister read out a paragraph from yesterday's autumn statement. Can he confirm that he said that PAYE and national insurance contributions would not be payable on the first £2,000?

Michael Fallon: What I read out was that the Government were considering options

"including an option to deem that employee shareholders have paid £2,000 for shares they receive. This option would mean that the first £2,000 of shares received under the new status would be free from income tax and NICs."

With the assurances that I have given, I hope that the hon. Gentleman will be willing to withdraw the amendment.

Ian Murray: I am happy for the Minister to intervene if I have not got this correct, but I think he has just told the Committee that in the new employee ownership scheme, the Chancellor is considering bringing forward

[Ian Murray]

in the Finance Bill exemptions from PAYE and national insurance for only the first £2,000. That is pretty extraordinary, because an employee owner will go into a scheme where they will be hit with a large PAYE and national insurance bill before they have realised the value of that asset. The asset, in the form of shares, will transfer from the company to the employee, and at the first available opportunity that gift in kind will be subject to PAYE and national insurance. If I am wrong, I hope the Minister will clarify that. If that is the case, that makes an already dreadful clause even worse. Employees might be coerced into taking an employee ownership contract and given, say, £4,000 of shares, and they sell their rights for that money. They take the £4,000 of shares.

We will come on to some of the problems with trying to value the shares in the first place a little later, but their value on the day they transfer is subject to PAYE and national insurance, so if the first £2,000 is disregarded, the poor employee will have to find a significant amount of money to pay that tax and national insurance, before the value of the shares has even been realised. I think that is what the Minister has just said, and it is not an avenue that we want to go down.

2.30 pm

The Minister also said that the provision is not about compensated no-fault dismissal, but giving up the right to claim unfair dismissal for about £2,000 seems to be compensation for being dismissed without any right to seek redress. It seems like compensated no-fault dismissal by the back door. I know that he and I will agree to disagree on that, but there is a simple equation here: "I will give you some cash to give up your right to take me to an employment tribunal for unfair dismissal." It seems, therefore, that someone can be sacked at will without being able to seek redress, and that the cash is part of the compensation for being falsely dismissed.

The amendment is a probing one, to get some clarity on the PAYE and the national insurance contributions. I was going to withdraw it, but given what the Minister has said, I am incredibly concerned. Unless he can give some assurance that my reading of what he has just said is incorrect, we will have no choice but to test the opinion of the Committee.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 10.

Division No. 9]

AYES

Blackman-Woods, Roberta	Glindon, Mrs Mary
Blomfield, Paul	Murray, Ian
Dakin, Nic	Raynsford, rh Mr Nick

NOES

Birtwistle, Gordon	Fallon, rh Michael
Blackman, Bob	Howell, John
Boles, Nick	Morris, James
Bradley, Karen	Smith, Henry
Coffey, Dr Thérèse	Stunell, rh Andrew

Question accordingly negatived.

Ian Murray: I beg to move amendment 108, in clause 23, page 29, line 31, at end add—

'(7) Before the end of three years beginning with the day on which this section comes into force, the Secretary of State must—

(a) carry out a review of employee ownership status;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(8) The report referred to in section (7) above must in particular—

(a) set out the objectives intended to be achieved by the introduction of employee ownership;

(b) assess the extent to which those objectives have been achieved; and

(c) assess whether those objectives remain appropriate or whether this section should be repealed.'.

We have tabled the amendment purely to enable the Secretary of State to assess, after a period of time, the scheme's impact on the relationship between employers and employees. Given that we were forced to vote on the previous amendment, I hope that the Minister will hear the significant concerns that we now have regarding the taxation side of the employee owners contracts and accept a sunset clause, so that the provision could be repealed if it seemed not to be working.

We very much support employee ownership and employee share ownership. Indeed, we have supported most of the schemes, throughout their make-up in the House, going right back to the mid-1980s, I believe, during Mrs Thatcher's Government—whenever we mention Mrs Thatcher it always cheers everyone up on the Government Benches; there is always a smile on their faces. It is important to recognise that we should encourage as much as possible employee ownership and employee share ownership as stand-alone entities, and allow employees and employers to share in both the risks and the rewards of running the business and being involved in it. What we cannot accept, however, is that the schemes are tied into giving up fundamental workers' rights for what might be a pitiful amount of resources, which will incur national insurance and PAYE.

Roberta Blackman-Woods: My hon. Friend makes a strong case. Does he agree that the Government should be considering the outcomes of the Nuttall review, which, after all, they set up? The review argues in support of employee share ownership, but it states that such ownership

"is recognised to succeed best…when it allows employee owners to exercise their voice internally. It is this combination of share ownership and employee engagement that drives higher performance."

As the Government are in danger of coercing employees into taking share ownership, they are also in danger of bringing the system into disrepute. It is the Government who have a case to answer on employee share ownership, not us.

Ian Murray: I agree with my hon. Friend. She rightly highlights the Nuttall review, which on this clause the Government have completely disregarded. That review states that employee share ownership allows employees to "exercise their voice internally", which is something we should allow employees to do on a regular basis. Unfortunately, exercising their voice internally under clause 23 could result in their being sacked without any recourse to justice or an unfair dismissal tribunal. The Minister says that is not the case, but I cannot understand a situation in which it would not be.

Someone is a shareholder in the company and they own a very small percentage because they have been given £4,000 in shares—if they are able to afford to pay a national insurance hit on the £2,000, though. If you exercise your voice internally—the Chair does not exercise his voice internally, but an employee might.

The Chair: I assure the hon. Gentleman that my shareholding is limited to a £1 share in the Co-op.

Ian Murray: And a very good share, Mr Howarth, but it has not required you to give up your right to work or shop in the Co-op. If it were an employee owner's share for £1, you would have to give up those particular rights.

The critical point, and the Minister has struggled to grasp this so far, is that exercising their voice internally under clause 23 could allow an employee to be sacked. I do not think that would happen in the vast majority of cases, but in our consideration of previous amendments we heard concerns about unscrupulous employers, who are a real problem. We appreciate the Nuttall review and the drive for more employee ownership, and we appreciate the ability of employees to exercise their voice internally—just not being sacked at the same time is something we could accept.

To put some of that into context, successive Governments have tried to promote employee engagement in share-ownership schemes. There are currently four schemes in operation, all with tax advantages. Company share option plans were first introduced in 1984 and give employees the option to buy up to £30,000 of shares at a fixed price without paying income tax or national insurance on the difference between what they pay for the shares and what the shares are worth. There is a statutory basis for the taxation issues.

A savings-related option was first introduced in 1980 under which employees may save up to £250 a month with which to buy shares in that business and do not pay income tax or national insurance on the difference between what they pay for the shares and what the shares are worth. So that second scheme is similar and has lasted some 32 years.

Share incentive plans, under which employers can give employees up to £3,000 of free shares and employees can buy up to £1,500 of shares out of their salary before taxation, were first introduced in 2000. Finally, there are enterprise management incentives, again first introduced in 2000, under which employees can buy up to £250,000 of shares without paying income tax or national insurance on the difference between what they pay for the shares and what the shares are worth.

The link between those four schemes is that, first, there is a tax and national insurance exemption for the employee on the transfer of the shares, although not necessarily on the selling of the shares in one of the schemes. Secondly, none of those employee ownership plans has an attachment to something else. So there is nothing that states someone can have a share incentive plan under which they can buy up to £3,000 of shares a year in a business they work for but that they have to give something up on the other side. The four schemes have been running for some time, but they do not remove people's rights at work.

We tabled the amendment to tell the Minister that the clause introduces something completely new and flies in the face of the four schemes that are already in existence. It is important that a review is carried out on the status of employee ownership that sets out conclusions in a published report, which then form recommendations to the House. The objectives in that report would determine whether employee ownership as proposed in clause 23 was taken forward or repealed.

Michael Fallon: We have heard some far-fetched claims from the Opposition during the passage of the Bill, but the suggestion that the Labour party has been in favour of employee share ownership since the days of the Thatcher Government takes the biscuit. I was here—I think you were too, Mr Howarth—during the Thatcher Government. Indeed, I was a Minister in that Government and, as I recall, the Labour party was not talking about employee share ownership; it proposed public ownership of every major industrial company in this country in the 1983 election. That was subsequently described as the longest suicide note in political history, so I do not think that we need to hear much more about the Labour party's deep roots in share ownership.

The hon. Member for City of Durham asked me how the proposal linked to the Nuttall review. The Nuttall review of employee ownership reported in July and looked much more widely at employee ownership models. It made recommendations on how we could raise awareness of employee ownership and increase the resources available to support employee ownership. The Government launched their response to that review in October 2012. An implementation group, which is chaired by my Departmental colleague, the Under-Secretary of State with responsibility for employment relations and consumer affairs, my hon. Friend the Member for East Dunbartonshire (Jo Swinson), will bring together other parts of Government, the wider business and professional service sector and the employee ownership sector itself and will be the key accountable body taking forward the recommendations of the Nuttall review.

I have been looking hard to find an Opposition amendment that I might accept before the end of the Committee, but I have to say—sadly, as it is his 10th attempt to have an amendment agreed—to the hon. Member for Edinburgh South that the text of the amendment is unnecessary. The published impact assessment already contains a commitment to conduct a post-legislative review. That review will take place within three to five years of Royal Assent and it will consider whether the employer owner clause has met its objectives. By using an existing evaluation mechanism, we will avoid spending additional public funds on surveying businesses and individuals. In addition, it is our intention to avoid creating a reporting obligation on businesses and individuals that would create additional cost in implementing the status. We are meeting the point of his amendment. If he wants to claim some credit for that through tabling the amendment and encouraging me to explain the proposal at greater length, I am happy to give all the credit that is necessary.

Ian Murray: The Minister's generosity is moving a little bit, but not as far as we would like. He said that the three-to-five year review clause is in the impact assessment, but because the Government were so slow in bringing

[Ian Murray]

that forward, these amendments were tabled before it reached Members' hands and we were able to scrutinise it properly. We are of the view that the clause is unnecessary and has unintended negative consequences for employers and employees. We will consider other steps that we may take on Report. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

2.45 pm

Amendment made: 125, in clause 23, page 29, line 31, at end add—

'(2) In section 236(3) of that Act (orders and regulations subject to affirmative resolution procedure), for "or 125(7)" substitute ", 125(7) or 205A(5A)"'.*—(Michael Fallon.)*

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

Michael Fallon: We have heard the arguments put by members of the Committee as well as by others during the evidence-gathering sessions. The purpose of the clause is to create a new employment status of employee owner alongside the existing statuses of worker and employee. By increasing the range of employment statuses, companies limited by shares will have greater choice about how to grow and adapt their work force. This is an important point: the new employee-owner status gives companies a new way of taking on individuals. It is about providing choice and greater flexibility. It creates opportunities for an individual to take up an employment status that allows them to share in the rewards of a business.

Should it fit their business model, and there might be companies for whom it does not fit, companies can choose to offer this employment status, leading to a more flexible work force, because of the responsibility and commitment that ownership brings, alongside engagement and loyalty. As with any other form of share ownership, the individual will also participate in some of the risks associated with that. The risks, however, will be shared between the employer and the individual.

It will be for the employer to decide which type of contract will be most suitable to offer, depending on the employer's requirements and circumstances. The clause does not prevent employers from offering more rights to their staff—for example, a contractual right to request flexible working or higher levels of contractual redundancy pay—just as they can do now with all other existing employment contracts.

Existing employees will make a choice about accepting the new status, even if they already own shares in their employer's company. Changing an existing employment contract without the employee's agreement would be a breach of contract. Individuals will choose whether applying for or accepting a job on an employee owner basis is right for them, just as an individual does at the moment with a change, for example, to a part-time or fixed-term contract.

Employee owners will have different rights from employees and workers. This is not about taking away rights, but about creating a new type of employment status with a different set of rights, just as there are different rights associated with the employee status and worker status. But the individual will have equity in the business worth at least £2,000. The Finance Bill, as I have said, will include a clause allowing employee owners to benefit from capital gains tax exemption for the first £50,000 of shares issued.

We have also announced in the autumn statement that the Government are considering options to reduce income tax and national insurance contribution liabilities that arise when employee shareholders receive their shares, including the option to deem that employee shareholders have paid £2,000 for the shares they receive.

Because we have made ownership of shares a compulsory part of this new status, it means that employee owners and their employers now have a direct link to the performance of the business, and it is not just a link to their own wage and bonus structure. If a person is not given shares to the value of £2,000, they will not qualify for the new employee owner status.

There have been concerns during the consultation period that the clause will remove the statutory right to request flexible working, when the Government are supposed to support flexible working; that it is unfair for the notice period to be increased following an early return from maternity and adoption leave; that the scheme is not voluntary; that existing employees will be forced to transfer to these contracts; that there will be issues with the valuation of shares; and that employers will use this new status to exploit the system or individuals. We have considered the issues carefully, and I want to address some of those concerns to clarify some of the misconceptions that have arisen.

While employee owners do not have the statutory right to request flexible working, it does not stop them having constructive conversations with their employers about how they work to best suit the needs of the individual and the needs of the company. We want both parties in an employment relationship to take responsibility and have constructive dialogue. Employee owners will have a direct stake in the performance of the company they work for. The share capital they hold will only grow if the company is successful. That will encourage them to consider the interests of the company when making decisions about the ways in which they work.

The statutory right to request flexible working is not necessary for employee owners as they will request flexible working without the right if they think it will have a beneficial effect on the performance of the business. Similarly, employee owners will want to ensure that their early return from maternity or adoption leave creates minimal disruption to the business. Requiring a different notice period for employee owners will encourage those employees to support their employer in managing their early return to work. It does not mean that the company and employee owner cannot make an arrangement to give less than 16 weeks' notice of an early return, just that there is no statutory right to less than 16 weeks' notice.

With regard to valuations, public company shares are simple as they are of course traded on the open market. As there is no public market for private companies, it is necessary to establish the value of shares being awarded to employees or returned to employers. We consulted on how companies were likely to seek valuations, and just like other commercial decisions, a company will have to ensure that it has weighed up the costs and benefits before it enters into or offers the new type of

contract. Also, if an individual does not receive shares with a minimum value of £2,000, the employee owner status will not come into existence.

Roberta Blackman-Woods: I am desperately trying to find some comfort in the Minister's words, but, alas, to no avail. Can he conceive of circumstances in which people are so desperate for a job, or are so desperate to retain their job, that they will do anything an employer asks, including signing up for one of these schemes even if it is not in their short or long-term interest? It is those circumstances we are trying to account for.

Michael Fallon: I do not doubt the hon. Lady's intentions; indeed, I do not doubt or question the motives behind any of the amendments in the group. If there is any member of the Committee to whom I would like to offer some comfort, it is the hon. Lady. However, I do not quite understand why somebody so desperate to have a job would be so desperate that they were not interested in having shares worth £2,000. That bit of her argument simply escapes me.

With regard to the consequences for existing employees if they do not agree to a change to an employee owner contract, as with other forms of variation of contracts, both parties have to accept the changes. I have told the Committee, and I will repeat it, that changing an existing employment contract without the employee's agreement would be breach of contract.

With regard to the new status being voluntary, as with other forms of employment contracts, people will choose to apply for and accept employee owner contracts. I think that is the point that concerned my right hon. Friend the Member for Hazel Grove. Jobseekers are normally required to accept reasonable offers of work. If they do not, and the claimant does not have a good reason, of course there is a sanction. That sanction already exists, but as I said to him, I am very happy to look at how guidance will be applied in the exercise of discretion by the individual jobcentre when assessing case by case.

There have been suggestions that the new employment status will be unfair on individuals and may have an impact on the vulnerable. However, in reality, it is about adding another type of contract in the arena that an employer can offer an individual, just as they can already offer different types of contract or offer a job on the basis of its being part-time, full-time or fixed-term. I am confident that this is the right approach, and it forms part of the balanced package of measures we have been developing and implementing as part of the employment law review, the red tape challenge, and the Enterprise and Regulatory Reform Bill.

I assure the Committee that we have listened to the concerns raised during the consultation and scrutiny sessions. That is why we tabled a package of amendments that will help provide further clarity and more consistency and will introduce a little more flexibility. We also listened to concerns about the name of the new status and although we have not made it the subject of an amendment, we are considering carefully the points made to us by ifs ProShare and the Employee Ownership Association. They told us that the name employee owner might create some confusion. We accept that we may need to describe the status more clearly. Our intention is to change the name of the status to employee shareholder and to table an amendment to that effect at a later stage. I hope that will be of some relief to the Employee Ownership Association in particular.

The clause is about companies sharing reward and risk with their work force. The work force will have the opportunity to benefit from the growth of the company. Both the employee owner and the employer will benefit from the new employment relationship. I commend the clause to the Committee.

Ian Murray: I take no comfort whatsoever from the Minister telling us at the eleventh hour that he is going to change the name. The problem of the clause is not the name; it is the content. For 22 clauses we have presided over a hotch-potch of measures thrown together by the Government because they are desperate to do something about growth. I cannot see how clause 23 relates to growth, infrastructure or anything else in the Bill.

I am glad to have the opportunity to debate clause stand part. The Minister finished his Second Reading speech in the House four minutes early, and made no mention of clause 23. I suspect that was because he is as embarrassed about the clause as the Secretary of State for Business, Innovation and Skills. On Second Reading, the Secretary of State for Communities and Local Government also devoted only two sentences to the clause in his opening speech, which lasted more than 45 minutes. I am not sure what the Government are frightened of, but Opposition Members are delighted to have the opportunity not only to discuss the clause, but to expose how bad it is.

It is not just us saying that. The fact that the policy has been roundly criticised by everyone, from the trade union movement to the CBI, the Federation of Small Businesses, EEF and the Chartered Institute of Personnel and Development, shows us one thing: the Government should be congratulated for pulling together such a disparate community against the proposal. The consultation response issued after the House rose last night showed that only five of the 209 responses to the consultation support the scheme. There is also a petition of 12,500 signatures calling on the Government to drop the clause. Before the Minister pops up to challenge that, it is not a petition from the trade union movement; it has been put together by a coalition of people, including the co-operative movement, which you mentioned, Mr Howarth. We are rightly not allowed props in Committees, but the 12,500 signatures are here if Members want to see them.

In the Government's thirst to pursue their ideologically driven Beecroft agenda, they have given us compensated, no-fault dismissal by the back door. That is why the Chancellor announced it in the first place.

Michael Fallon: I think I have been reasonably generous in giving way to the hon. Gentleman. On this occasion will he give way to me?

Ian Murray *indicated assent.*

Michael Fallon: The hon. Gentleman gave a number of names and talked about a coalition of people opposed to the clause. Will he clarify whether he thinks that lots of people will take up this opportunity, or none? Which is it?

Ian Murray: I will take up that opportunity. Many people, including the CBI, said that the proposal is niche and will not be taken up by many people at all. I suspect that it will be used rarely, if at all, which is why it should be removed from the Bill. The clause has so many unintended consequences that it does not need to be in the Bill at all, but because the Chancellor and No. 10 are so desperate to push through the Beecroft agenda they have had to buy off their Liberal Democrat colleagues by pretending that this is not compensated no-fault dismissal by the back door. Purchasing rights for cash seems to mean that an employee would be compensated for being dismissed for no fault of their own. On Second Reading, my right hon. Friend the Member for Leeds Central (Hilary Benn), the shadow Secretary of State said that the proposal could be "cash for repeal", which sums it up rather well.

3 pm

Slashing rights at work is the wrong principle and has the potential to damage job security, which will, in turn, hurt already fragile consumer confidence and therefore the economy. It is not just the Opposition saying that. The hon. Member for North Norfolk (Norman Lamb), previously the Minister for employee relations—*[Interruption.]* That will be him phoning the Minister now to apologise for what he said. Three weeks before the hon. Gentleman became the Minister with responsibility for employee relations, he said of the proposals in the Enterprise and Regulatory Reform Bill that anything that undermines consumer confidence in this country, and therefore damages the economy, is "crazy." It is worth reminding the Committee yet again that the UK already has the third most liberal employment regulations in the western world, according to the OECD. Therefore, we cannot understand why the Liberal Democrat part of the coalition cannot see that the proposals in this Bill and the Enterprise and Regulatory Reform Bill are Beecroft by the back door.

The Chancellor proclaimed in his speech announcing the share ownership scheme:

"Owners, workers and the taxman are all in it together."

Where have we heard that before? He continued:

"Workers of the world unite."

The Chancellor has been successful in that call for unity, because they have all joined together to oppose the measure, which is not only bad for employees, but, critically, bad for business, as business itself says. It is little wonder, given that there has been no proper consultation or analysis on the issue, which is not unusual for Bills that the Government bring forward. As I have already mentioned, the impact assessment for clause 23 landed in our inboxes after the House rose last night.

Justin King, the chief executive of Sainsbury's, who we have used a lot as an example in the Committee, especially in the evidence sessions, was quite harsh towards the Government. He made the connection between the already fragile reputation of business, which we have seen with Starbucks and Amazon in the past few weeks, and said:

"What do you think the population at large will think of businesses that want to trade employment rights for money?"

That is a pretty categorical sentence from a very senior chief executive of one of the UK's proudest and largest companies.

I emphasise, as I said earlier, that we are very much in favour of employee ownership, which is slightly different from what the Minister was trying to portray about share ownership in the early 1980s. We are talking about employee ownerships of businesses, and getting contracts as part of that. Coupling it with the slashing of employee rights is not just contradictory, but counter-productive. Doing away with people's rights at work is wrong in principle and will do nothing to stimulate growth. If the Minister would like to intervene to tell us how many jobs the proposals will create and what contribution clause 23 will make to the GDP of the United Kingdom plc, I would be more than happy to withdraw our opposition to the clause if it is to be a panacea for growth and jobs. However, I suspect that he is not willing to do that.

The Employee Ownership Association pointed out that boosting employee ownership

"does not require the dilution of rights",

which goes back to the point that we wholeheartedly support the extension of employee ownership, but it does not have to be connected to dilution of rights or other aspects of the employee-employer relationship. The Chancellor heralded the measures as an attempt to create a flexible work force, but it will simply allow unscrupulous employers to fire at will for compensation that could be less than any redundancy payment, which I will come to in a moment.

There is an array of questions and issues that relate to clause 23, and we have tried, through our amendments, to get the Minister to give us some sort of comfort to enable us to support the clause. Unfortunately, particularly around the taxation issues, it has made the position worse.

Let us look at people's rights. The proposals will likely serve to dismantle key safeguards in the employer-employee relationship. Employers will be able to treat and/or dismiss employees unreasonably without recourse, provided that it is not discriminatory or contrary to contractual provisions. Employees will no longer be entitled to redundancy payments. Employees will no longer be able to request flexible working. It is important to say that legislation on flexible working is the right to request. If the relationship between employer and employee works properly, the right to request can quite easily be refused, on the basis that it is not good for the business, but it is only the right to request. It is quite strange to be able to move that.

Taking flexible working away could be detrimental to child care and female employment prospects. The helpful Working Families contribution to this debate centres on the impact on female employees, in particular those with child-care responsibilities.

Roberta Blackman-Woods: Does my hon. Friend accept that the Government are moving in entirely the wrong direction regarding women's employment? We know that women have been hit particularly badly by the Government's austerity measures, but here we have yet another clause in the Bill that could be to the detriment of women's employment.

Ian Murray: That is a timely intervention. Sarah Jackson, the chief executive of Working Families, made that point. She talked mainly about people who have

family responsibilities but emphasised the disproportionate effect on female employees. She signed off a press release by saying that the Chancellor seems intent on creating a two-tier work force. That two-tier work force has the potential to be men versus women or people on full-time contracts versus people who are not. That comment is from the chief executive of an organisation that deals with these issues day to day. There is a contradiction when the Under-Secretary of State for Business, Innovation and Skills, the hon. Member for East Dunbartonshire announces a package of measures for the Government's extension of flexible working, on the one hand, and her colleague the Minister of State comes to the Committee to promote a clause that takes away that flexibility.

The Minister touched on various issues about shares. The value of shares that employees receive in return for relinquishing rights is arguably wholly inadequate. It falls far short of the potential value of claims arising from those rights, particularly with regard to unfair dismissal. The average award last year was just shy of £6,000, but the cap on unfair dismissal compensation at the moment is £72,300. It may also be difficult in some instances for employees to value accurately the shares that the Minister referred to, or to realise fair value in the event of a sale. Those problems are all the more pronounced, given the absence of provision for independent legal and financial advice for employees, which is why we tabled the earlier amendments. Paul Callaghan who gave evidence to the Committee went into great detail about the burden of cost on employers of valuing shares and including those aspects of employee ownership in their businesses.

Let us run through some of the problems with shares that will not be publicly listed. If the whole design of the system, as the Government would have us believe, is for high-growth companies, particularly in the technology sector, it is very unlikely that they will be quoted companies. Given that many of the examples the Government have given for the use of these contracts are for start-ups, including high-growth ones, they could have no value whatsoever. The burden of being able to value shares properly is indeed there. Who will value the company? It may also be difficult for employees to assess the true value of the shares being offered. They are unlikely to have access to company accounts. Indeed, company accounts may not exist if it is right at the start of the life of a business.

Many of the companies involved will not be listed. On the contrary, the proposals are aimed at newly formed start-ups, perhaps operating in untested markets with potentially unclear financial health. Furthermore, it may not be straightforward for employees to exact fair value for their shares in the event that they want to sell them, for example if they decide to leave the company. There may be a limited wider market for shares in small start-up companies. Clearly employees may be able to sell their shares back to the current owners.

Let us imagine the scenario. A new start-up company issues a number of shares under one of the new contracts, there is a family crisis, an employee who had no intention of leaving the business feels they have to and they wish to sell their shares to a marketplace that does not exist. Therefore, the shares could only be relinquished by selling them back to the business; indeed that is the only place where value could be had for them. That is a huge potential revenue that the business would have to find to meet that expenditure. It could be a substantial amount of money, in particular for shares that have increased in value. There could be a huge effect on businesses, in particular the new start-ups, for which this is designed.

What will the voting rights of such shares be? We talked about the Nuttall review. It said that employees would be able to exercise some influence on the company, but that would not be the case if the shares did not have full voting rights. If they are full voting shares, what impact will that have on the employee-employer relationship when the right is exercised?

The transferability of shares is a huge issue, and the crux is insolvency. We could have a situation in which the shares given to employees are effectively worthless. In the majority of cases in which the employee ownership contracts are in place, the point at which the business runs into financial trouble would be when it wants to dismiss staff, which is when the value of the shares would be at its lowest. That seems to be a fairly straightforward equation: we have a business that is doing badly, the management have to take a decision very much against their wishes—I am not saying that the business in this example would be an unscrupulous employer, but even a just employer might have to dispense with some staff to be able to continue—and the first thing they will do is to look at the biggest expenditure, which is staffing. The biggest expenditure could, of course, be rates, because they have not been revalued, but in this example let us say it is staffing. At that point in time, employees would be dismissed from their job when their shares are worth less or are even, in some cases such as insolvency, worthless. Furthermore, they would have no recourse to redundancy payments because that was removed as one of their statutory rights.

We are in a situation in which even employers might not take well to the proposals. Paul Callaghan from Taylor Wessing, who I have mentioned already, highlighted the potential for considerable administrative costs in valuing and issuing the allotment of new shares in small numbers to a great number of employees; it might not be one or two employees, it could be hundreds. In any case, small firms may not wish to dilute their share ownership in that way. We have internal restrictions preventing them from doing so if funding for the business is from external sources, to restrict the dilution of that share capital and how it can be used. Companies may also be concerned about the negative public relations arising from the dilution of rights; Justin King from Sainsbury's hit the nail on the head. Finally, the loss of unfair dismissal rights may lead to grievances being construed as other claims, so we could be encouraging employees to escalate to discrimination claims and whistleblowing in order to seek what would otherwise be rightful justice through the employment tribunal system. Overall, the adverse impact on employees, the disincentives for employers and the inconsistencies with existing legislation tend to suggest that the clause and the Bill have not been properly been thought through.

We have discussed the voluntary issue as part of our proposals, but it is summed up well by Mike Emmott of the Chartered Institute of Personnel and Development, who said that many employees could be faced with situations that turn out to be "Hobson's choice". Indeed,

[Ian Murray]

as my hon. Friend the Member for City of Durham may have mentioned, Sarah Jackson from Working Families said that "almost every day" on its legal advice line somebody says:

> "I can see that my employer is discriminating against me. I understand what my rights are. I need this job too much. I cannot possibly challenge."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 20 November 2012; c. 124, Q276.]

That is in the current structure in terms of unfair dismissal, but if we transpose that example on to what the employee ownership scheme is trying to achieve, we end up with Hobson's choice and people saying that they cannot afford to lose their job because they will not have recourse to the employment tribunal system, or indeed at all, other than to take the involuntary employee ownership schemes.

The right hon. Member for Hazel Grove made a fundamental point, and I drew attention to it in an intervention just before lunch. We have just had delivered to all our constituency offices new advice from the Department for Work and Pensions about sanctions that Jobcentre Plus and the DWP can put on people who are claiming jobseeker's allowance or employment and support allowance. The advice states quite clearly that one of the top reasons for the DWP to impose sanctions on benefits is someone refusing a job that has been offered. If an employee ownership job has been offered to a person, and they refuse it, the Minister says that it is at the discretion of the Department for Work and Pensions whether there is a sanction. The Minister is welcome to attend my surgeries. I shall be holding one tomorrow morning. I see many people who have been unfairly sanctioned by the DWP by going through all the loopholes. That is not a criticism of the DWP staff; they are very overworked and under-resourced, and that is the consequence.

3.15 pm

I am not arguing about making sure that people are dealt with properly, but we must think about people's livelihoods, a matter that the right hon. Gentleman has skirted over. However, I appreciate his assurance that he will suggest something that will give some comfort to the right hon. Member for Hazel Grove.

Let us consider the impact of share allocations. I shall start at the £2,000, which is the baseline. It is only about four weeks' pay for an employee who earns the national median salary of £26,000. It is just £800 more than the proposed fees a claimant would need to pay to get a level 2 case at an employment tribunal. It is proposed that any business can make it compulsory for new staff to accept employee owner terms. Will other groups of workers be offered such terms, too? Will an employer decide that a young female should be offered those terms, given the risks of maternity leave?

Should someone who is older be offered such terms? If they decide that they wish not to retire, but to extend their longevity in the business beyond what the employer wants, will they be offered such contracts so that they can be dismissed? It is unclear what measures are being put in place to stop the scheme being abused. Even if we set aside all our problems with the scheme, the clause does not have enough safeguards.

I come now to satellite litigation and resolving disputes over the shares themselves, such as when they will be allocated and when they can be sold. Will the shares revert to the company if someone is sacked for gross misconduct? We could be talking about £50,000 of shares that company directors have to find the money for, if they are not listed on the stock exchange, to pay back the employee for the shares. Does that mean that the money is payable if the employee is sacked under the proper gross misconduct framework that the business has put in place for a grievance procedure?

Given the limits proposed in respect of unfair dismissal compensation under the Enterprise and Regulatory Reform Bill and the figures for average recovery, it is highly unlikely that shares worth £50,000 will ever be involved. They are more likely to be used as a form of remuneration for the highly paid who make their own termination payment arrangements, as the tribunal jurisdiction is too small for them to seek that redress.

How will the scheme work with the flexible working rules that apply via indirect sex discrimination? The maternity leave notice period makes no sense. Women on maternity leave have only to give eight weeks' notice if they are returning early to work. If they are returning at the end of their maternity leave, they do not have to give notice at all.

As for the tax avoidance issues, we can probably describe the Minister's response to our earlier amendment as the "PAYE and national insurance bombshell." From what he has told us, someone who is unemployed and is offered an employment opportunity under one of those contracts might receive £4,000 of shares in a company that might have no value and whose shares are not quotable on a listed stock exchange. The person takes the job; they come off jobseekers' allowance or employment support allowance, sign the contract and go to work. When they receive their first monthly pay slip, there is a massive deduction for the difference between the £2,000 or £4,000 worth of shares.

Michael Fallon: Of course, if the company does not have any value and the shares do not have any value, the contract will be null and void.

Ian Murray: I did not mean the actual value at that date. If a company was not listed on the stock exchange or anywhere there is a marketplace for a value to be determined at that particular date, a valuation process will have to take place. Indeed, in a small start-up technology company, the actual value of the shares could be fairly worthless on the basis that the company had just started or, indeed, had not grown to a level where the investment in the shares can be realised.

We have discussed TUPE and what happens when people transfer in, but there is a significant issue when people transfer out. We see that regularly with companies that are contracting, particularly for public services; the contracts move around on regular three or five-year cycles. People could be taken on under employee ownership contracts. What happens when they are then transferred back out? Does the company have to buy back those shares? Are they floated so they can sell those shares? Do the shares go with the employees? If they go with the employees, the employees end up with shares in a company they no longer have a stake in, and with no view to make that company better.

What is to stop other shareholders voting to reclassify the shares later down the line or a business owner issuing a number of additional shares prior to dismissal to dilute the employees' shares? That could be done fairly easily. A board of directors could issue 1.2 million new shares in order to dilute the shares of the employees' holdings and then sack them the following day. There are no safeguards. These are extreme examples, but there are no safeguards in the Bill to prevent them. For many employees the shares will be worthless and they will have traded their cow for a handful of not very golden, half-baked beans.

The Government consultation on the employee owner contract will include the details of restrictions on forfeiture provisions to ensure that if an employee owner leaves or is dismissed, the company cannot simply take the shares back but can buy them back at a reasonable price. That is the point we are making. How could a board of directors in a fledgling technology company, which may have cash flow difficulties, do that when an employee leaves the company through no fault of their own? A whole host of things could happen and that company would have to find the values for those shares.

I should like to suggest some safeguards that should be introduced on Report. Employees must be guaranteed access to independent legal and specialist financial advice before being asked to sign an employee owner agreement. Given what the Minister has said about PAYE and national insurance, that is more important than ever. Akin to the rule for compromise agreements or settlement agreements, the exclusion from statutory rights should not be effective unless the employee has received that independent legal and financial advice. There must be an independent valuation of shares at the outset and when the employee leaves employment. It should not be permissible to buy back the shares for less than their full market value when the employee leaves employment.

Protection for employee owners in situations of insolvency should be guaranteed. It should be automatically unfair for an employer to dismiss employees on the ground that they have chosen not to take up employee owner contracts. That fits very much into the issues around these being voluntary. It should be unlawful for an employer to subject an employee to any form of detriment because they refuse to sign an employee owner contract. They do have the potential in that example to break down the employment relationship. This is a knee-jerk policy made up on the hoof by a desperate Chancellor, and it poses so many questions that I would be fearful as an employer to even consider looking at such a scheme.

Finally let us look at some of the comments from people involved. The Employee Ownership Association obviously supports growing employee ownership but says such growth does not require "a dilution of rights". Brendan Barber, the TUC general secretary, says:

"We deplore any attack on maternity provision or protection against unfair dismissal".

Magnus Campbell from the Marine Engineering Partnership says that his business

"is an employee owned business—this means that the share capital of the business is held in trust for the benefit of all employees"

but that the proposal does not go forward in delivering that. We have also heard from people like James Hall who is an associate at Charles Russell. He said:

"I can only see this being worthwhile at the higher end of the scale where an employee is given up to £50,000 of shares rather than the base of £2,000."

The list of people who have come out and said that the policy should be dropped is endless.

Making it easier to fire people will not help the economic recovery. The Government should instead focus on making it easier to hire people. They could, for instance, implement our idea and introduce a tax break for small firms taking on extra employees. Shares for rights harks nostalgically back to a low trust, low wage, low engagement workplace that is incompatible with the economy we need today and takes us back to Victorian times in terms of how we value workers' rights.

Gordon Birtwistle (Burnley) (LD): As a Liberal Democrat nobody has ever bought me off: I should make that quite clear before we move on. I have sat in Committee for 14 sittings and I have heard nothing but extreme negativity at this last sitting. This is all about freedom. Freedom of choice and freedom about what a person going into work wishes to have as a contract of employment. There are many people in this country who wish to start up small businesses. They might want some help to start one up, particularly in the digital technology sector. It is a higher risk industry where people get together either as small social enterprises or as groups of friends to start up a small business. This is an ideal scenario for them. This is absolutely nothing new. In 1966, when I had just qualified as a design engineer, I took up a job in a contract drawing office, which paid a salary, holiday pay and sick pay and it had defined working hours. That was one side of the job. The guy who owned the place said to me, "I'll pay you 4/6 an hour more,"—some people may not remember what 4/6 was—"if you waive all those. You can work as many hours as you wish, but there are no conditions. You will get 4/6 an hour more." There were two of us, and we both went for that option. I did that for about 12 or 18 months and I saved up enough money to put down a deposit on a house. That was my choice. I was not bothered about the contract of employment, the holidays or the sick pay. It was a decision that I took voluntarily. That is no different from this. This is a voluntary arrangement between individuals. Before I came to this Committee sitting, I went to see the Secretary of State and asked him about his views.

Nic Dakin: The hon. Gentleman is spelling things out in an interesting way. Does he agree that somebody taking up a job today that they are interested in, as he did in 1966, should be given the choice of this option or of a normal employee relationship? They should not be given the choice of either this option or no job.

Gordon Birtwistle: I thank the hon. Gentleman for his intervention. Subsection (1)(a) of proposed new section 205A of the Employment Rights Act 1996 says that

"the company and the individual agree that the individual is to be an employee owner".

[Gordon Birtwistle]

The individual either is an employee owner or he is not. If the individual does not want to be an employee owner then he does not need to be. If he wishes to be, that is his freedom of choice. He can take that choice on. I wish the company that I worked for had offered me £2,000 worth of shares, because about two years after I left, the company was sold for a lot of money, so I would have got a lot more money from my shares and I might have been able to put down a bigger deposit on the house that I bought.

Nic Dakin: In his reading of the Bill, the hon. Gentleman is clear that the person in his position today should be able to choose to have the job on a traditional basis or on this alternative basis. He is extolling the virtue of this alternative basis, but he is clear that the normal possibility should be there as well.

Gordon Birtwistle: That is the case. The scheme will have a very low take-up. I do not think that any major multinational company, such as Jaguar Land Rover, will take it up. It will basically be for small or niche companies coming into the market that are taking on people. These are the gamblers and the wealth creators of the future, and we should give them a choice. I cannot believe that the Opposition object to people having the freedom to be employed in the way that they wish if there is a choice.

Roberta Blackman-Woods: It is important to put it on the record that the Opposition are not against employee share ownership in any way at all. What we do not like is that this clause could mean that people are coerced into it against their better long or short-term interests.

Gordon Birtwistle: I do not agree with that. From what I have heard of the story put forward by the Opposition, it would seem that every employer in the country, or the vast majority of them, was bad. The majority of companies in this country—there are thousands and thousands of companies working in this country—are good, honest, hard working and look after their staff.

Ian Murray: Will the hon. Gentleman give way?

Gordon Birtwistle: I want to make more progress. I had an engineering company, which my son now runs. We talk about flexible working and training. A good company works with its employees over flexible working. When we were busy, we asked our work force to work flexibly. If we bought a brand new machine, we would ask workers to go on a training programme so they knew how to run it. It is pointless for me to spend £100,000 on a new CNC machine if my staff do not know how to work it. You are saying that you do not want them to go on training programmes.

The Chair: Order. I am not saying anything.

Gordon Birtwistle: I am new to this job. Good companies work closely with their staff to ensure that they get the best out of staff and that the company does its best. I believe that people should have the freedom to be employed how they wish to be employed. As I said, I do not think that people will be queuing up—Rolls-Royce and BAE Systems will not queue up—but if small businesses wish to have a go, we should not stop them. If they want to do it like this, as far as I am concerned, we should let them have a go.

3.30 pm

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): This is a very unsatisfactory proposal masquerading as an extension of options for people's terms of employment, when in fact it is clearly motivated by the discredited Beecroft agenda of eroding employee rights. The Government are doing no service whatever to the promotion of employee ownership by trying to confuse the two separate issues, as I will point out in a moment.

My hon. Friend the Member for Edinburgh South rightly shredded the proposal and identified how unsatisfactory it will be. His comments have been almost universally echoed by those seriously interested in extending employee ownership who have commented to this Committee, whether by giving evidence before us or by writing in. It certainly calls into question the validity of the assumptions in the impact assessment that we received today, including the central assumption that 6,000 companies and 134,251 employees might take it up. I am prepared to lay a wager with the Minister—

Gordon Birtwistle: If those figures are correct and it comes to that, does the right hon. Gentleman agree that the people involved should have the freedom to decide to do so among themselves, without any coercion? Does he feel that that is freedom to be employed in the way that people wish to be employed, rather than being told how they will be employed because it is the law? Is he against freedom?

Mr Raynsford: Of course I am not against freedom, but the hon. Gentleman will have heard my hon. Friend the Member for Edinburgh South pointing out the circumstances in which people will be subject to coercion. They will not be able to do this on a free basis, due to constraints such as the policies being adopted by jobcentres and the potential for sanctions against people turning down the options of employment. The hon. Gentleman should think carefully about the words of his right hon. Friend the Member for Hazel Grove (Andrew Stunell), who is clearly extremely worried about the proposals. That is not freedom; it is forcing people to accept an unsatisfactory option.

If the hon. Gentleman is in favour of freedom, as I am, he will want to promote employee ownership. There are many good models of employee ownership. We have heard from numerous people involved. He will know about Scott Bader, a company that pioneered the concept of employee ownership in the 1950s. It has grown successfully into an international company with a lot of employees. What Scott Bader says about the proposals bears repeating, and I hope that he will listen carefully.

Scott Bader was founded in 1921. In 1951, the company was gifted to the workers when the shares of the chemical engineering company were transferred to Scott Bader Commonwealth Ltd. Scott Bader is now an international company with 600 people worldwide,

and has an international representative body known as the members' assembly to represent the interests of members worldwide.

Scott Bader ends by saying:

"We therefore urge you to change the Bill and not to mislead people about what the employee owner/trusteeship sector is all about. Indeed, you might do well to learn more about it and take greater notice of what is contained in the Nuttall review."

The Minister will also have heard the views of ifs ProShare and the Employee Ownership Association, which urged the Committee to

"drop clause 23 from the Growth and Infrastructure Bill."

We have heard from Mr Andrew Gunn:

"For over 30 years I have actively been involved in employee ownership, and I am a director and past chairman of the Employee Ownership Association…I fervently hope that parliament will…vote down Clause 23 of the Growth and Infrastructure Bill".

We have heard from Magnus Campbell; my hon. Friend the Member for Edinburgh South quoted him, and I would like to quote another of his comments. He is a director of an employee-owned business. He says:

"I am very concerned at the potential damage that will be done to our business, and other employee owned organisations like us, if the perception of Employee Ownership arising from this bill is that it involves a dilution of workers rights. This is very much missing the point of what employee ownership is all about."

We have heard from Jacqui Mitchell. She writes:

"I work as a consultant specialising in employee ownership and over the past few years I have worked with a number of companies who have transitioned to majority employee ownership…I believe that the concept of an 'employee owner' being someone who has to give up some of their employment rights does nothing to further the cause. Indeed I recently ran some employee workshops at a manufacturing business which is currently moving to employee ownership and many of the employees were voicing concerns about this and thinking that if they agreed to take the free shares that will be offered to all qualifying employees once the company makes this move then they would be signing away their rights to redundancy. This company is a family business and the key reason for choosing this as an exit option was to ensure that the company continues to offer employment in the local area. The free shares which will be distributed on completion should have been considered a nice thankyou for the contribution of the workforce to date and not be eyed with any suspicion. If the workforce view the concept of employee ownership with suspicion then the resulting benefits such as increased productivity and higher innovation levels will not occur."

Frankly, those are the people the Government should be listening to. The Government should be afraid—very afraid—of tarnishing and damaging the concept that they are supposedly promoting. It says a great deal that the Minister has had to agree to change the title of the scheme from employee owner to employee shareholder. The very clear condemnation of those involved in promoting employee ownership is evidence that the title of employee owner is inappropriate and has to be changed.

I said earlier that I would take a wager with the Minister that he will not achieve even his middle target of 6,000 companies or 134,000 employees taking up the scheme. The Chair will probably call me out of order if I offer a bet in Committee, but I am happy to go outside with the Minister—I do not want that offer to be misinterpreted—and lay a bet with him that his target will not be achieved. It does not deserve to be achieved. This is a bogus scheme, which should be withdrawn. I hope the clause does not survive the passage of the Bill through Parliament.

Mrs Mary Glindon (North Tyneside) (Lab): We have heard my right hon. and hon. Friends make a case against the clause very eloquently. I am disappointed in the claim by the Minister that this is a new way of giving employers a wider choice on how they take people on and of giving potential employees a wider choice of employment. That claim is flawed because of how the clause stands at present. Whether it is so popular that thousands of people take it up or it is such that only 10 people take it up, people have to be able to make an informed, voluntary choice. As I listened to the debate on the clause and the amendments tabled to it, I thought of the many occupations that I have had over the years, in the public, voluntary and private sectors. I have worked in a shop as salesperson and I have been a manager, and I was trying to think about how the culture of the relationships between different people within any given organisation or business works, about how we could change those relationships by bringing the measure in, about whether the culture would change and about how we could allow that to work properly.

Among the rights that will be forgone if an employee goes into employee ownership, beyond the right to request flexible working, is time to train. That is a massive part of any organisation or business, and individuals working for those need time for personal and professional development. Where does that lie in the Bill? It has not been mentioned at all. That is the greatest asset to any company. Investors in People and various projects like it have enhanced companies, because people have had the time to train and have been able to do that freely. Although it has not been mentioned, the right to train is stipulated and is a right that will be lost. That will do serious damage and will not promote the growth of any company or organisation that goes down this route.

I cannot stress enough that amendment 106, which would give the individual the opportunity to consult before making a decision whether to become an employee owner, is crucial. I am disappointed. I hope that the Minister will reflect and have afterthoughts about the solid amendments tabled by my hon. and right hon. Friends.

Paul Blomfield (Sheffield Central) (Lab): I am glad to have an opportunity not to repeat what others have said, but to express my concerns about the clause. The Minister went out of his way to dismiss suggestions that this was Beecroft by the back door or, as my right hon. Friend the Member for Greenwich and Woolwich suggested from a sedentary position, Beecroft by the front door. Let me suggest a different interpretation: it is a foot in the door for Beecroft, which was firmly closed by the Minister's boss, the Business Secretary, who dismissed the Beecroft report when it was first published as no answer to growth and an unacceptable way of moving forward. I commend the Business Secretary's dismissal of Beecroft and am disappointed that the Chancellor, at the Conservative party conference, playing to the gallery—whether the gallery of those who wrong-headedly believe that getting rid of workers' rights is the way to growth or those who do not like the coalition with the Liberal Democrats—introduced the nonsense idea of trading rights for shares.

When speaking to the clause earlier, the Minister said that he was not embarrassed by the position that he finds himself in, but I gently suggest that he ought to be,

[Paul Blomfield]

not least because, if I heard him right, he said that this clause is not about taking away employee rights. It is about nothing other than taking away employee rights within a new employment construct.

The Minister should also be embarrassed by the response to the consultation. The *Financial Times* said yesterday:

"The government's response to the consultation was slipped out quietly by the Department for Business, Innovation and Skills",

presumably because they did not want people to focus on the overwhelming opposition to the proposals. Gaining support from only five out of 209 responses is deeply embarrassing.

3.45 pm

The proposals are not wanted by employers, employees or those interested in promoting employee share ownership. The Minister quoted the Employee Ownership Association when he sought, unsuccessfully, to reassure us that the Government had listened, were concerned, and had agreed to change the name of the proposal. The association said not simply that it was concerned about inappropriate use of a term, but that it was alarmed about the whole proposal. It said:

"There is no need to dilute the rights of workers in order to grow employee ownership and"—

crucially for a listening Government—

"no data to suggest that doing so would significantly boost"

the number

"of employee owners."

There is also concern from the British Chambers of Commerce, which said,

"we have not been able to identify significant support for this new employment status."

It went on to say that there was concern among its members

"about potential reputational damage as a result of potential falls in share value"

and lack of understanding of

"the difference in employment rights compared to employees."

The Employee Ownership Association, the voice of local business, and indeed the voice of employees, has expressed deep concern.

On the threat to employees, there have been unsuccessful attempts to reassure us that we should not worry because the provision will rarely be used. Government Members have said that it is there for dynamic, new, high-growth, small companies. I highlight the contribution of the right hon. Member for Hazel Grove: not simply the thrust of his amendments on the voluntary nature—or not—of the proposals; but the point he made today and previously that the proposals could be taken up not only by those companies, but by, in his example, a cleaning company. We know, and the Government know, about the ingenuity of some companies in avoiding their tax responsibilities, and some will use provisions to avoid their responsibilities to their employees. The threat to workers' conditions is real in a wide variety of circumstances, not simply in the niche areas the Government have suggested.

The hon. Member for Burnley talked about his experience in 1966. That was a good year in many ways, but we have moved on, particularly with rights for women. Under the clause, rights for women particularly, among others, will be threatened by the Government's proposals.

Ian Murray: My hon. Friend is making a powerful speech—I will set aside what he said about the importance of 1966—but the hon. Member for Burnley missed an important fact. He gave the example of the business he was involved in when the employers bought new machinery, trained employees and invested in them. The vast majority of employers do that every day. I had up to 60 employees once, and I spent every waking hour making sure they were well looked after. The hon. Gentleman did not take into account the fact that the clause would remove the right to request training and flexible working—the very example he gave from the other side of the employee requesting.

Paul Blomfield: My hon. Friend makes an important point, which echoes the contribution from my hon. Friend the Member for North Tyneside, and perhaps we have not focused on it sufficiently during consideration of the clause. I would have thought that the Government would share our concern that one of the challenges we face in meeting the demands of growth and building our economy is upskilling our work force. There is a fear about not only the Bill's provisions but the underlying narrative: the taking away of these rights, including training rights. That is deeply damaging and should be discouraged.

In the UK employer skills survey of 2011, 41% of UK employers said they do not train any of their staff. We should be worried about that and seek to move in the other direction. We should not encourage, as this Bill does, a sense that training is an obstacle to growth; it is a prerequisite for growth.

My hon. Friend the Member for Edinburgh South set out in very effective detail the threat posed by removing rights relating to unfair dismissal, statutory redundancy and family-friendly policies. On that point, I conclude.

Nic Dakin: I want to reiterate one or two concerns. The Minister keeps asking us whether we are concerned that this provision will be used a lot or not very much. The reality is that this clause may well turn out to be all sound and fury, signifying nothing, for the reasons we have heard from business. However, there are certain principles here that potentially put employees at risk.

The Minister has attempted to reassure us about the putting in place of protections, which I welcome. I welcome his engagement with that issue and hope he will continue to do so. However, the reality is that nine Government amendments have been tabled to this clause, and at the end of the Minister's contribution he changed the name of the key aspect of it. So, whether we think the clause is sloppily drafted or ill-thought through, the evidence suggests that the Government are rushing towards a measure that has not been properly thought through. We welcome the fact that they are now trying to think it through; none the less, this is a tricky issue.

I want to highlight some of the evidence from business leaders, because they need to be listened to. Mr Spicer of the British Chambers of Commerce drew attention to the potential dangers of such share ownership when companies grow:

"A company like that, of course, may reach a point when it needs to bring in outside investment. At that point, having a structure of employment where you have a number of employee owners might prove problematic at that stage of the business cycle."—[*Official Report*, *Growth and Infrastructure Public Bill Committee*, 13 November 2012; c. 29, Q61.]

That is an insightful point which we have not picked up on to date. This provision will effectively be a brake on businesses considering going down that route.

Ian Murray: A key point is that, not only will such an outside investor perhaps put conditions on investment; any outside investment in growth of the type of business Mr Spicer referred to will dilute the shareholding of the employees who own the shares.

Nic Dakin: My hon. Friend draws attention to the complexities of this issue and he is absolutely right. Those complexities are driven by the relationship between employee share ownership and withdrawal of rights—it is that trading or bartering that creates the difficulties. But for that, those difficulties would not exist.

Evidence from the CBI and the BCC also drew attention to the dangers in this process of appearing to trade rights that have not actually been traded—equal opportunities legislation, for example, which can allow people to look at the situation again from the employer's point of view. Confusion is inherent in this clause, which makes it unattractive to business, as business tells us. That is why we suspect the provision will not be taken up that much.

Paul Callaghan, whose evidence has already been referred to, said that his clients

"tend to be US technology corporations that have set up in the UK. None of them is put off coming to the UK because of UK employment law."

He also talked about the difficulties with the value of the share:

"Another obvious flaw is that start-up companies are often not worth £2,000. The idea that you can give away shares worth £2,000 to a load of employees is just a complete fallacy. Nobody seems to have spoken to corporate lawyers at all when they dreamt up this plan."—[*Official Report, Growth and Infrastructure Public Bill Committee,* 20 November 2012; c. 126-127, Q279, Q277.]

The fact that we have had nine amendments and a name change suggests that some discussion is going on now, but hopefully more engagement will take place.

The hon. Member for Burnley is right to say that we are all in favour of balanced choices, as my hon. Friend the Member for North Tyneside said, with people having fair and proper information. The hon. Gentleman said that people should have the freedom to be employed how they wish, and that is crucial. However, if someone can access an advertised job only by entering into such a relationship, that is not the sort of freedom that he or I are talking about.

We already know that in sectors such as construction, self-employment is used as a mechanism that is not always freely entered into. That is the nature of employment in certain sectors, and it is not always in the interests of the employee. I would be concerned if we created another such avenue that could be used to exploit workers, as the right hon. Member for Hazel Grove perceptively identified, in industries such as cleaning, catering and construction.

John Howell (Henley) (Con): I shall not delay the Committee for too long, but let me start by expressing some agreement. We can agree, I think, with much of the description of employee rights and how they should be dealt with, as set out by my hon. Friend the Member for Burnley. It was a clear explanation of the provision and one we should accept. I have never heard, however, such utter tosh from the Opposition as that spoken in this debate.

There is nothing in the Bill to be embarrassed about, and much was made on Second Reading of the similarity with partnerships. That is a subject I understand fully, having become a partner in a large firm some time ago. I did not do that because of the income. There was no one thing driving my decision; it was part of a career progression and a natural part of the way things went. On Second Reading, the point was made that poor people would need legal help, and that patronising attitude has to stop. Poor people do not need the help of lawyers simply because they are poor, and it is wrong for the Labour party to suggest that.

The discussion of share valuations was also misleading, and there was a load of garbled information. It is simple to do a share valuation of a company. There is an element of risk that people are asked to take in sharing some of the risk at the beginning, particularly in dynamic small companies; but they will be willing and interested to do that to prolong the business and promote growth.

Ian Murray: No Opposition Member has used the word "poor" in this debate, as I wager we will find if we read *Hansard* tomorrow. I want to correct the record in that regard, but also to ask a few questions. Was the partnership that the hon. Gentleman took up voluntary? Was it under the terms of the current employment scheme in this country? What would his responsibility have been if he had been hit with a large PAYE and national insurance bill in his first month's pay slip?

4 pm

John Howell: The question about whether such a thing is voluntary is totally misleading. We can see it as voluntary in one sense and not voluntary in another. If someone is offered it, they tend to end up taking it. The CBI called it a niche product; that is absolutely what it is. There are many forms of ownership that are applicable in different circumstances. This will probably not be meat for everyone, and it is not intended to be. It was interesting that the hon. Member for Scunthorpe said that business leaders need to be listened to. Yes, they do, but only when they get it right.

Michael Fallon: I sense that the Committee is moving towards a decision, so I will not repeat all the arguments that I made when I introduced the clause. I will take up some of the points made and perhaps I can deal with

[Michael Fallon]

the more technical questions that the hon. Member for Edinburgh South raised. If I am not able to cover them today, perhaps I will write to him.

First, it was suggested that we had somehow abandoned Beecroft and that the Bill was an attempt to re-introduce his proposals. Let me remind the Committee that some 80% of the Beecroft report is being implemented. His proposals are in the Enterprise and Regulatory Reform Bill, or they are otherwise out for consultation. They are being implemented by the Under-Secretary of State for Business, Innovation and Skills, my hon. Friend the Member for East Dunbartonshire, who has responsibility for employment relations and consumer affairs at the Department. So the bulk of Beecroft is being implemented.

Secondly, it was suggested that the proposal takes away rights. It does not take away rights; it adds a new right to a new form of employment status. Thirdly, it was suggested—a little unfairly—that we had slipped out the impact assessment quietly. On the contrary, the impact assessment was due to be published today. I thought it right that members of the Committee should have an advance copy. I therefore arranged for it to be sent to the Committee before the House was due to rise at half-past 7 last night. In the event, unbeknown to me and perhaps unbeknown to others, the House rose slightly earlier, but I thought it right to make sure that the Committee had the maximum time possible to consider the impact assessment. I am not wholly sure how distributing an impact assessment to Members of Parliament is somehow slipping it out quietly.

I shall now turn to the technical issues that were raised. The hon. Member for Edinburgh South asked me about the valuation of shares and how they can be valued in a private company when they are not traded. Such shares have to be valued regularly by auditors and accountants. They have to measure factors such as profitability, growth and the potential of the company. We are not requiring shares to be independently valued, because we want the scheme to be flexible and open to all companies and employees who would benefit. If we set too many rules, we add more layers of complexity and more expense—I am aware that valuation can sometimes be expensive.

Some companies may choose to use independent valuation to be confident of the value of the shares, but I do not think that that should be mandatory. The employer will have to be confident that the value of the shares offered reflects the reduced rights, because it might be necessary to prove to a court—should the parties dispute later on—the value of the shares. It will be in the company's interest to make sure that that value can be sustained.

I was asked what would happen if the shares are worthless when the employee comes to sell them. The value of shares, of course, goes up and down. Employees and companies will need to consider both the long and the short-term implications of using the scheme. Employees who enter the scheme may well benefit from rewards, for example, in the form of dividend payments. I was also asked what would happen when the shares were transferred if the company was not listed on a recognised market. Private companies issue shares, and there are already ways of transferring and trading such shares. They can be passed to family or friends, they can be sold to other employees or they can be sold back to the company. It would be for the contract to determine whether the shares are transferrable and what the conditions are for the company to buy them back when the employee leaves, or if the contract is changed and an employee owner becomes a more traditional employee.

I was also asked about the type of shares that a company might issue. A company will be able to offer its employee owners—perhaps I should say employee shareholders—whatever type of shares suits its needs and those of the shareholder, as long as the company is able to do so under its articles of association. Shares, therefore, can have few or many rights attached to them, including the rights to a dividend, to vote or to sell the shares. Some issues of shares will have a higher premium than others, and it is up to the company to decide that when they do the issuance. Under this scheme, the company will have to make it clear to the employee shareholder what type of shares is being offered, and they will have to ensure that the value of the shares reflects any restrictions.

I was asked about voting shares. The scheme is entirely voluntary, and it is up to the two parties—the employer and the employee—to agree the detail of the contract and the rights that are attached to the shares. As I have said, the employer must be confident that the value of the shares offered reflects the reduced rights, because it may be necessary to prove that in court.

The hon. Member for Edinburgh South asked how one prevents directors from diluting the share value. Company law provides a framework for companies to operate under. Minority shareholders already have some protections under company law, and employee shareholders would be able to make representations under those rules and bring forward a derivative claim if that were appropriate. The hon. Member for North Tyneside asked me about training, and she said that the right to request training was critical to growth. Companies and employee shareholders will still be able to agree training when it is in the interests of the company and its growth.

Finally, I was asked about wider support for the scheme. Opposition Members have read out quotations from various organisations and business people who they claimed were universally opposed to the scheme, and it is only fair that the Committee should hear a little by way of balance. Mr Clifford, the chief executive of Kurt Geiger said that that scheme would

"provide a massive boost to innovation and enterprise".

Mr Butler Adams, chief executive of bicycle company Brompton, said that the plan was a

"win-win for both employers and employees".

Mr Clark, a partner at Fidelity Growth Partners, said:

"There is a lot to like about this proposal. It gives us the chance to attract and reward young employees in a much more attractive way."

Mr Walker, the chairman of the Federation of Small Businesses, said:

"We believe it will promote share ownership and loyalty to those companies which offer this initiative, with potential benefits following in terms of greater productivity."

Mr Longworth, the director general of the British Chambers of Commerce, which was prayed in aid by the Opposition, said that the plans would particularly aid

"new and fast-growing businesses."

To match the quotation from Mr King of Sainsbury's, Mr Rose, the former chief executive of Marks and Spencer, said,

"This is a win-win for entrepreneurs and employers in small and medium-sized companies that need a flexible dedicated workforce focused on growth."

Perhaps most interesting of all was Ms Becky McKinlay, from a marketing communications company, who said that she would have welcomed such a scheme when she started her marketing communications company six years ago because she could not, at that time, afford to outbid her peers on wages. I ask the Committee to reflect on those views.

We have had a long debate, and I want to thank all those who have contributed to it, on both sides of the Committee. I can do no better than reflect on the words of my hon. Friend the Member for Burnley. In the end, this is about choice. The Opposition say that they are against the clause, but they are actually against choice. They are against any employee even having the choice to consider the proposal. The Government believe that people should be entitled to a choice, and it is up to individuals to decide whether to accept this new form of status.

Question put, That the clause, as amended, stand part of the Bill.

The Committee divided: Ayes 10, Noes 6.

Division No. 10]

AYES

Birtwistle, Gordon	Fallon, rh Michael
Blackman, Bob	Glen, John
Boles, Nick	Howell, John
Bradley, Karen	Smith, Henry
Coffey, Dr Thérèse	Stunell, rh Andrew

NOES

Blackman-Woods, Roberta	Glindon, Mrs Mary
Blomfield, Paul	Murray, Ian
Dakin, Nic	Raynsford, rh Mr Nick

Question accordingly agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24

ORDERS

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

The Parliamentary Under-Secretary of State for Communities and Local Government (Nick Boles): After the bracing cold shower that was the fierce and persuasive defence of clause 23 given by my right hon. Friend the Member for Sevenoaks, I welcome the Committee to the warm bath of consensus over sensible changes to the planning system. I will now address clauses 24 to 28, which deal with the general provisions of the Bill.

Clause 24 makes general provision for orders made under the Bill and sets out the procedure that will apply in respect of the powers conferred by the Bill. It states that such powers include the power to make different provision for different cases and to make incidental, consequential, supplementary, transitory provisions or savings.

Clause 25 confers upon the Secretary of State an order-making power to amend, repeal, revoke or otherwise modify any provision made by or under an enactment where doing so is consequential.

Question put and agreed to.

Clause 24 accordingly ordered to stand part of the Bill.

Clauses 25 and 26 ordered to stand part of the Bill.

Clause 27

COMMENCEMENT

Nick Boles: I beg to move amendment 126, in clause 27, page 30, line 27, after 'Sections' insert

'[Permitted development rights for changes of use: prior approvals],'.

The Chair: With this it will be convenient to discuss Government new clause 14—*Permitted development rights for changes of use: prior approvals.*

Nick Boles: New clause 14 and the associated amendment 126 address an anomaly in section 60 of the Town and Country Planning Act 1990. The new clause will allow a local authority or the Secretary of State to approve matters relating to the new use of land where the planning permission for change of use is granted by a development order. I am keen to free up the planning system from unnecessary constraints to ensure that local planning authorities can focus on the most important planning matters in their areas. I want to ensure that economic growth is not suffocated by unnecessary constraints on development that is change of use.

As part of the Prime Minister's housing and planning growth announcement on 6 September, the Government set out their intention to allow for the change of use of offices to residential accommodation. That will be secured through the granting of a permitted development right.

4.15 pm

The permitted development right regime is a well understood tool for granting national planning permissions for small scale development. Section 60(2) of the Town and Country Planning Act 1990 provides for the Secretary of State to require the approval of the local planning authority with respect to certain matters. That allows potential impacts from the development to be managed.

New clause 14 will similarly allow the Secretary of State to provide that both local authorities and he can ensure that, where permitted development is granted for a change of use, the impacts from the development can be managed sensitively. For example, that could include ensuring that adequate measures are in place to manage the impact of any additional traffic generation or noise created by the change of use. It could also put protections in place, which could ensure that proper account is taken to manage risks, such as where the change of use is in an area where there are flood risks, whether contamination remedial works have previously been undertaken, or whether the development is near a safety hazard zone.

Amendment 126 provides that new clause 14 will be commenced on Royal Assent. We have committed to bringing forward the permitted development right in relation to change of use from commercial to residential at the earliest possible date. The amendment will allow for that, while ensuring that local authorities are able to manage the impacts of the proposed changes. These are sensible measures that will ensure that development can take place quickly while also managing potential adverse impacts. I hope the Committee will support the inclusion of new clause 14 as well as amendment 126.

Amendment 126 agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28 ordered to stand part of the Bill.

New Clause 3

REMOVAL OF PLANNING ACT 2008 CONSENT AND CERTIFICATION REQUIREMENTS

'(1) The Planning Act 2008 is amended as follows.

(2) In section 127 (compulsory acquisition of statutory undertakers' land, and rights over statutory undertakers' land)—

(a) in subsection (2), for the words from "Secretary of State" to the end substitute "Secretary of State is satisfied of the matters set out in subsection (3).";

(b) in subsection (5), for the words from "Secretary of State" to the end substitute "Secretary of State is satisfied of the matters set out in subsection (6).";

(c) omit subsection (7).

(3) Section 137 (consent of statutory undertakers etc required to extinguishment of right of way over land on which they have apparatus) is repealed.

(4) In section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc)—

(a) in subsection (4), for the words from "only if" to the end substitute "only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates.";

(b) after subsection (4) insert—

"(4A) In this section "statutory undertakers" means persons who are, or are deemed to be, statutory undertakers for the purpose of any provision of Part 11 of TCPA 1990.

(4B) In this section the following terms have the meanings given in paragraph 1(1) of Schedule 17 to the Communications Act 2003—

"electronic communications apparatus";

"electronic communications code";

"electronic communications code network";

"operator".";

(c) omit subsections (5) and (6).

(5) In Schedule 12 (modifications of Act in its application to Scotland), in paragraph 18, for "Section 137(7)" substitute "Section 138(4A)".'.—*(Nick Boles.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 14

PERMITTED DEVELOPMENT RIGHTS FOR CHANGES OF USE: PRIOR APPROVALS

'(1) In section 60 of the Town and Country Planning Act 1990 (planning permission granted by development order) after subsection (2) insert—

"(2A) Without prejudice to the generality of subsection (1), where planning permission is granted by a development order for development consisting of a change in the use of land in England, the order may require the approval of the local planning authority, or of the Secretary of State, to be obtained—

(a) for the use of the land for the new use;

(b) with respect to matters that relate to the new use and are specified in the order."

(2) In section 70A(5) of that Act ("relevant application" includes an application for approval under section 60(2)) after "60(2)" insert "or (2A)".'.—*(Nick Boles.)*

Brought up, read the First and Second time, and added to the Bill.

New Clause 1

PURPOSE OF PLANNING

'In Part 2 of the Planning and Compulsory Purchase Act 2004 insert—

"13A The Purpose of Planning

(1) The purpose of the planning system is to positively promote the long term spatial organisation of land in order to achieve sustainable development.

(2) In the Planning Act 2008, sustainable development means managing the use, development and protection of land and natural resources in a way, or at a rate, which enables people and communities to provide for their legitimate social, economic and cultural wellbeing while sustaining the potential of future generations to meet their own needs by respecting environmental limits.

(3) In achieving sustainable development, planning should—

(a) positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, wellbeing and health of people and communities;

(b) contribute to sustainable economic development;

(c) protect and enhance the natural and historic environment and quality of existing communities and the countryside;

(d) ensure long term sustainable patterns of resource use;

(e) positively promote civic beauty through high quality and inclusive design; and

(f) ensure the planning system is open, transparent, participative and accountable.".'.—*(Roberta Blackman-Woods.)*

Brought up, and read the First time.

Roberta Blackman-Woods: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss the following:

New clause 4—*Development plan documents: climate change policies*—

'In section 19 of the Planning and Compulsory Purchase Act 2004 (preparation of local development documents) after subsection (1) insert—

"(1A) Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of and adaptation to climate change in line with the objectives and provisions of the Climate Change Act 2008.".'.

New clause 5—*Sustainable development as a criterion for deciding development consent applications*—

'In section 105 of the Planning Act 2008 (decisions of Secretary of State) after subsection (2)(a) insert—

"(aa) the objective of achieving sustainable development".'.

Roberta Blackman-Woods: I will do my best to canter around this lap, which I think will be the last lap of new clauses, as quickly as I can. This group of new clauses seeks to use the Bill to establish a positive definition of planning and sustainable development that would allow for long-term economic growth, and create places in which people truly want to live and work.

New clause 1 seeks to include, in the Planning and Compulsory Purchase Act 2004, a definition of the purpose of planning. That definition puts the need for the positive promotion of sustainable, strategic development first and foremost, and it sets out the need for planning policy to: positively identify suitable land for development in line with the economic, social and environmental objectives so as to improve the quality of life, well-being and health of people and communities; contribute to sustainable economic development; protect and enhance the natural and historical environment and quality of existing communities and the countryside; ensure long-term sustainable patterns of resource use; positively promote civic beauty through high quality and inclusive design; and ensure the planning system is open, transparent, participative and accountable.

In their rush and desperation to be seen to be doing something to produce growth, the Government seem to have forgotten the real purpose of planning. Planning is not necessarily an obstacle to growth, a vehicle for nimbyism or, despite what the Minister seems to believe, a platform from which to make statements about the need for land for housing without delivery mechanisms to support it. Planning is a tool for people to shape places positively and for communities to ensure that they have homes for their children and the type of development that is beneficial to them and the economy.

The national planning policy framework paid lip service to that by touting the importance of sustainable development, which was mentioned 68 times in the 50-page document but was not adequately defined once. Hence the urgent need to define it in the Bill.

The Town and Country Planning Association has said there is a

"need for strong legislative signals if we are to achieve transformational change on issues such as housing, climate change and equality. The new Growth and Infrastructure Bill is an opportunity to enshrine an effective and open system which allows communities to face up to and tackle the major challenges, as well as deliver the kind of visionary sustainable development which can help deliver a low carbon economy and better places to live."

The TCPA goes on to say, in support of the new clause's purpose:

"There has been an active debate over many years about making planning more positive and visionary and less procedural and inward looking. Both in law and practice the planning system would benefit from a clear statutory purpose. This would supplement and ultimately clarify the existing specific duties on planning and provide for a lasting settlement about the direction and value of the system. A specific purpose for planning was set out in early planning legislation (1909 Housing and Town Planning Act) but has subsequently been lost adding to a sense that the system is about process and not outcome focused. Statutory purposes exist in wide range of legal frameworks from National parks to Insolvency law but the planning system remains largely based on procedural rather than outcome duties.

The purpose of planning should have a vision of bringing together strands of environmental planning, economic and housing development and community empowerment. It should be based on the UK sustainable development approach and recognise the specific role of planning in promoting a pattern of development which is long term, spatial, environmentally sustainable and"—

most of all—

"socially just. It should reflect the aspiration of the planning movement and in particular the promotion of civic beauty."

I am confident that all members of the Committee will have had first-hand experience of the positive impact that planning can have on communities. If not, I suggest they take a trip to Letchworth, Milton Keynes or many of the other well planned garden cities and new towns that have incredible resident satisfaction ratings. We often hear negative things about Milton Keynes from people who do not live there, but people who live there say it is a truly wonderful place to live. The Minister has just reminded me that the next time I visit Letchworth I need to take a "Newsnight" crew with me, because much in its development underpins the case I am making about the positive role that planning can play in shaping our communities.

A similar logic applies to new clause 4, which would create a legislative duty for development plan documents to include policies to mitigate climate change. The new clause is supported by both Friends of the Earth and the Town and Country Planning Association, along with many other environmentally conscious organisations. Climate change is one of this century's most pressing challenges, and we still do not fully know what the implications will be for the United Kingdom. Strategic planning could play a huge role in mitigating the effects of climate change and ensuring that our towns, villages and cities are adequately prepared.

In its evidence to the Committee, the Town and Country Planning Association, in support of the new clause, said:

"Section 182 of the 2008 Planning Act created a new duty on LPAs to contribute to the mitigation and adaptation of climate change by amending section 19 of the 2004 Act. This only applied to development plan preparation defined in part 2 of the Act. But there is no linkage with the 2008 Climate Change Act which does not apply directly in law to the local authority planning functions. Ensuring a close fit between the Planning Acts to the provisions of the Climate Change Act in plan making would solve this problem and provide legislative force to the provisions of the NPPF".

The new clause is therefore essential to ensure that planning is able to meet its potential in tackling the urgent issue of climate change.

New clause 5 would put a duty on the Secretary of State to promote sustainable development under the Planning Act 2008. That is particularly important given the powers introduced in clause 21—we have discussed it at length, but probably not enough—which will bestow on the Secretary of State the power to decide on a huge range of nationally significant planning applications. We simply want to ensure that, should he ever get those powers, they are exercised within the framework of sustainable development.

Nick Boles: Veterans of previous Bills involving planning will know that we have been here before with this discussion, most recently during the passage of the Localism Act 2011, when the merits of clauses on sustainable development and climate change were debated at considerable length. They will also know—I notice a wry smile on the face of the right hon. Member for Greenwich and Woolwich—that successive Governments,

[Nick Boles]

including the previous Administration, have resisted attempts to impose more specific sustainable development obligations on the planning system by legislation. There are, of course, good reasons for that.

First, policy can set out more fully and effectively the ways in which planning can and should contribute to sustainable development. Since the Localism Act, we have published the final version of the national planning policy framework, which makes absolutely clear our commitment to put sustainable development at the heart of the planning system. Indeed, the framework says that the purpose of the planning system is

"to contribute to the achievement of sustainable development",

as well as setting out the Government's view of what that means in practice. There is absolutely no need to duplicate elements of that strong policy framework in legislation. It would set an unhelpful precedent and have undesirable consequences.

The second reason why Governments have resisted more specific legal obligations on planning is the difficulty of applying them in practice. The debate in the Lords during the passage of the Localism Act highlighted a wide range of views about what a legal definition of sustainable development should embrace, from culture to spirituality. There was no consensus on the right formula; nor was it clear that any formula is right in all circumstances and for all planning decisions. The result of the new clauses tabled by the hon. Member for City of Durham would be disproportionate box-ticking to avoid the risk of challenge to decisions, rather than a considered approach to how planning can promote sustainable development and address climate change.

The third reason why the new clauses—I refer not just to new clause 1, but to new clauses 4 and 5 also tabled by the hon. Lady—should be resisted is that we already have a strong statutory basis for securing sustainable development and addressing climate change through planning. That is found in the existing duty under the Planning and Compulsory Purchase Act 2004 on those who prepare local plans to do so with the objective of contributing to the achievement of sustainable development; in the changes introduced by the Localism Act, which extends the same principle to neighbourhood planning; and in the requirements under the 2004 Act for local plans to include policies for mitigating and adapting to climate change. We already have legal requirements that the principle of sustainable development, including in climate change considerations, should run through all levels of plan making—strategic, local and neighbourhood.

4.30 pm

The existing duties, reinforced by the clear policy in the national planning policy framework, mean that we already have the right tools in place to ensure a positive planning system with a clear and unambiguous mission to deliver sustainable development, including the mitigation of and adaptation to climate change, without the risk of the unintended consequences that would arise from the new clauses. I therefore hope that the hon. Lady will withdraw new clause 1.

Roberta Blackman-Woods: Once again, I am very disappointed by the Minister's response. I think that he knows very well that references to planning, particularly in the NPPF, concern plan making, so they are about process duties. New clause 1 would place an outcome duty on those involved with the planning system. I cannot see how the Minister can disagree with that, because in his speech to the Town and Country Planning Association conference only last week, he spoke of the need for greater focus on the outcomes of planning and because many aspects of the Bill seek to affect behavioural change in the planning system. It is therefore time to concentrate specifically on outcomes.

Given that the Minister has previously spoken about the need to consider outcomes in the system, I will leave him, over the coming week, to reflect on the new clauses, and I will not press them to the vote. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 10

REMOVING THE HOUSING BORROWING CAP

'(1) The Localism Act 2011 is amended as follows.

(2) For section 171 substitute—

"171 Amount of housing debt

(1) A local authority shall determine and keep under review the amount of housing debt held by that authority.

(2) A determination under this section must have regard to the duty to determine an affordable borrowing limit under section 3 of the Local Government Act 2003 (duty to determine affordable borrowing limit).

(3) A determination under this section must have regard to any guidance issued or approved by the Secretary of State.

(4) A local housing authority may not hold debt in contravention of a determination under this section.

(5) In this section "housing debt", in relation to a local housing authority, means debt—

(a) which is held by the authority in connection with the exercise of its functions relating to housing and other property within its Housing Revenue Account, and

(b) interest and other charges in respect of which are required to be carried to the debit of that account.".'.—*(Roberta Blackman-Woods.)*

Brought up, and read the First time.

Roberta Blackman-Woods: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss amendment 114, in title, line 3, after 'land;', insert

'to make provision about the powers of local authorities to hold debt in relation to housing;'.

Roberta Blackman-Woods: I will deal quickly with amendment 114, which would change the long title of the Bill to extend its scope to the measures in new clause 10. The new clause would enable local authorities to borrow to provide housing, boost growth and stimulate house building. It was tabled to test the Minister's thinking about such measures to promote house building.

Essentially, the new clause would enable councils to borrow on the basis of housing assets that have been transferred to them. It would amend the Localism Act 2011 by removing the provision imposing a centrally

determined cap on borrowing for housing. That was another way in which the Localism Act was a misnomer, because it is profoundly anti-localist to restrict the—very prudential—borrowing against assets by local authorities to promote and support house building. The Under-Secretary is on record all over the place about the critical need to build more houses, so I seriously ask him why, in the context of this debate, our proposed measure cannot be allowed or even considered by the Government.

We have been told by the Local Government Association that the removal of the ceiling would lead to the creation of 60,000 new homes and more than 100,000 new jobs. In fact, the effects of the new clause would be so positive that the "Let's get building" report states that it might contribute as much as 0.6% to GDP. It can hardly have escaped the notice of Committee members that our GDP is in a rather difficult situation at the moment: it is completely flatlining. The Government appear to be absolutely desperate to introduce any measures that will promote economic growth. The Local Government Association have brought a measure to the Government that would enable them to more than double the projected growth in the economy over the next year, so we really wonder why they would resist its suggestion.

The UK Contractors Group and Get Britain Building have also argued in some detail that for every £1 spent on building, on average 92p remains in the UK. For every £1 spent by the public sector, 56p returns to the Exchequer, of which 36p is direct savings in tax and benefits. More than 60% of construction employees are low-skilled, with relatively limited alternative employment opportunities. The Government have a key role because, historically, they represent 30% to 40% of construction demand. Given such benefits, has an analysis been made of the net effect of the policy introduced under the Localism Act?

The Bill is desperately short of measures that will actually have an impact on the economy and produce growth, so I am interested to hear whether the Minister will support this measure. At the very least, I hope that he will take it away and seriously look at it to see whether it is something that the Government could support in due course.

Nick Boles: I hope that it has been clear throughout the time that we have spent together that my chief aim in the Committee has been to provide satisfaction to the hon. Lady, and, where I am not able to do that, to at least provide her some consolation. Unfortunately, however, the Government cannot accept her proposal. I remind the Committee of the wise words of the Prime Minister when recently he spoke of the party of which the hon. Lady is a fine representative as being

"the party of one notion: more borrowing."

It is therefore no surprise that Labour Members would table a new clause that proposes to remove all control on borrowing, remove all control on the deficit that they bequeathed to us and put at risk the Government's first priority, which is to reduce the deficit that puts our economic future in grave peril.

I remind the Committee that section 171 of the Localism Act provides powers to the Secretary of State to set a limit on the amount of housing debt each stockholding local authority can hold. That was necessary because the self-financing settlement, which was successfully concluded in April this year, gave local authority landlords direct control over a very large rental income stream and therefore the potential to increase borrowing beyond what we as a country can afford.

I note that the hon. Lady's proposal seeks to bring housing debt into line with other local authority debt, governed by the prudential code. Although I can understand why that might appear fair, borrowing arising from self-financing must be affordable within national fiscal policies as well as locally—something that the prudential borrowing rules do not address.

I also remind the Committee that, although we have set a limit on housing debt, the vast majority of stockholding authorities—139 out of 167—are not at their limit and collectively can increase borrowing by a further £2.8 billion. They could use that funding to invest in their existing stock or to build new homes, and we encourage them to look responsibly at such opportunities. I hope that I have made it clear why such limits are important and that the hon. Lady is now willing to withdraw the clause.

Mr Raynsford: I rise to speak very briefly, because I think the Minister's justification of his position is, frankly, threadbare. He said his chief aim was to promote the satisfaction of my hon. Friend the Member for City of Durham, but he has proved that he is simply not up to it, so I want to give him the chance to think about this a bit further and come to a solution.

Ultimately, if one of his principal aims is also to increase the housing supply, as he has been saying in various places recently, the new clause is a sensible way in which he can do that. It does not, as he has said, remove all control, because, as he acknowledged, the prudential code would continue to apply and that code would set a maximum limit on local authority borrowing. Current local authority borrowing—the most recent figure that I have is for March 2011—is 3% of GDP. That is a great deal lower than it used to be. The LGA provided a briefing note pointing out that local government debt was 8% of GDP in March 1991, so there has been a dramatic reduction over the intervening 20 years.

If new clause 10 was accepted, local authorities could borrow an additional amount—not £2.8 billion, which, as the Minister rightly highlighted, is possible under the current framework, but £4.2 billion. That would be enough to stimulate a programme of 12,000 extra homes a year over the next five years—some 60,000 homes. That is hugely important in meeting housing needs and in bringing growth and stimulus back to the economy.

If the Minister accepted the new clause, he could at least, with some comfort, say, "I have been dealing with a Bill that is genuinely about growth." Frankly, the one thing that was pretty clear through all our interesting debates is that the Bill will have little impact on growth in the British economy. This measure, however, could have a substantial impact.

The Minister is a bit confused about housing. I read the speech that he delivered to the TCPA. He waxed lyrical; he talked about a journey; and he went to some interesting places, such as Letchworth, to which my hon. Friend the Member for City of Durham referred. He went on to Edinburgh new town to show that he was not unaware of what goes on north of the border. He talked in poetic terms about some of the principles of good housing and good planning. He referred to

[Mr Raynsford]

Letchworth and talked about the golden rule that was applied there to ensure that housing and the countryside could be combined, with 12 houses to the acre. He also said how wonderful the planning of Parker and Unwin and the new town pioneers was in coming up with that golden rule.

I was therefore a little surprised to see, two pages later in the speech, the Minister denouncing my noble Friend Lord Prescott for having had a density target of 30 homes per hectare. The Minister said how wonderful it was that the Government had got rid of that disgraceful density obligation. I have to say to him that unless my mathematics are wrong, 30 homes per hectare is exactly the same as 12 homes per acre. They are numerically the same. As he is probably as Eurosceptic as any other member of the Conservative party, I understand why he is not comfortable with hectares, so I assume that that must have been what confused him.

The Chair: Order. I think the right hon. Gentleman has made his point, but I am not entirely certain what it has to do with debt.

Mr Raynsford: It is entirely to do with stimulating the economy through house building. If the Minister gave a little more attention to the details and perhaps spoke a little less poetically but ensured that he got his facts right, we would get a lot more houses built because of the new clause, and they would be built at an appropriate density of 30 homes per hectare. I hope that the Minister will now agree that the new clause should be added to the Bill.

4.45 pm

Roberta Blackman-Woods: I really do not want to intrude on the Minister's grip of hectares and acres and not knowing the difference, but perhaps he will be familiar with the difference now.

The new clause was tabled to test the Government's thinking, because the LGA came forward with such a strong proposal. It is clear from the Minister's response that the Government do not trust local authorities to borrow sensibly, even if they want to borrow to build houses and stimulate the economy. As I said, we have heard the Minister waxing lyrical about the need to build more houses—he used lots and lots of words—but he does not appear to be delivering the means to local authorities. I implore him to go away and think again. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

New Clause 11

LOCAL POWERS TO ESTABLISH PERMITTED DEVELOPMENT RIGHTS

'(1) Section 57 of the Town and Country Planning Act 1990 (planning permission required for development) is amended as follows.

(2) In subsection (3), after second "order", insert "issued by the local planning authority".

(3) After subsection (3) insert—

"(3A) Where a local planning authority propose to make an order under this section they shall first prepare—

(a) a draft of the order; and

(b) a statement of their reasons for making the order.

(3B) The statement of reasons shall contain—

(a) a description of the development which the order would permit; and

(b) a plan or statement identifying the land to which the order would relate.

(3C) Where a local planning authority has prepared a draft local development order, they shall consult, in accordance with regulations, persons whose interests they consider would be affected by the order.".'.—*(Roberta Blackman-Woods.)*

Brought up, and read the First time.

Roberta Blackman-Woods: I beg to move, That the clause be read a Second time.

I am acutely conscious of how short of time we are, but the new clause is extremely important, so I will spend a couple of minutes going through its purpose. I take the Committee back to the statement made by the Secretary of State on 6 September 2012. It was one of the panic measures brought forth on that day to suggest that the Government were doing something to address the need for growth. The Minister has referred to that statement on numerous occasions, and it is generally known as the panic letter from the Department for Communities and Local Government. The Secretary of State said:

"We will consult shortly on changes to increase existing permitted development rights for extensions to homes and business premises in non-protected areas for a three-year period."—[*Official Report*, 6 September 2012; Vol. 549, c. 34WS.]

The Minister will know that that policy has met with widespread derision, not least from his own Back Benchers, who are extremely worried about suddenly having permitted development extended from 4 metres to 8 metres for detached properties and from 3 metres to 6 metres for semi-detached or terraced properties. The policy also applies to businesses. His Back Benchers are concerned about huge extensions going up all over the place, greatly annoying neighbours while producing little growth.

The Secretary of State kept his word, and after considerable time produced an interesting consultation document, which states that the purpose of the policy is to allow people to build conservatories while respecting the amenity of neighbours. The Opposition ask how that will be achieved without a planning system to negotiate between the two neighbours involved.

I know that we are not allowed props, Mr Howarth, but I have some pictures for Members to look at afterwards showing some truly horrendous extensions made to properties. Councils have had to step in and use their planning powers to ask that extensions be removed because people have gone ahead and built them without planning permission, greatly upsetting their neighbours by intruding on their amenity and reasonable use of their property.

My point is that the planning system had to step in and sort out the problem. The Minister is giving people up and down the country a licence to build completely inappropriate extensions that will have to be sorted out by a planning authority at some future date. The new clause seeks to give local authorities the power to decide whether to extend permitted development rights. We think that that is in keeping with localism, and we cannot see any reason why he would not accept the new clause.

Nick Boles: We have learned quite a few things in the past few weeks about the Opposition. We have learned that they are willing to, and they urge us to, stand idly by while those few authorities that completely fail to discharge their responsibilities to plan and make decisions in a timely way fail their people.

Nic Dakin: Will the Minister give way?

Nick Boles: I will not give way because we do not have much time and the hon. Lady took up a great deal of it.

We have learned that they prefer to fetishise affordable housing promises in documents, rather than prioritise building homes that will put an affordable roof over families' heads. We have learned that they will not trust people to make decisions about their own properties without the approval of local politicians and bureaucrats. We have learned that their answer to any question about growth is more borrowing by Government and more debt for Government. Government Members reject all those points.

As the hon. Member for City of Durham well knows, the new clause is completely unnecessary, as the exact requirements that she seeks to add to the Bill already appear in secondary legislation. Local planning authorities already have well established powers to adapt national permitted development rights to their local circumstances via article 4 directions and local development orders. Those routes provide a simple, stream-lined, locally accountable way of restricting or extending permitted development rights to meet local needs and encourage local growth. I hope that the hon. Lady will detach the new clause, which is clearly a little end-of-the-pier show, political posturing, and allow us to conclude the Bill.

Roberta Blackman-Woods: I am so very disappointed now. I do not think the Minister has engaged for one moment with the purpose of the new clause. It says that if he wants to extend permitted development rights, he should simply trust local authorities with the localism that he suggests he has supported all along and enable them to decide. I am sure that he would like to go away and reflect further on the comments he has made. I beg to ask leave to withdraw the motion.

Clause, by leave, withdrawn.

The Chair: I call Roberta Blackman-Woods to move new clause 12, with which it will be convenient to consider new clause 13.

Roberta Blackman-Woods: Given the lateness of the day, I will not move the clause.

Question proposed, That the Chair do report the Bill, as amended, to the House.

Michael Fallon: On a point of order, Mr Howarth. I hope that it is not inappropriate at this stage, before the Question is agreed, to thank, on behalf of the Committee, you and your co-Chairman, the Clerks, the staff, the Doorkeepers and the *Hansard* writers, who have looked after us over the past few weeks. I also thank my colleague, the Planning Minister, who bore the burden of the Bill and managed to fit the Committee sittings round his increasingly complex television schedule, for which we are grateful.

I thank all members of the Committee. It has been a good-natured Committee, although there have been disagreements. It has certainly been an expeditious Committee; we dealt with 28 clauses, four schedules and 13 new clauses in under the time allocated to us. It has also been a hard-working Committee; every Committee member who attended has spoken and raised points. Although we have not been able to agree with all those points, they have all been worth while, and I hope that we have been able to give some assurance that points are being listened to and addressed.

Roberta Blackman-Woods: Further to that point of order, Mr Howarth. I, too, would like to thank you and Mr Davies for how you chaired the Committee. I thank the Committee Clerks, Mr Mark and Mr Flaherty, the *Hansard* reporters and the Doorkeepers for doing such an excellent job. I want to say to Government Members that for some time, I thought that they had all taken an oath of silence, so I was very glad that clause 7 seemed to bring them alive, and we have seen that again today with clause 23. I thank them all for their contributions. They raised a number of questions for us to think about, which is interesting, because generally speaking, it is for us on these Opposition Benches to raise questions for the other side to think about. I thank them for their contributions.

I thank my fellow shadow Minister, my hon. Friend the Member for Edinburgh South, who spoke eloquently and quite brilliantly, and we should pay tribute to him for that. As we have said, almost everyone—everyone on the Opposition side, in any case—contributed to the Committee. I particularly want to thank my right hon. Friend the Member for Greenwich and Woolwich. The Committee could all see why he was such an effective Minister, because he used all his knowledge and experience to completely destroy the Ministers' arguments on a number of occasions. I wish to thank him very much for that. My hon. Friends the Members for North Tyneside and for Sheffield Central did much, not least to tell us about how the Bill would have very little impact on their constituencies, given that those areas desperately need growth. I thought that they made their points really well.

In addition to raising a number of excellent points in the debate, my hon. Friend the Member for Scunthorpe has been a really affable Opposition Whip. I think that we should thank the Whips, so I thank my hon. Friend and the hon. Member for Staffordshire Moorlands. The two of them are very much in danger of giving the Whips Office a good name.

I also thank all the representative bodies that gave us help. The Opposition particularly value that. We have had help in putting together some of the amendments and new clauses in order to scrutinise the Bill. I want particularly to highlight the Campaign to Protect Rural England, the LGA, the TCPA, the National Infrastructure Planning Association and many others, including the Open Spaces Society.

Lastly, I thank the ministerial team. I have to say that I was not always satisfied and I was often disappointed, but I know that they went out of their way to help as much as they could and I am very grateful for that.

The Chair: On behalf of Mr Davies and myself, let me say that the only people who needed to be satisfied in these proceedings were Mr Davies and me—and that is not an invitation.

I thank all members of the Committee for the good-natured, quite disciplined way in which they conducted themselves and particularly the Whips, because it makes things so much easier if they can agree, which it seems to me they did do on almost all occasions. That makes for the smooth conduct of the proceedings. As I said, the proceedings were always good-humoured. On occasions, they even bordered on poetic, but we will leave that to stand. On behalf of Mr Davies and myself, I thank the Clerks, *Hansard* and the Doorkeepers for the help that they have given us in order for us to get to this point.

Question put and agreed to.

Bill, as amended, accordingly to be reported.

4.59 pm

Committee rose.