PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

INFRASTRUCTURE BILL [*LORDS*]

Ninth Sitting

Tuesday 13 January 2015

(Afternoon)

CONTENTS

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Saturday 17 January 2015

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: Mr Jim Hood, †Sir Roger Gale

† Blackman-Woods, Roberta *(City of Durham)* (Lab)
† Browne, Mr Jeremy *(Taunton Deane)* (LD)
† Burden, Richard *(Birmingham, Northfield)* (Lab)
† Burt, Alistair *(North East Bedfordshire)* (Con)
† Coffey, Dr Thérèse *(Suffolk Coastal)* (Con)
† Greatrex, Tom *(Rutherglen and Hamilton West)* (Lab/Co-op)
† Hayes, Mr John *(Minister of State, Department for Transport)*
† Heaton-Harris, Chris *(Daventry)* (Con)
† Jenrick, Robert *(Newark)* (Con)
† Jones, Graham *(Hyndburn)* (Lab)
† Kwarteng, Kwasi *(Spelthorne)* (Con)
† Miller, Andrew *(Ellesmere Port and Neston)* (Lab)
† Newmark, Mr Brooks *(Braintree)* (Con)
† Parish, Neil *(Tiverton and Honiton)* (Con)
† Raynsford, Mr Nick *(Greenwich and Woolwich)* (Lab)
Ruane, Chris *(Vale of Clwyd)* (Lab)
† Rudd, Amber *(Parliamentary Under-Secretary of State for Energy and Climate Change)*
† Shannon, Jim *(Strangford)* (DUP)
† Whitehead, Dr Alan *(Southampton, Test)* (Lab)
† Williams, Stephen *(Parliamentary Under-Secretary of State for Communities and Local Government)*
† Zahawi, Nadhim *(Stratford-on-Avon)* (Con)

David Slater, Marek Kubala, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 13 January 2015

(Afternoon)

[Sir Roger Gale *in the Chair*]

Infrastructure Bill [*Lords*]

Clause 38

Petroleum and geothermal energy: right to use deep-level land

Amendment proposed (this day): 1, in clause 38, page 45, line 22, at end insert—

'(3A) The Secretary of State shall, before the award of licences in relation to the use of deep-level land for onshore oil and gas exploration, issue additional planning guidance introducing a presumption against such developments within or under protected areas and functionally linked land."—*(Tom Greatrex.)*

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 37, in clause 38, page 45, line 25, at end insert—

'(6) The Secretary of State shall be required to commission and consider reports on—

(a) the cumulative impacts of water use in fracking and refracking of exploratory and productive gas wells;

(b) the cumulative impacts of flowback and waste water arising from fracking and refracking activity; and

(c) the cumulative impacts on communities of road and vehicle movements from fracking and refracking activity

before providing any permission for the exploitation of petroleum on deep level land where one or more exploitation facility exists within one mile of a proposed site."

New clause 1—*Exploitation of petroleum on deep-level land: cumulative impacts*—

"The Secretary of State should amend the National Planning Policy Framework to require planning authorities to consider the cumulative impacts of exploiting petroleum on deep-level land."

New clause 20—*Planning notification for the extraction of unconventional oil and gas*—

"(1) The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment No. 2) Order is amended as follows.

(2) In Article 2, "Amendments to the Town and Country Planning (Development Management Procedure) (England) Order 2010", paragraph (4), after "consisting of the" in inserted paragraph (2A), insert "conventional"."

The Parliamentary Under-Secretary of State for Energy and Climate Change (Amber Rudd): It is a pleasure to serve under your chairmanship, Sir Roger.

We were looking at regulations to look after protected areas this morning. The regulations are supported by the national planning policy framework and associated planning guidance, which recognise that there are areas designated for their nature conservation and biodiversity value and that they should be given a high level of protection. The regulations make it clear that protected areas need to be fully and appropriately considered by planning authorities when exercising their planning duties, both in preparing local plans and in determining planning applications.

For example, the national planning policy framework makes it clear that a development should not normally be permitted if, either individually or in combination with other developments, it is likely to have an adverse effect on a site of special scientific interest. The provision applies even if the development is outside the boundary of the site of special scientific interest. That is the robust protection that we are looking for.

New planning guidance published last July set out for the first time the specific approach to planning for unconventional hydrocarbons such as shale gas in national parks, the broads, areas of outstanding natural beauty and world heritage sites. The guidance explains that those areas have the highest status of protection for landscape and scenic beauty, and makes it clear that planning authorities should refuse planning applications there unless both exceptional circumstances and the fact that the application is in the public interest can be demonstrated.

The hon. Member for Rutherglen and Hamilton West asked about that guidance, so I will expand a little, if I may. The new guidance for the first time specifically referred to unconventional hydrocarbons in the areas mentioned. It was felt that by bringing together planning policy that applied to unconventional hydrocarbons and areas of outstanding landscape and scenic beauty, the guidance clearly set out the high level of protection accorded to those areas in respect to development. Importantly, the guidance explains that the planning authorities should refuse a planning application where it is considered to be major development, unless it can be demonstrated that both exceptional circumstances exist and it is in the public interest.

The hon. Gentleman asked what "exceptional circumstances" were. The purpose of planning guidance is to help decision makers to make their decisions when faced with an application. Given the complexity and diversity of our great landscape, as well as local circumstances, it is hard to prescribe what constitutes "exceptional circumstances" and that is the right approach, because it gives local decision makers the discretion they need to make the right decisions for local people.

I hope that my explanation of the robust regulatory regime already in place and the full recognition that the planning system gives to protected areas reassures the hon. Gentleman that such areas are already afforded sufficient protection. The amendment would not add to or strengthen that protection.

The hon. Member for Southampton, Test raised the issue of cumulative impacts. We understand that the purpose of the amendments is to ensure that the cumulative impact of exploiting petroleum on deep-level land is addressed by planning authorities as part of their consideration of planning applications. I reassure hon. Members that the planning system already requires the cumulative impact of development to be taken into account by planning authorities.

The national planning policy framework and supporting practice guidance state that with respect to minerals such as shale oil and gas,

"planning authorities should…set out environmental criteria…against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts on the natural and historic environment or human health".

For example, impacts on groundwater contamination and noise are included. The policy framework also takes into account

"the cumulative effects of multiple impacts from individual sites".

In addition, from an environmental perspective, the existing environmental impact assessment regulations require consideration of cumulative effects when determining whether an environmental statement is needed. If a development is considered likely to have significant effects, the environmental statement that is prepared by developers and publicly consulted on must detail, among other things, cumulative effects resulting from the existence of the development, the use of natural resources, the emission of pollutants, the creation of nuisances and the elimination of waste. The amendments add nothing to the existing approach and risk creating confusion in relation to a well-established, well-functioning process. I hope that the hon. Member for Southampton, Test, who tabled amendment 37, finds that reassuring.

The purpose of new clause 20 is to undo changes to planning notification procedures in relation to underground, unconventional oil and gas development that came into effect last January. The regulations require people submitting planning applications for the winning and working of minerals, including oil and natural gas, to serve notice on individual owners and tenants of land where surface works are required. In addition, they must publish a notice in a local newspaper and put up site notices. The new clause would additionally require shale operators to identify individual owners and tenants of land where solely underground operations may take place and serve notice on them directly.

We believe that the measures introduced last January strike the right balance between the need to notify affected owners and tenants and the need to ensure a proportionate and pragmatic approach for operators, given the unique circumstances of onshore oil and gas development, particularly the distances travelled by works deep below the surface. Specifically, the requirement to publish notices in newspapers and to erect site displays, as required by the existing regulations, is sufficient to ensure that owners and tenants of land above shale workings are given due notice of applications for planning permission for development under their land. They continue to have the opportunity to make representations on applications. The new clause would unnecessarily delay shale gas developments and adds nothing to address the Opposition's broader concern about the environmental effects of shale.

We are not hiding, as the hon. Member for Rutherglen and Hamilton West suggested, from any scrutiny; we simply do not think that the provision adds to the efforts to reassure the public. He referred to his concerns about higher stress levels for residents who have shale exploration going on in their area. Naturally, I share those concerns, but I think it would be far better for those residents if the Opposition accepted our reassuring comments on the amendments and did not raise their levels of stress by continuing to press them.

Finally, I thank the hon. Member for Taunton Deane for his wise words highlighting the difficulties of new energy development in local areas, despite Government efforts to provide a national policy. He made some interesting points, and I hope that the hon. Member for Daventry, who is not in his place, is reassured by my comments on that point. Therefore, I hope that the Opposition will not press their amendments and will accept clause 38.

Tom Greatrex (Rutherglen and Hamilton West) (Lab/Co-op): It is a pleasure, Sir Roger, to serve under your chairmanship again this afternoon. I listened carefully to what the Minister said. To begin with the point about stress, I might have introduced that slightly less seriously, but there is a serious point behind it. It is not only me—the director of public health in Lancashire provided a report for Lancashire county council. I am not sure whether the Minister has had the opportunity to read it, but it is a serious piece of work and makes a number of very good points that the Government should take seriously in our discussions.

Ensuring that people are informed of something happening in their area presents them with an opportunity to ask questions, to have their concerns addressed and to take an informed position. New clause 20 enables that to happen and helps to ensure, along with the other things that are put in place, that there is individual notification. I am sure that, as constituency representatives, we would not look kindly on developers, of whatever sort, whether to do with energy or anything else, not ensuring that we were informed and aware of development that might have an impact on the areas in which we live and work. That is the point we are seeking to make in relation to new clause 20. We will reflect on the Minister's points on new clause 1, but we may come back to that.

Amendment 1 addresses protected areas. I do not seek to gainsay the Minister's comments, but the scope of the planning framework leaves gaps for the future, and it would be much better if those gaps were closed now. We are not talking about huge numbers of sites; we are talking about specific sites with special features in relation to heritage, scientific interest, species or biodiversity, and having such protection is important. As the Minister said, Baroness Young pushed such protection in another place, and those concerns are just as valid today. I will reflect on the Minister's comments, and we may wish to come back to this on Report, rather than pushing the amendment to a Division this afternoon.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The Chair: I understand that there has been considerable debate on this clause, and I am therefore satisfied that the matters arising from it have been fully covered. I propose to put the clause to the Committee without a stand part debate.

Clause 38 ordered to stand part of the Bill.

Dr Alan Whitehead (Southampton, Test) (Lab): On a point of order, Sir Roger. Has amendment 37 been withdrawn?

The Chair: It has not been moved. The hon. Gentleman cannot withdraw an amendment that has not been moved. If he wishes to propose the amendment formally,

[The Chair]

he has the opportunity to do so. The debate has been wound up, but if he wishes to press amendment 37 to a Division, he is entitled to do so.

Dr Whitehead: I was going to withdraw the amendment anyway, but I thought I had already moved it.

The Chair: For everybody's benefit, because this is a common complaint, only the lead amendment is moved at the start of a debate on a group of amendments. Any other amendments, once they have all been debated, may then be proposed formally at the appropriate place in the Bill. The appropriate place to propose amendment 37, as the Clerk has very kindly reminded me, is now, because it comes before the stand part vote. If the hon. Gentleman does not wish to propose amendment 37, that is the end of the debate.

Dr Whitehead: Thank you, Sir Roger. I may have been slightly confused because amendment 36, which I also tabled, was the lead amendment in the previous group.

Clause 39

Further provision about the right of use

Tom Greatrex: I beg to move amendment 2, in clause 39, page 45, line 32, leave out "any substance" and insert "substances approved by the Environment Agency"

Amendment 2 addresses the term "any substance," which was introduced by the Government in another place and permits the use of any substance in fracturing. The Government will be aware of the level of public concern about the use of chemicals in both drilling and the extraction of unconventional gas. Many of us have been made aware of reports, mostly from the US, of hazardous chemicals being used and then leaking into the wider environment, which is the basis of some of the concerns that the public have about this form of energy, regardless of whether such practices will, in truth, be permitted in the UK.

I have questioned Ministers numerous times about the use or non-use of hazardous chemicals in shale in the UK. For the record, can the Minister clarify whether the prohibition on hazardous chemicals relates to the process of high-volume hydraulic fracturing, as I understand it does, and whether it also covers the more conventional process of drilling the well and the contents of what is commonly referred to as mud, although it is not the mud that we remember it from our primary school days or find in our gardens?

2.15 pm

The Government amendment in the House of Lords touched on that point. I suspect—the Minister may well confirm this—that the intention of that amendment was never to open the door to the use of all substances in the hydraulic fracturing process. The use of substances in the extraction of shale, or in any other mineral extraction, should be subject to the proper scrutiny by the Environment Agency; indeed, that is partly what the agency is there for.

Our amendment helps to clarify that point by qualifying the use of "any substance" to apply to those approved by the body that I am sure the Minister will shortly tell us will have a role in approving and monitoring the use of various substances in the drilling process. I therefore suspect that she will suggest that our amendment is not necessary, for the reason that I have just set out, but I argue—again, we will return to the point about public confidence and concern—that including in the Bill words as provocative-sounding as "any substance" is not only needlessly open-ended but, as I have seen in correspondence from my constituents and others, has raised concerns that must be responded to and allayed. It would be much better if the qualification, which I think she is about to say exists in reality, were reflected in the wording of the clause, to provide clarity for everybody with an interest in the subject. I therefore hope that she will consider the amendment in the spirit in which it is proposed.

Amber Rudd: There has been some confusion about this line in the Bill, which has sometimes been taken out of context and interpreted to mean that any substance—including, some suggest, even nuclear waste—could be stored underground, so I am grateful to the hon. Gentleman for giving me the opportunity to clarify what it means. I stress that that is not true. The clauses clearly limit the right to use deep-level land to the exploitation of petroleum and deep geothermal energy. The right does not extend to substances used in other activities.

As for the substances used for the purpose of exploiting petroleum and deep geothermal energy, clause 39(4) makes it clear that the right of use in the clauses does not grant operators any more rights than they have under the existing system, in which operators are granted access rights by a landowner. An operator exercising the right of use will still be subject to the same obligations or liabilities as under the current system, meaning that an operator will need to obtain all the necessary permissions, such as planning and environmental permits. The Environment Agency, for example, assesses the hazards presented by fracking fluid additives on a case-by-case basis and will not allow the use of substances hazardous to groundwater. Operators must demonstrate that where any chemicals are left in the waste frack fluid, it will not lead to the pollution of groundwater.

I understand that the hon. Gentleman's amendment seeks to reaffirm the role of the Environment Agency. However, the meaning of "substance" here is wider than just fracking fluids. It includes electricity and any other intangible thing that might be needed for the purpose of exploiting petroleum and geothermal resources. I hope that that point answers his question about the wider use, which includes mud.

I emphasise again that the right to use deep-level land will not affect any of the existing regulatory regimes that manage the potential risks of hydraulic fracturing. There is, therefore, a risk that this amendment is not only superfluous but would require functions—such as granting well consents—to be transferred to the Environment Agency, and would require the agency to approve substances such as electricity, creating additional regulatory burdens rather than clarifying the existing

regime. While I share the hon. Gentleman's enthusiasm and concern about reassuring the public every step of the way that we are taking the right action and providing the right protections for them and the environment, the amendment does not add to that. I think that it would be wrong to try to incorporate it into the Bill and therefore I hope that the hon. Gentleman will withdraw it.

Tom Greatrex: I am afraid I am not convinced by the argument that the Minister has set out. This is an important point and we need absolute clarity for those who are concerned about these issues. The Minister said, as I anticipated she would, that the intent is not for there to be the use of any substance at all and that the proposal is in line with what is approved and regulated and, indeed, with what is monitored by the Environment Agency. It is important that that safeguard is made clear in the legislation, so I seek to divide the Committee on amendment 2.

Question put, That the amendment be made.

The Committee divided: Ayes 8, Noes 10.

Division No. 8]

AYES

Blackman-Woods, Roberta	Miller, Andrew
Burden, Richard	Raynsford, rh Mr Nick
Greatrex, Tom	Shannon, Jim
Jones, Graham	Whitehead, Dr Alan

NOES

Browne, Mr Jeremy	Kwarteng, Kwasi
Burt, rh Alistair	Newmark, Mr Brooks
Coffey, Dr Thérèse	Parish, Neil
Hayes, rh Mr John	Rudd, Amber
Jenrick, Robert	Williams, Stephen

Question accordingly negatived.

Tom Greatrex: I beg to move amendment 3, in clause 39, page 46, line 2, after "use", insert

", subject to the conditions laid out in planning permission".

The Chair: With this it will be convenient to discuss new clause 17— *Community benefit for schemes provided by companies engaged in hydraulic fracturing—*

(1) The Secretary of State shall by regulations make provision for community benefit schemes to be provided by companies engaged in the extraction of gas and oil rock by means of hydraulic fracturing.

Tom Greatrex: Amendment 3 follows amendment 2, which is logical in relation to the content and the issues. Again, there is concern about what may be construed as rather loose language in the Bill's drafting in relation to the condition in which land is left following any exercise of the right of use. I will not labour the points I have just made about "any substance", but the same case applies.

New clause 17 is about community benefits. We have had a lot of public discussion about community benefits, both in this place and outside. Members of all parties have expressed concerns about ensuring that community benefits are properly captured and that people who live in affected areas actually derive benefits. I am sure that the Minister will wish to tell us that the Chancellor has suggested that there might be a sovereign wealth fund for the north—I am not sure whether it is the north or the north-west.

Graham Jones (Hyndburn) (Lab): Perhaps my hon. Friend might give some thought to the fact that there is a bit of an issue about the idea of having a sovereign wealth fund for a region. Perhaps the Minister could address what the Government mean by that.

Tom Greatrex: That is an important point, and we have had various discussions about this. The Energy Secretary, in the same Government but from a different party, has suggested that there should be a national—by which I think he means UK-wide—sovereign fund. This has been mooted in various different ways. Obviously, it is far in advance of there being any actual revenue to invest in any sovereign wealth fund or ahead of any community benefit being derived, given that we have had no significant activity from which there might be benefit. I highlight those points to make the case. As the intervention from my hon. Friend the Member for Hyndburn made clear, this is something in which people are very interested. As a Member representing a constituency close to the part of Lancashire where there may well be early applications, he is as concerned as many of his constituency neighbours .

Mr Jeremy Browne (Taunton Deane) (LD): I want to explore the hon. Gentleman's thinking about a sovereign wealth fund for the north, or that line of thinking, which may or may not be his; he did not make that clear. Does that potentially open up some difficult implications? One could argue, for example, that the proceeds of the so-called mansion tax, which heavily falls on London and the south-east, should be retained in London and the south-east, as the Mayor of London argues. If we go down the path of regions hoarding the wealth that they generate, that may well not be in the interests of parts of the country, including the north-west.

Tom Greatrex: Perhaps without realising it, the hon. Gentleman is tempting me into the constitutional and fiscal debates that we have had in Scotland over the past couple of years, which I do not think anyone on this Committee, and certainly not you, Sir Roger, will thank me for rehearsing, because I can go on for some time.

The hon. Gentleman's underlying point about how any sort of proposed sovereign wealth fund would be constructed and its boundaries is an important part of the consideration. I think that is probably why the Energy Secretary expressed a different view from that of the Chancellor, and why we have heard different views from Members of all parties who consider that their areas are among those where early activity or extraction may happen. I know that the hon. Member for Lancaster and Fleetwood has made several comments at various points, which are not always completely in line with those of the Chancellor and others.

Exactly how these benefits are best derived is a live and current debate. It originates from a very sound and salient case which is that, if there is disruption, and inevitably there will be local environmental disruption,

[Tom Greatrex]

that is somehow reflected in an appropriate benefit to the people affected. We know, for example, that in some different types of energy infrastructure, community benefits currently accrue in reduced tariffs, or people may take a share in a particular energy development. There are various ways of doing it.

The point of the new clause is to ensure that any community benefits are properly encapsulated in the schemes and the legislation. There have been a number of debates about how this is to be structured. There is a very different position from that which the trade body proposed: a one-off payment of £100,000 per well and a share of the revenue from each well currently set at 1%. In the past, Ministers have sometimes suggested that there may be almost an opening offer rather than a formal final position. INEOS, which announced an investment of £640 million in shale gas in Scotland, not so much for the energy used, but more interestingly as a feedstock for its business based in Grangemouth, is offering 6% of revenues to the community. Different approaches have been proposed, not just by Members and other commentators, but by some of those who may come to be operators in time. That means that there is not consistency or clarity about exactly what people can or should expect to derive, or what should be derived. There is therefore a risk that the appropriate level of community benefit does not accrue to those affected.

Will the Minister expand a little on current thinking? She may wish to take her lead from the Chancellor or from the Secretary of State in her Department; I will leave that to her. What is her current thinking? What would constitute an appropriate use of community benefits, and how might they be structured, particularly given the point that the hon. Member for Taunton Deane made in his intervention? What are the Minister's expectations about the size and definition of the community to receive those benefits? As far as I understand it, there is not a guarantee of what is proposed by the trade body; it is part of its best practice. It is an industry promise; it is no more binding than that. Operators currently in that trade body may in time cease to be so. Other operators might come into this who are not part of that trade body. They will not be bound by something that is suggested and may be subject to change without notice or warning.

2.30 pm

The amendment, which the Local Government Association supports, would require the Government to step in and provide assurances to communities that the benefit due to them was not simply contingent on the whim of those companies. It would require the Government to establish a framework for the delivery of that benefit. That framework should not be too prescriptive; there would need to be flexibility for different solutions to different scenarios, sites and places. Some communities might wish to opt for longer-lasting energy-efficiency measures. Some might want a reduction in their bills, seeking to derive benefit that way.

It is not for the Government to constrain those options, and I do not think the Minister intends to do so, given some of the issues about community benefits and co-operative energy models we discussed in the early stages of our deliberations. It is for the Government to guarantee that there will be meaningful community benefit, which cannot be taken away on the whim of a potential operator. I think it is the case—perhaps the Minister could confirm this—that there will be nothing to stop a potential operator offering no community benefit, or reneging on one. If the Minister is not happy with that, will she undertake to ensure that her Department develops a framework to ensure that community benefits accrue in the ways that we have discussed and I have described?

Roberta Blackman-Woods (City of Durham) (Lab): It is a pleasure to serve under your chairmanship, Sir Roger. I wish to make a few comments about amendment 3. My hon. Friend the Member for Rutherglen and Hamilton West has just given an excellent exposition of why community benefit is so important. Part of that community benefit is likely to be delivered through a set of planning conditions, including land restoration or improvement. It is important that the planning conditions are followed through. I am sure that the Minister knows that many communities will be concerned about fracking in their area and will rely on planning conditions to give them some protection, and to make what might otherwise be an undesirable planning application at least palatable to a degree.

The lack of regulation in some areas—as outlined in our discussions this morning, particularly our deliberations on the need for new clause 3, led by my hon. Friend the Member for Southampton, Test—and the Government's response will not necessarily lead to greater reassurance being felt in many areas of the country. I would therefore like to press the Minister further on amendment 3. Does she agree that effective planning conditions must not only be set, but adhered to? Does she agree that they should not be subject to deemed discharge, given how contentious fracking is likely to be in some areas? Does she agree that it is important to deliver land restoration and improvement as is set out in the planning conditions?

Amber Rudd: I shall take each of the concerns in turn, starting with amendment 3, which the hon. Member for City of Durham has just spoken about. The Government have been very clear in both Houses that clause 39 does not affect the various other permitting and consenting regimes which apply to shale and geothermal developments. Clause 39(4) clearly states that the right of use does not grant operators any more rights than they have under the existing system. An operator will still be subject to the same obligations, and will need to obtain all the necessary permissions, such as planning and environmental permits. An operator will not be allowed just to leave any substance or infrastructure under ground. The question of leaving substances or infrastructure under ground clearly goes beyond the granting of planning permissions.

Before any oil or gas operation can begin in the UK, operators must gain environmental permits from the Environment Agency or an equivalent agency. Operators must, for example, demonstrate to the Environment Agency that, where any chemicals are left in the waste frac fluid, this will not lead to pollution of groundwater. Furthermore, all operators must comply with a comprehensive set of regulations on well design and operation, which are monitored by the Health and

Safety Executive. Attaching the proposed condition to the right of use would not change or improve the existing system, and it ignores the other relevant permissions. I particularly refer the hon. Member for City of Durham to the regulations on well design monitored by the Health and Safety Executive which, we feel, cover the majority of her concerns.

I turn now to community benefits, about which the hon. Member for Rutherglen and Hamilton West spoke. The Government believe that communities that host shale gas developments should share in the benefits that are created. The industry has put forward a community benefits package as part of its community engagement charter. This stands to provide significant economic benefits to affected communities. The industry will pay £100,000 to communities per hydraulically fractured well site at exploratory stage, and 1% of revenue if it successfully goes into production. This is similar to other community benefit packages for technologies such as wind. Operators will publish evidence each year of how these commitments have been met. In addition, the industry has confirmed that operators will contribute a voluntary one-off payment of £20,000 for the right to use deep-level land for each unique lateral well that extends by more than 200 metres, and will notify the public when exercising this power. This is a separate, additional offer to the community benefits package. We consider that the voluntary nature of these schemes offers a multitude of benefits to communities when compared with a statutory system. A voluntary industry approach ensures that the schemes can be flexibly applied and tailored to the community's need.

The shale industry is at a formative stage, and it is not yet clear exactly what development may look like. As such, any community benefit scheme will be more effective if it is organically flexible and can adapt to changing circumstances. The Government are convinced that in these circumstances a statutory scheme would remove some of the flexibility, as it would need to include broad requirements which may not be suitable for every situation, and would of course be more difficult to alter in future. The community benefits charter and offer to communities will be regularly reviewed as the industry develops and operators consult communities further.

The industry will work with UK Community Foundations on two pilot exploration schemes. UK Community Foundations is an independent registered charity, which is experienced in engaging with and consulting communities and in dealing with funding allocation. This will ensure that these community benefit schemes are independent of the industry and that communities have the lead role in identifying local priorities for the funds. In terms of the payment scheme, in return for the right of use, the current provisions already allow the Secretary of State, if not satisfied with the schemes, to introduce regulations to set up a statutory payment or notification mechanism. The focus should now be on exploration, so that we can first know how much shale gas we can really extract, to see what benefits will actually go to communities.

The hon. Member for Rutherglen and Hamilton West mentioned sovereign wealth funds. He is right that my right hon. Friend the Chancellor of the Exchequer raised this issue, and we support this. It is a little early to try to specify how a sovereign wealth fund would be set out. As I have already said, the important thing is to try to find the shale gas and to try to generate the benefit for communities, before we work out just how we are going to spend it. There is no doubt that this will also be in the interests of the country and local communities.

It will, of course, be in the industry's clear interests to honour its commitments, given the importance of continued public acceptance for its activities. We are confident that the imposition of a statutory power will be neither beneficial nor necessary. I hope that the hon. Gentleman has found my explanation reassuring and will withdraw his amendments.

Tom Greatrex: Thank you. In relation to community benefits, the Minister has made a number of fair points. I want to reiterate, however, that there is a concern and a danger that potential community benefit schemes will be removed at the whim of a trade body, or by operators who are or are not in the trade body. As these things are developed, Ministers should be aware of that. Ensuring that that is not the case should be high on their agenda, so that any potential benefits accrue in the most appropriate way possible.

When we get to that stage, I do not intend to push new clause 17 to a Division. However, on amendment 3, and following the points made by my hon. Friend the Member for City of Durham, some important points have not been fully addressed by the Minister. There is still some merit in that amendment so I seek to divide the Committee on it.

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 11.

Division No. 9]

AYES

Blackman-Woods, Roberta	Jones, Graham
Burden, Richard	Miller, Andrew
Greatrex, Tom	Raynsford, rh Mr Nick

NOES

Browne, Mr Jeremy	Newmark, Mr Brooks
Burt, rh Alistair	Parish, Neil
Coffey, Dr Thérèse	Rudd, Amber
Hayes, rh Mr John	Williams, Stephen
Jenrick, Robert	Zahawi, Nadhim
Kwarteng, Kwasi	

Question accordingly negatived.

Tom Greatrex: I beg to move amendment 4, in clause 39, page 46, line 3, at end insert—

(a) The right of use shall be conditional on operators undertaking site-by-site measurement, monitoring and public disclosure of existing and future fugitive emissions.

(b) In this section, "fugitive emissions" shall mean releases arising from, but not limited to, flaring, venting, storage and transportation leakages."

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

Amendment 5, in clause 39, page 46, line 3, at end insert—

'( ) Before a well design is commenced or adopted in connection with the exploitation of petroleum the right of use requires the Health and Safety Executive to inspect the well so as to satisfy itself that—

[The Chair]

(a) so far as is reasonably practicable, there can be no unplanned escape of fluids from the well; and

(b) risks to the health and safety of persons from it or anything in it, or in strata to which it is connected, are as low as is reasonably practicable.

( ) Where the Health and Safety Executive is satisfied that a condition in subsection ( ) is met, it shall give notice to the Secretary of State.

( ) The Secretary of State shall publish the information received from the Health and Safety Executive in accordance with sub-paragraph ( ).”

New clause 2—*Underground access: environmental protection*—

“(1) All sites extracting petroleum under the provisions of section 38 must—

(a) carry out an Environmental Impact Assessment;

(b) ensure that independent inspections are carried out of the integrity of wells used;

(c) publicly disclose the chemicals used for the extraction process, and the proportions in which they are used on a well-by-well basis;

(d) consult with the relevant water company; and

(e) carry out monitoring over the previous 12 month period.

(2) The Secretary of State shall by regulations specify what data shall be required under paragraph (e).

(3) Regulations under subsection (2) must specify as required data the levels of methane in the groundwater and ecological studies, that data shall include but is not limited to levels of methane in the groundwater and ecological studies.

(4) Regulations under subsection (2) must be made by statutory instrument and may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

New clause 7—*Petroleum extraction: environmental base line data*—

“All sites extracting petroleum under the provisions of section 38 must publish all environmental base line data collated over the designated period, in a manner that allows it to be subjected to scientific peer review.”

The purpose is to ensure that disputes over what was naturally occurring prior to extraction can be resolved.

Tom Greatrex: There are a number of amendments and new clauses in this group which I wish to speak to. They are all in different ways relevant to the full and proper regulation of activity in relation to the exploration and extraction of unconventional gas.

Amendment 4 deals with fugitive emissions and fugitive methane emissions. Those of us involved in the debate know that concerns are frequently expressed about these. The emissions accruing from the gas production may not be significantly different—indeed may, in some cases, be less than from other forms of gas. The Committee on Climate Change looked at this in relation to imported liquefied natural gas and assessed that it is possible that indigenous shale gas may have a lower carbon footprint, but that was dependent on leakage rates of below 2%. Therefore, the way in which fugitive emissions are captured and dealt with is significant in ensuring that the potential development of shale gas is carried out in a way that does not contradict with our binding emissions commitments. That is not to say that I do not think it could be done. It certainly could be, but it requires two things.

First, it requires an approach similar to that which has, belatedly, become the norm in the US, after several years of less robust practice—that of so-called green completion, which means capturing emissions. Secondly, it is important that the level of fugitive emissions is properly measured and assessed. That is the purpose of amendment 4, because it is clear that the potential impact on climate change from shale gas is highly dependent on the effectiveness with which fugitive emissions are measured and controlled.

2.45 pm

Placing a duty on operators to measure, monitor and publicly disclose the level of fugitive emissions on a site-by-site basis is an important safeguard, as a point of information for the regulator and the wider public, and for those operators who are therefore able to be in a position to provide robust evidence and objective information about how far they are contributing—or not contributing—to greenhouse gas emissions.

Will the Minister comment on the Government’s assumption of the leakage rate of shale production in the UK? The Committee on Climate Change talked about a leakage rate below 2%. Is that a level that the Government recognise? Have the Minister’s Department or officials made any assessment of the total carbon dioxide equivalent contribution of methane leaked arising from a single well or well pad, or overall forecasts of UK shale gas operations? Will she clarify—it is an important point—the regulations on flaring and venting in shale gas extraction, which has been a point of concern to a number of people and commentators of late?

Amendment 5 has arisen from discussions that I have had with a number of people, including issues that have been raised by people working for the Health and Safety Executive on independent inspection of wells before they are put into use. The amendment seeks to correct a flaw in the existing situation, which allows for the independent inspector to be an employee of the company under inspection. It is not appropriate for that to be the case—for people to be able to mark their own homework, as it were—particularly on an issue that is of as much current concern as this. At present, the Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 state that

“independent and competent persons, of any part of the well, or similar well, information, or work in progress, and the making of such reports and recommendations, as are suitable for ensuring (with the assistance of such other measures as the well-operator takes) that the well is so designed and constructed, and is maintained in such repair and condition, that—”.

However, the House of Lords Economic Affairs Committee noted that that definition could include individuals directly employed by the operator.

Professor Robert Mair, who chaired the Royal Society and Royal Academy of Engineering group that produced a comprehensive, detailed and robust report on shale in 2012, which from time to time Ministers and, indeed, the Prime Minister have referred to stated:

“In some cases, under existing practice, that well examiner can be an employee of the operator’s organisation. We felt that that was undesirable and that the well examiner should be truly independent.”

I agree with Professor Mair. Our amendment would effectively implement that recommendation from the Royal Society and Royal Academy of Engineering report,

by ensuring that the independent Health and Safety Executive should carry out that work in terms of the overall assessment and, importantly, the people involved.

Adequate well inspection is a necessary pre-requisite to many other regulations on shale gas, particularly relating to protections for groundwater such as those we have discussed today, which might have a shale gas well shaft passing through it. That is an important point. It has been raised in another place and is something that the Government should consider adopting.

New clause 2 covers a number of different regulatory points, several of which are part of a framework of six regulatory conditions that I set out in March 2012—getting on for three years ago. It goes to the point that the hon. Member for Taunton Deane made earlier about ensuring that the regulation is not only robust but proportionate and appropriate. We need to get the balance right between providing robust and objective information and providing reassurance where it is required, though not in a way designed to make something impossible by default. I do not believe that any of our amendments or new clause 2 would do that. They are about safeguarding.

In relation to the six points I referred to, which include the aspects of new clause 2 we are discussing, I have had the opportunity for discussions with a number of operators. The Minister will be aware that both the trade body and the individual operators have said that they do not have a problem with those points. In many cases, they think that they would be helpful. That should be borne in mind when we decide on new clause 2. Some of those measures are within the best practice of the industry. However, I go back to the earlier point that best practice via a trade body is no guarantee that it will continue or that all current and future operators will remain or join the code of best practice.

The first point in new clause 2 relates to environmental impact assessments, which are required under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, which implement an EU directive. It requires an EIA for installation such as shale gas drilling pads, but only if they exceed one hectare in size. Determining whether a shale gas well will need to an environmental impact assessment on the basis of its surface area seems arbitrary, given that much of the exploration will happen over a much larger sub-surface area.

Calculations have been made that some of Cuadrilla's Lancashire sites, for example, are 0.99 hectares, just below the one hectare threshold for environmental impact assessment. That is not a sensible and appropriate position. It is clear that for shale gas operators, an EIA should be required for all sites, even those of a surface area slightly below one hectare, as a number are.

The second aspect of the new clause relates to disclosure of chemicals. We discussed some of the points around content of fluid earlier in the amendment on substances. At present the contents of the frac fluid are disclosed to the Environment Agency as part of the operator's permitting application. The Environment Agency in turn publishes on its website a generic list of approved additives. However, I think it is appropriate for that and information about chemicals used in frac fluid in these processes to be made known to the public. That is an important part of meeting the public acceptability test that we referred to. That should be as transparent as possible and open to public scrutiny. The best way to do that is to ensure that it is done on a well-by-well basis.

The industry recognises the appetite for transparency. The trade association, United Kingdom Onshore Oil and Gas, has said that the contents of the frac fluid will be disclosed on a well-by-well basis. Cuadrilla has released the composition of a fluid used at Preese Hall, for example. However, as I have said, an industry pledge to disclose on a well-by-well basis is not the same as a statutory requirement. Since the Environment Agency is already informed of the contents of the frac fluid, the amendment is unlikely to alter the chemicals used, but it would ensure that the process is subject to the appropriate level of public scrutiny and discovery. It will also help to address some of the concerns expressed and rectify some of the statements that turn out not to be completely accurate.

New clause 2 also relates to the water industry, and would make the water companies statutory consultees. All the most prominent environmental concerns over shale gas extraction relate to water. As the Minister is aware, the volume of water used in fracturing for shale gas, when viewed in isolation, can seem quite large, but as the Chartered Institution of Water and Environmental Management has said,

> "when set in the context of national or regional water supply, it constitutes a very small fraction and compares with other industrial uses."

Given that, and following conversations and discussions I have had with Water UK, it is clear that the water industry does not, for the time being, appear concerned about its ability to supply a shale gas industry at this point. However, there may be locally significant impacts, particularly when multiple sites are developed in an area where on-site abstraction is not possible. That is why the Chartered Institution of Water and Environmental Management has said:

> "There may be local consequences should a significantly sized production industry develop, particularly in some catchments in the south east which are already water stressed. It will be up to the water companies to decide if they are able to supply the water or the relevant environmental agency if it is to be abstracted."

Its view, which sits behind this amendment, states:

> "It is therefore considered that water supply issues will be local and early engagement by shale gas companies with the environment agency and water companies is essential to establish the nature of any risks and manage them accordingly."

On the basis of that recommendation and the discussions I referred to with Water UK, we have included the matter in the new clause.

As the Minister and other members of the Committee may be aware, Water UK was initially highly critical of the attitude towards water consumption. That provoked a welcome and detailed discussion, which led to a memorandum of understanding being signed by UKOOG and Water UK in November 2013. In recognition of the recommendation that water companies should be consulted early on in the planning process, our amendment would make the local water company a statutory consultee. As such, of course, a water company would have to provide a substantive response to a planning application within 21 days, as other statutory consultees have to.

The legal definition of a substantive response is prescribed in article 20 of the Town and Country Planning (Development Management Procedure) (England) Order 2010. The substantive response should include reasons for the consultee's views, so that where these views have informed a subsequent decision made by a local planning

authority, the decision is transparent. That is an important principle in relation to water use and reuse for potential applications. If we incorporate the local water company as a statutory consultee, local authorities will be able to make a judgment on planning permission, or part of that judgment, with a proper understanding of the potential impact on local water supplies, informed by those who have a statutory responsibility to provide and safeguard water supplies.

The next part of new clause 2 relates to the baseline monitoring of methane in groundwater. The important point here is to give the Environment Agency access to information that it would not otherwise hold. That information could trigger further action under existing protocols. To demonstrate that a shale operator was polluting groundwater, the Environment Agency would need to demonstrate that there had been an increase in the level of methane over the course of operations. That self-evidently requires a site-specific baseline, which was one of the key recommendations of the Royal Society's 2012 report. It stated:

"Operators should carry out site-specific monitoring of methane and other contaminants in groundwater before, during and after shale gas operations."

The Minister and others will be as aware as I am of the comments that are sometimes made about the pollution or contamination of groundwater with methane when methane can and does occur naturally in groundwater in some instances. It is important, for the baseline to be properly set, that there is a requirement to have baseline monitoring before we start, so that there can be a proper, authoritative and full assessment of whether there has been any impact. The current position is that claims will be made that are not possible to refute, prove or disprove, because is no baseline information to assess them against.

If an operator pollutes groundwater, the Environment Agency can take action under existing regulations. The power to step in and close down a site found to be polluting groundwater is already contained in the Environmental Permitting (England and Wales) Regulations 2010, and similar regulations exist in Scotland under the auspices of the Scottish Environment Protection Agency, which is responsible to Scottish Ministers.

3 pm

The obligation to make use of those powers is contained in the water framework directive, which obliges the regulator to prevent inputs of hazardous substances into groundwater and limits any inputs of all other pollutants into groundwater to prevent pollution, deterioration in status or any significant and sustained upward trends. That also extends to non-hazardous substances, thereby encompassing all chemical components of frack fluid as long as the pollution exhibits a significant and sustained upward trend.

The chain of events leading to the closure of a polluting site can be initiated only if the Environment Agency has the information in the first place to demonstrate that there has been a change in the level of methane in the groundwater, so the requirement and need for the baseline are clear-cut, particularly if, as the Minister and others have said, they want to be able to trust the expertise of the Environment Agency. If the Environment Agency is unable to take such action because it does not have a baseline against which to make an assessment, that makes the existing regulations, which I have just described—they are comprehensive and have been introduced over recent years—effectively redundant. The baseline monitoring of methane is an important consideration. Again, the trade body and individual potential operators have said to me in discussions that not only do they not object to it, they would find it particularly helpful. As I have said, that is also a recommendation of the 2012 Royal Society report.

The final component of new clause 2 relates to the time frame for monitoring. Levels of various chemicals in groundwater could be subject to variation over time, which is why, in the ongoing national methane baseline assessment done by the British Geological Survey, a subset of boreholes are sampled quarterly over a 12-month period. The danger is that without an extended or prescribed monitoring period, a single, one-off assessment could produce an inaccurate result for all forms of baseline monitoring. If the BGS sees fit to conduct its own baseline assessments over a 12-month period, site-specific monitoring should clearly be held to a similar standard. Again, that is important to provide confidence in and robustness of the data, with which we will then be able to prove or disprove some of the charges made as the impacts of developments are considered and discussed in public debate and in communities around the UK.

The Chair: I have looked carefully at amendments 4 and 5, which cover a significant amount of the ground covered by clause 39. It is my view that new clause 2, taken together with new clause 7, provides an opportunity for a broader debate relating to any other issues that might arise from clause 39. I say this now because I think it highly likely that by the time we reach the end of the debates on these amendments and new clauses, we shall not require a stand part debate. Hon. Members may wish to make a note of that.

Andrew Miller (Ellesmere Port and Neston) (Lab): I rise to support my hon. Friend the Member for Rutherglen and Hamilton West and speak to new clause 7, which stands in my name. I will start where my hon. Friend left off, by discussing the variation that exists in local naturally occurring and industrially created contaminant levels, particularly methane in this case.

My constituency has a principal petrochemical manufacturing operation, and when things have gone wrong from time to time, it has suffered from the downside of having those valuable jobs in the community. It is inevitable, of course, that any leakage will impinge on the way that the clause is written. Given that a significant number of sites in the north-west of England are closely associated with existing petrochemical industries, it is impossible to do any sensible monitoring of the impact of hydraulic fracturing without proper baseline monitoring.

I reflect back some years to when a power company was burning Orimulsion—an emulsion from the Orinoco—in what was then Ince power station, now a major glass-producing site. The company told me that when the power station was burning at full blast—both Ince A and Ince B—the site had the lowest level of industrially created pollution in the area. It failed to point out that it was talking about the time of the

three-day week. You therefore get some very misleading data if you do not take into account what is happening in the locality, plant by plant.

We cannot have a system that simply looks at baseline data in general. It has to be site-specific and carried out for a decent period of time prior to any fracturing processes. That would mean that any challenges to the integrity of the pollution data put out by the extraction company could be made with some care. Even then, it would be quite difficult to do. Given that point, plus the fact anything that is measured has to start from somewhere, it is daft to consider agreeing to the fracturing provisions in the Bill without proper baseline monitoring.

I was concerned when the Prime Minister responded to my question on 22 October last year on why the Government had resisted amendments that had been tabled to the Bill in the other place by saying:

"What I want to see is, obviously, a robust regulatory and environmental permissions regime, which I believe we have. I also want us to get on with recovering unconventional gas because I think the greatest proof of how safe this technology is and how good it could be for jobs and energy costs in our country is to demonstrate where it is actually working in some wells. My fear is that many in the other place, and indeed in this place, want to cover this new industry with regulation so that it simply does not go ahead".—[*Official Report*, 22 October 2014; Vol. 586, c. 898-99.]

A few colleagues in the House hold that view, but it is not my view and it is not where I am coming from in speaking in support of my hon. Friend the Member for Rutherglen and Hamilton West on new clause 2 and in speaking to new clause 7. It is a fact that, if we are going to have meaningful data, we have to start by measuring the baseline. We cannot escape from that.

On new clause 7, colleagues may not all be fully familiar with what a scientific peer review is. A couple of Members in the Committee, particularly the hon. Member for Suffolk Coastal, certainly are aware. I looked very closely at a number of papers she published when she was at UCL and I have read her papers in *Chemicals Communications* in *Polyhedron* in 1993. Excellent papers they were too. They were very heavily peer-reviewed. The hon. Member also served in a distinguished capacity as a board member of the Parliamentary Office of Science and Technology, on which I, too, serve and have been privileged to serve for a number of years. POST publications are here to help us understand science in very complex areas and I am looking at one entitled *Short Lived Climate Pollutants*, published last October. Like all POST documents, this is significantly peer-reviewed. Indeed, the hon. Member for Suffolk Coastal would agree with me that it is probably peer-reviewed to a higher level than anything she published, because on the board of POST we make sure that the information in these briefings is accurate. One of the subjects in this particular document is about the second most abundant greenhouse gas after carbon dioxide, which is methane. That is a key issue that we should be seeking to monitor as we go on.

The importance of the new clause that I have tabled is to ensure that we do not get into the kind of situation that has occurred before, sometimes in publicly-funded science and sometimes in privately-funded science. A good example was the "climategate" saga at East Anglia university. The Select Committee looked very carefully at East Anglia university and we have absolutely no doubt about the integrity of the science that was undertaken. The problem was the way it was put in the public domain, which was ham-fisted, as if saying: "Well, the public aren't going to be interested in this; it's massive data; nobody can read it." It created a belief that there was something fishy going on at the university. There have been plenty of other examples where people have been a bit slapdash about the way they have put things in the public domain.

The purpose of this—as my hon. Friend said, from a sedentary position—

Dr Whitehead: And redacted.

Andrew Miller: That was from this morning's debate; perhaps the Minister will respond to that in due course. The purpose of this new clause is to ensure that baseline data is not simply put into the public domain in a series of charts and loads of data, but is published in a meaningful way that a rational scientist could interpret and provide commentary on for the public in a way that is scientifically valid. I am afraid that some companies—coming back to my example about the way that power company operated, slightly mischievously, being selected with the data—would fall foul of that test. We have got to make sure that the degree of transparency and the standards that exist in some industries about public data—a good example is the nuclear power industry, where there is a great deal of data and it is subject to public scrutiny—exist in this industry.

The hon. Member for Rutherglen and Hamilton West referred to the trade body UKOOG. In its document *Guidelines for the Establishment of Environmental Baselines for UK Onshore Oil and Gas*, which was circulated, it said:

"A site specific baseline ground-gas sampling and analysis programme should be developed in line with current best practice guidance, desk study and walk-over information and the CSM. Ground-gas monitoring should be undertaken using best available techniques."

I could not agree with that more, but as my hon. Friend quite rightly said, not every developer will necessarily be a member of that trade body and be bound by the standards of that code of practice. We should congratulate UKOOG in creating that code of practice and reinforce it by establishing it in law.

3.15 pm

I finish with a couple of points. Colleagues will have received an e-mail yesterday from the Country Land and Business Association—not exactly an organisation which I would normally expect to find supporting me, founded as it was by eminent people such as the late Earl of Onslow. People of that ilk support this amendment, along with environmental groups. I think it is important. I remind the Government again of their own Command Paper, Cm 8980, published in December, which deals with a whole raft of issues about openness. It notes in a paragraph that I did not refer to this morning that the Government are very much committed to ensuring that scientific data is in the public domain in a meaningful way. On page 12, with reference to scientific changes and developments by researchers and innovators, the paper says:

"These changes open up science to democratic scrutiny in new and exacting ways. Science can benefit from coming under challenge. For instance, less latitude is now given to non-reproducibility of scientific studies, driving greater rigour."

That is the case. There will be scrutiny from the public. It is vital that the public are entitled to scrutinise and challenge and therefore to create a better understanding among the public about the data. It is important that the data are made available to the public in a form that can be subject to scientific peer review.

Amber Rudd: It has been very interesting to hear hon. Members' contributions and I hope to address the points raised. I will take each of the concerns in this group in turn, starting with fugitive emissions in amendment 4.

We report the UK's greenhouse gas emissions annually as part of our international reporting obligations. The report includes an estimate of fugitive emissions from onshore energy extraction. The reporting is done in accordance with guidelines produced by the Intergovernmental Panel on Climate Change, the IPCC, and is audited annually by a group of international experts. Our obligations mean that we will be required to include emissions from shale gas exploration and extraction in this reporting once these activities begin in the UK. I can reassure the hon. Member for Rutherglen and Hamilton West, and all hon. Members, that we take these obligations very seriously.

In 2013, Professor David MacKay and Dr. Timothy Stone published their assessment of the potential greenhouse gas emissions associated with shale gas extraction and use. Their report concluded that the carbon footprint of UK-produced shale gas would likely be significantly less than that of coal and also lower than that of imported liquefied natural gas. It determined that, with the right safeguards in place, the net effect on greenhouse gas emissions from shale gas production will be relatively small. The Government have accepted all the recommendations in the MacKay-Stone report, four of which relate to emissions monitoring, and a research project is planned to measure and understand the scale of on-site emissions in line with the development of UK shale gas operational activity. That, I hope, answers the request by the hon. Member for Rutherglen and Hamilton West for more detail on emissions in this sector. It is simply too early for accurate assessments. I will take the opportunity to point out to the hon. Gentleman that fugitive emissions for conventional onshore oil and gas extraction was estimated at 0.03% of our total greenhouse gas emissions for 2012. Given the small scale of emissions from this source in the UK at the moment, we do not believe that on-site monitoring of emissions at conventional sites is necessary beyond the regulatory requirements that are in place, but we will of course keep that under review. I hope the hon. Gentleman agrees that additional statutory measures in this area are not necessary because we already have a robust process in place for reporting fugitive emissions, and we have plans in place to monitor and report any emissions from shale gas exploration and extraction once these activities start in the UK.

Turning now to well inspections, I would stress that health and safety legislation in the UK places responsibility for controlling and managing risks in the hands of those best placed to do so: those that create the risk. In this case, as he has set out, that is the well operators. The well examiner then provides independent oversight and assurance to make sure the operators are operating within the legal requirements. Existing legislation requires the Health and Safety Executive to assess well designs, and requires site operators to appoint an independent well examiner and provide weekly reports to the Health and Safety Executive on the site operation. Indeed, well design is scrutinised by the Health and Safety Executive before construction through the well notification system. The Health and Safety Executive also monitors well construction based on weekly reports to its well specialists, and inspects the well site. Any significant changes to well construction are subject to the same robust scrutiny.

These regulatory checks have operated effectively for both offshore and onshore oil and gas wells for a number of years. The well operator is legally required to appoint an independent well examiner for the complete life cycle of the well. This requirement has been in place in Great Britain for almost 20 years, and as such has stood the test of time as part of an effective health and safety regime that is seen to be world-leading. It is the well operator's responsibility to appoint this independent well examiner, who is separate from the immediate line management of the well operations. This is to allow a scheme of quality assurance and quality control, where an operator's employee is not responsible for verifying their own work.

It is worth noting that to date, onshore operators have used external companies to supply this service; it has not been delivered in-house, as the hon. Gentleman suggested could happen. This clearly places the duty to ensure the safety of the well on the site operator. It is flexible, as it allows in-house checks but only where appropriate safeguards are in place. In this context, it is the competence of the well examiner that is most important. This approach has now been adopted as part of the new offshore safety directive, which is due to come into force across the European Union in 2015. There is no evidence to suggest that the existing arrangements and legislation do not work effectively for wells drilled to exploit unconventional oil and gas reserves onshore. I hope that the hon. Gentleman has found my comments reassuring.

Concerning environmental impact assessments, we understand that the Opposition's desire for mandatory environmental impact assessment of all petroleum development is designed to reassure the public that the environmental impacts of shale oil and gas will be robustly assessed. However, the environmental impacts are already robustly assessed. Planning authorities are already required to ensure, as part of granting planning permission, that mineral developments such as shale will not have unacceptable adverse impacts on the environment. Where a development is likely to have a significant effect on the environment, an environmental impact assessment is required. Critically, if any significant environmental effects that cannot be mitigated are identified by an assessment, then planning permission can quite simply be refused. This approach works well in practice and is consistent with our European obligations, ensuring that environmental impact assessment is only undertaken where it adds value.

Legislating to force mandatory environmental impact assessment of all petroleum development, even where significant effects are not considered likely—bearing in mind that hydraulic fracturing may not even be proposed—would be unnecessary. An environmental impact assessment involves substantial work, often taking up to a year to develop. Requiring assessment in all cases, even when it

is known that significant effects are not likely, would slow down or delay development and add to the costs, for no discernible environmental benefit. Because the environmental impact assessment regime applies to all sorts of projects, changes here could also create a damaging precedent for other new industries in the future, both in the energy sector and beyond.

There is concern from developers that planning authorities sometimes take too cautious an approach to environmental impact assessment. To gold-plate the requirements of the environmental impact assessment directive in the way proposed could be seen as sanctioning an unnecessarily cautious approach, with no actual environmental benefit.

The Government fully understand the need to build public confidence in the shale sector. That is why we welcome the reassurance provided by the industry's public commitment to carry out environmental impact assessments for all exploration wells that involve hydraulic fracturing. We are pleased to announce that the industry has also agreed to produce an annual report listing the shale sites that have produced an environmental impact assessment.

I hope all of that reassures the hon. Gentleman that the existing approach strikes the right balance in terms of assessing the environmental impacts of shale development in a rigorous and proportionate manner.

Turning now to chemical disclosure, I would like to remind the hon. Gentleman that the UK has decades of experience in safely conducting surface activities and constructing onshore gas wells, regulated by the Health and Safety Executive. Our construction standards are robust and regulators have the tools to ensure that our groundwater supplies are accorded a high degree of protection. There is evidence that in the United States shale developments have, on occasion, led to water contamination. However, it is important to note that the latest evidence continues to show that such cases are due to faulty surface operations or faulty well construction, rather than the hydraulic fracturing itself.

In the UK, as the hon. Gentleman is aware, we have an entirely different regulatory system from the United States. Unlike the USA, in this country operators are required to disclose fully the composition of fracturing fluid additives. As part of the application for environmental permits, the Environment Agency requires operators to disclose all the chemicals they propose to use and the maximum concentration of each one, which enables the agency to assess any potential risk to the environment. The Environment Agency will not allow substances hazardous to groundwater to be used where they may enter groundwater and cause pollution.

The Environment Agency has also already confirmed that it will publish permits with that information, including naming each chemical and the maximum concentration of each at each site, along with information on the total daily discharge of hydraulic fracturing fluid into the ground. In addition, the industry has committed to publish this information for each well along with the total volume of fluid used.

The hon. Gentleman provided reassurance that the industry has committed to do that already on a voluntary basis. Like him, we recognise that there are still concerns about the industry meeting its commitments. We have listened carefully to those concerns and I can confirm that the Secretary of State for Environment, Food and Rural Affairs will now direct the Environment Agency to oblige the agency to publish the information on chemicals that it requires operators to disclose to it. Indeed, the application and effect of such an obligation is similar to that of an amendment to the relevant regulations, as the hon. Gentleman has proposed, but can, in fact, be achieved much more quickly. I hope that my explanation, together with the undertaking to issue a ministerial direction, is sufficient to reassure the hon. Gentleman.

On the subject of water companies, the Government recognise the importance of ensuring that water companies are fully engaged in shale gas development. Their role underpins the strict controls that are in place to protect the quality and availability of water supplies. The existing regulatory framework ensures that issues relating to water are addressed in a robust, joined-up way. The environmental regulator is already required to check the potential impact on groundwater of any shale gas proposal, and will not grant a permit where our water supplies could be affected.

Anyone seeking to use or supply the volumes of water involved in such schemes from groundwater or surface water sources requires an abstraction licence from the environmental regulator, which sets the maximum amount of water that can be used. In granting those licences, the regulator checks that the implications for water resources are acceptable. If the shale operator wants to secure water supply through a water company, the water company needs to be confident that it can supply the requested amount within the parameters of the licence without impacting on its existing or probable future obligations.

To aid engagement and support the regulatory framework, the water industry and shale operators have already agreed a memorandum of understanding to engage early and share plans for water demand and waste-water management.

3.30 pm

The scope of the amendment that the Opposition have tabled is unclear, but they have previously asked that the commitment to involve water companies be strengthened by making them statutory consultees for shale gas planning applications. The Government are aware that that proposal has the support of Water UK, and can see the argument for making that change if it would reassure the public. We are therefore consulting on whether to make water companies statutory consultees in respect of those applications as part of a broader consultation on statutory consultee planning arrangements. The consultation is concerned with secondary legislation, rather than the Infrastructure Bill, because the list of existing statutory consultees is contained in secondary legislation. Subject to the response to the consultation, which closes at the end of the month, we would seek to introduce any necessary secondary legislation in this Parliament. I hope that the hon. Gentleman found that explanation reassuring.

Finally, turning to the issue of baseline monitoring, I reassure the hon. Gentleman that, in principle, we certainly support the use of baseline monitoring. It can help local communities to see what the state of their environment is before operations commence, and is essential to enable a more rigorous assessment of any subsequent changes.

The industry, as he pointed out, is in favour in principle, and the hon. Member for Ellesmere Port and Neston made a strong case for the need for effective and accurate baseline monitoring.

The issue is about the appropriateness of the monitoring period and the requirements involved. The environmental regulator already has the powers to require baseline monitoring of those environmental indicators that it considers appropriate and for the length of time that it deems suitable for each given site. That may include monitoring of soil, air, surface water and groundwater for a range of pollutants. The regulator adopts a risk-based approach to its assessment, taking into account the specific characteristics of each site. As such, environmental monitoring will be required under the conditions set in the environmental permit, appropriate to the activity and the environmental setting. The operator will report that information to the Environment Agency, which will place it on the public register, subject to commercial confidentiality provisions. Some operators have committed to publication of this information on their own sites as well.

Andrew Miller: Baseline monitoring is measuring information that exists before the operator comes on to the site. How can any of that be commercial in confidence?

Amber Rudd: I hope the hon. Gentleman will bear with me. I will comment on his requirement for baseline monitoring.

Andrew Miller: Will the Minister answer that particular point?

Amber Rudd: On that particular point, it rather depends what element of baseline monitoring is to be covered. It is not for us to judge in different areas that may be monitored by different companies. Once more, I ask the hon. Gentleman to have more confidence in the Environment Agency to make those judgments; it can issue those requirements and has been capable of doing so for onshore oil and gas, and we should allow it to continue to do so.

Andrew Miller: Can the Minister tell the Committee whether the Environment Agency, which I do trust, has given her any examples of baseline monitoring issues that could be commercial in confidence?

Amber Rudd: I do not have any particular examples.

Andrew Miller: No.

Amber Rudd: That is okay; it does not mean that they are not there, as I am sure the hon. Gentleman will agree. In order to satisfy him on that point, I will come back to him with a fuller answer.

I will just continue on baseline monitoring, which is important to him and to us. The UK already has a good set of regional groundwater data, thanks to work conducted by the British Geological Survey since early 2012. At the more local level, the Environment Agency has confirmed that it will typically require baseline monitoring of methane in groundwater for each specific site where it is proposed to undertake fracking. It will not normally require that where no fracking is proposed, because there is very little risk of discharge to the environment. However, we acknowledge that there are still some concerns over the development of this nascent industry; that was reinforced by the speeches of hon. Members on Second Reading of the Infrastructure Bill in the Commons. We have since engaged constructively with the amendments tabled by the Opposition and carefully considered strengthening the safeguards in the area.

Following that, I can confirm that the Secretary of State for Environment, Food and Rural Affairs will now direct the Environment Agency to require operators to undertake at least three months' baseline monitoring of methane in groundwater before hydraulic fracturing can commence. I would expect that to be done in a clear, scientific and transparent way that satisfies the hon. Gentleman and is of use to everyone in the community and specifically to scientists who want to look at it. The minimum monitoring is three months and, in practice, the Environment Agency may require a longer period of monitoring where appropriate. The degree to which other indicators such as surface water and biodiversity will be relevant and the time required to monitor will vary so much between sites that any fixed requirement would be inappropriate.

I hope that hon. Members are sufficiently reassured by the explanations I have given, the new measures I have announced and the satisfaction that I hope to have given in addressing the concerns we share about making the public content with the care we are taking to ensure that hydraulic fracturing will always be safe in their communities. I therefore hope that the hon. Member for Rutherglen and Hamilton West will withdraw the amendment.

Tom Greatrex: I am grateful to the Minister for going through a series of detailed points. I am also grateful to her for moving, in some regard, on some of the points raised. I said at the outset of our discussions on this part of the Bill that our intention was to ensure that the regulation was robust and that the monitoring was comprehensive, so that there was public confidence. I am grateful to her for signalling some changes in the Government's approach to address some of the points made by myself and colleagues in the Committee, as well as by others in the House, notably on Second Reading but also in various recent discussions.

I want to go through a couple of the points made by the Minister. We may wish to come back to a few points once we have had a chance to look in more detail at what she said about the changes being made. She rightly said that there was already a duty to provide information about the level of methane emissions. That includes onshore oil and gas. However, she said that the monitoring was partly done on the basis of an estimate. The important point is that that is done on a site-by-site basis, so that information which may be relevant to particular local communities is available. I still think there is something that she did not address in her comments but needs to be addressed.

In relation to the independence of well inspections, the Minister referred—if I heard her correctly—to the fact that companies are using external individuals or companies to do this on their behalf, therefore allaying the concerns that I have expressed and, indeed, the Royal Academy of Engineering expressed in its report. However, it strikes me that contracting an external

individual is not necessarily the same as being independent. That is still a contractual relationship between the company involved and the individual or company engaged to undertake the monitoring. I am still concerned. While the information is useful, that does not address the nub or the root of the concern that we highlighted.

In relation to environmental impact assessments, the Minister referred to our approach as gold-plating and leading to unnecessary conditions. However, I am sure she will recognise that the point about the 0.99 hectares is of significant concern. If that is the case, as it appears to have been on at least one site, it seems to be at that level only to enable people to avoid the current conditions for environmental impact assessments.

I was pleased to hear what the Minister said about the disclosure of fluid. That is a positive development which I am sure will be welcomed widely for the reasons I set out and, indeed, the reasons she set out in her response. Will she clarify that that is on a well-by-well basis?

I also welcome the point about statutory consultees with water companies. I hope that there will not be undue delay that would mean that the consultation could not be put into effect. It would be welcome if the consultation could conclude before the end of this Parliament. I am grateful to hear that the Minister has had discussions with Water UK and accepts and understands its concerns. I am also conscious that some of these matters fall within the remit of her colleagues in DEFRA, rather than of her Department, but that they interact.

In relation to baseline monitoring, we welcome the move to at least three months, which is an important point. We will have a look at that. From what she said today, or at least from what I heard and hope I understood, that is a positive development as well. The points that we have put—which have been well established for almost three years—are about ensuring that the legislation is robust. I think there has been some positive movement here which I hope Members of the Committee will be able to welcome. However, there remain some issues with some of the earlier amendments which we may wish to come back to. I wish to put amendment 4 on the issue of monitoring future emissions on a site-by-site basis to a vote.

Question put, That the amendment be made.

The Committee divided: Ayes 7, Noes 11.

Division No. 10]

AYES

Blackman-Woods, Roberta	Miller, Andrew
Burden, Richard	Raynsford, rh Mr Nick
Greatrex, Tom	
Jones, Graham	Whitehead, Dr Alan

NOES

Browne, Mr Jeremy	Newmark, Mr Brooks
Burt, rh Alistair	Parish, Neil
Coffey, Dr Thérèse	Rudd, Amber
Hayes, rh Mr John	Williams, Stephen
Jenrick, Robert	Zahawi, Nadhim
Kwarteng, Kwasi	

Question accordingly negatived.

Clause 39 ordered to stand part of the Bill.

The Chair: Can I just be clear that the Opposition do not wish to move either of the new clauses, when we come to them, which is not yet?

Andrew Miller: With respect, Sir Roger, the Minister said that she would communicate with me again. Subject to that communication, that might be the case.

The Chair: If the hon. Member for Ellesmere Port and Neston or the hon. Member for Rutherglen and Hamilton West wish to press the new clauses at the appropriate time, they will need to indicate that to the Chair.

Clauses 40 to 45 ordered to stand part of the Bill.

New Clause 8

MAYORAL DEVELOPMENT ORDERS

'(1) Schedule (Mayoral development orders) (Mayoral development orders) has effect.

(2) The Secretary of State may by regulations make consequential provision in connection with any provision made by that Schedule.

(3) Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

(4) In this section "enactment" includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978."—*(Stephen Williams.)*

This amendment and amendments NS1, 38, 39, 41 and 43 enable the Mayor of London to make Mayoral development orders granting planning permission for development on specified sites in Greater London in response to an application from each local planning authority in whose area any part of a site is located.

Brought up, and read the First time.

The Parliamentary Under-Secretary of State for Communities and Local Government (Stephen Williams): I beg to move, That the clause be read a Second time.

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

Government new schedule 1—*Mayoral development orders.*

Government amendments 38, 39, 41 and 43.

3.45 pm

Stephen Williams: Good afternoon, Sir Roger and Committee members. We return to changes to the planning regime. Members of the Committee will note that Government amendments 38, 39, 41 and 43 are consequential on new clause 8. There is an urgent need to ensure that the planning system continues to support development, including for housing. As a further contribution, the Government have introduced the new clause to recognise the opportunity to plan proactively for housing and growth in London. The new clause will give the Mayor of London the power to make mayoral development orders which grant planning permission for development on specified sites within Greater London. The process of making a mayoral development order would be initiated by the relevant local planning authorities, which would be any London boroughs in whose area any part of a site is located, and which would apply to

[Stephen Williams]

the Mayor to ask him to make a mayoral development order. Thereafter, those London boroughs would have to agree before the draft order is published for consultation and the final order is brought into force.

The Government have worked with the Greater London authority and with London Councils, the body that promotes the interests of London's 32 boroughs and of the City of London. We have listened carefully to their suggestions, and as a result of that collaboration, the proposed power provides a positive tool to support the delivery of development in London. Committee members will be acutely aware that there is significant unmet housing need in London. Census data project that London's population will increase by 2 million between 2011 and 2036. The Mayor has identified a need for between 49,000 and 62,000 new homes per annum between 2015 and 2026. "Further Alterations to the London Plan" has identified a capacity of 42,000 new homes per annum at the moment, which presents significant challenges for the Mayor in helping to deliver the housing needed in London.

Mayoral development orders have the potential to help accelerate the delivery of housing and other development. In terms of their design and scope, mayoral development orders have been closely modelled on existing local development orders, which allow local planning authorities to grant planning permission for development. Local development orders have been successful in the Government's enterprise zone programme by simplifying and speeding up the planning process and increasing developer confidence. A new power to make mayoral development orders will build on the success of local development orders by enabling the Mayor to support London boroughs that want to plan proactively for development, but do not have the existing capacity to do so. The power will be particularly helpful in relation to complex sites that cross local authority boundaries inside Greater London.

In conclusion, mayoral development orders are a positive planning tool that will allow London boroughs and the Mayor to collaborate effectively on planning to deliver housing and growth. I therefore urge the Committee to accept this new clause, which provides powers that will help to deliver the jobs and homes that London and Londoners badly need.

Roberta Blackman-Woods: I wish to ask the Minister a number of questions about the new clause. The Opposition understand the need to improve the delivery of new housing in London. From the discussion that has already taken place with London Councils and the Greater London authority, there appears to be support for the proposals. Nevertheless, a number of questions remain. While both organisations—London Councils and the Greater London authority—say that they are broadly supportive, they have a number of questions and we also have a number of questions, not least about whether the measure will deliver the additional homes that are needed. Perhaps we can return to that at a later stage.

Notwithstanding new schedule 1, we know there will be a need for regulations to underpin new clause 8. Will the Minister tell us when those regulations are likely to be available and by what procedure and how quickly they will go through the House? Will it be an affirmative or negative procedure?

As the Minister will know, local development orders do not have to have section 106 agreements applied to them. That has caused us and a number of organisations concern that the housing zones that the Mayor of London is setting up, and to which mayoral development orders will apply, will not have any affordable housing attached to them. It could be that the affordable housing is being negotiated through some other mechanism, but it is not clear to us at the moment what that might be or whether the Government intend to do something in the regulations to ensure that affordable housing will be applied to those development orders. I am interested in clarification on that point from the Minister.

We understand that the housing zones, given their name, will be primarily for housing. We all recognise the need for additional housing in London. However, housing has to be underpinned by appropriate infrastructure. What reassurance can the Minister give that these new houses will be in mixed developments and that they will have the infrastructure, schools and additional services and jobs necessary to make these housing zones operate?

What consultation arrangements will there be for the new regulations? The Minister will know that, although London Councils and the GLA are broadly supportive, they want to see the regulations and have an opportunity to comment on them. They want to ensure that there is sufficient scrutiny of the new regulations, and everybody wants to know what the time frame will be.

Mr Nick Raynsford (Greenwich and Woolwich) (Lab): I have only a couple of points to add to those ably made by my hon. Friend. Introducing this, the Minister talked a lot about the scale of the problem in London, and that is indeed very real. He described the particular effect of the mayoral development order but made it clear that existing development order powers are available to local authorities, so this is most likely to be useful only in cross-borough developments, where there is, as he described, a likely need for a complex land assembly where mayoral powers could complement those of individual local authorities.

I want to probe the Minister a little bit on how many new homes he believes that this will generate, given that we are not talking about a power that does not exist? We are only talking about a power available for particular sites that cross borough boundaries, where it is likely to have a stimulative impact that is not there at the moment. How much of an impact is it likely to have, or is this a fig leaf covering what is already a very serious problem, where output is far short of the level necessary to meet need?

Stephen Williams: First, I turn to the shadow Minister's questions. Her first and third questions were essentially the same, and were about when draft regulations will be available, the procedure to be followed, and consultation. The regulations will be drawn up in due course and will be published. I am sure there will be an opportunity for people to comment on them at that time. One thing I can confirm is that the negative procedure will be used when those regulations are ready to come before Parliament.

Both the hon. Member for City of Durham and the right hon. Member for Greenwich and Woolwich asked about the effect of the new mayoral development orders and how we can be sure that unmet housing need in London will be satisfied. We can all make predictions and speculate to our hearts' content on how many new homes might be provided as a result of the mayoral development compared with the status quo. As a non-London MP, I am surprised that the right hon. Gentleman asked that question, given that a mayoral development order would only proceed if a London borough—the London borough of Greenwich or any other London borough—said to the Mayor and the GLA, "We would like your help, Mr Mayor and the GLA, to prepare the detailed planning brief for this particular site, in order that we can bring forward growth opportunities in that area."

Underlying the new clause is the premise that professional and technical expertise will be provided to a London borough if it feels that it needs that expertise from the GLA to bring forward a particularly complicated site. It would be up to the London borough to say what the planning brief for that site should be on deliverables and outcomes, such as how many housing units there are and whether it is a mixed development. Although I mentioned housing in particular, that was not meant to exclude other forms of development. A mayoral development order could indeed bring forward a mixed-use development. It would be up to London boroughs, which have their own policies on the proportion of affordable housing. The GLA is an important partner for the Government's affordable housing programme, discharging what are the Homes and Communities Agency's responsibilities elsewhere in England.

All I can say in answer to the questions from the hon. Lady and the right hon. Gentleman is that we will simply have to wait and see. However, this is not something that the Government are seeking to impose on London. It is something that we believe will enable collaboration between the 32 London boroughs and the Mayor, in particular on cross-border situations. It is a reform that may speed up the planning process and provide ready-made sites so that a developer can come along and deliver the vision for that site as formulated by the London borough with the help of the GLA. With those, I hope, reassuring remarks, I hope that Committee members are minded to accept the new clause.

Roberta Blackman-Woods: I am not sure that I am reassured by the Minister's comments. We welcome the fact that developments can be mixed-use developments, to ensure that we get the sort of communities we need, but I am not reassured at all on how affordability and affordable housing will be delivered in the absence of section 106 agreements. I would like the Minister to say something more about that. I am very unhappy that the Minister has not been able to give us a time frame or tell us what consultation arrangements will be applied to the regulations whenever they appear, and I am extremely sad that the Minister is going to use the negative procedure.

Stephen Williams: Before the hon. Lady draws her remarks to a close and we come to some decision on this, I would like to say that the intention is that the mayoral development orders will closely model existing local development orders used by other local authorities around England. Some 70 such orders have been introduced so far, 45 of which are in enterprise zones. I have not heard of any particular problems of the nature the hon. Lady describes emanating from those 70 local development orders in place outside London. The intention here is simply to facilitate a similar process in the GLA.

4 pm

Roberta Blackman-Woods: Nevertheless, the Minister will understand that issues of affordability are particularly acute in London, and there is a need for reassurance about how affordable housing will be delivered. It would also be extremely helpful to the Committee's deliberations to have some idea of the time frame we are working to. In broad terms, however, we support the wish of the Mayor, the GLA and London councils to deliver more housing. For that reason, we will not vote against the new clause.

Question put and agreed to.

New clause 8 accordingly read a Second time, and added to the Bill.

New Clause 9

REIMBURSEMENT OF PERSONS WHO HAVE MET EXPENSES OF MAKING ELECTRICAL CONNECTIONS

'(1) The Electricity Act 1989 is amended in accordance with this section.

(2) In section 19 (power to recover expenditure)—

(a) omit subsections (2) and (3);

(b) after subsection (3) insert—

"(3A) Schedule 5B (reimbursement of persons who have met expenses) has effect.";

(c) in subsection (4), after "this section" insert "and Schedule 5B".

(3) After Schedule 5A insert—

"SCHEDULE 5B

REIMBURSEMENT OF PERSONS WHO HAVE MET EXPENSES

Power to make regulations

1 (1) The Secretary of State may, by regulations, make provision entitling the relevant electricity distributor to exercise the reimbursement powers in cases where conditions A, B, C and D are met.

(2) Condition A is met if any electric line or electrical plant is provided for the purpose of making a connection (the "first connection")—

(a) between premises and a distribution system, or

(b) between two distribution systems.

(3) Condition B is met if a payment in respect of first connection expenses is made by one or more of the following persons—

(a) a person requiring the first connection in pursuance of section 16(1);

(b) a person who otherwise causes the first connection to be made (including by means of contractual arrangements).

(4) Condition C is met if any electric line or electric plant provided for the purpose of making the first connection is used for the purpose of making another connection (the "second connection")—

(a) between premises and a distribution system, or

(b) between two distribution systems.

(5) Condition D is met if the second connection is made within the prescribed period after the first connection was made.

(6) "First connection expenses" are any expenses reasonably incurred by a person in providing any electric line or electric plant for the purpose of making the first connection.

(7) It does not matter whether the first connection, or the second connection, is made by an electricity distributor or a person of another description.

The reimbursement powers

2 (1) The "reimbursement powers" are—

(a) the power to demand a reimbursement payment from—

(i) a person requiring the second connection in pursuance of section 16(1), or

(ii) a person who otherwise causes the second connection to be made (including by means of contractual arrangements); and

(b) the power to apply the reimbursement payment in making such payments as may be appropriate towards reimbursing any persons for any payments they were previously required to make in respect of first connection expenses (whether that requirement arose by virtue of paragraph (a) or otherwise).

(2) A "reimbursement payment" is a payment, of such amount as may be reasonable in all the circumstances, in respect of first connection expenses.

Other provision about regulations under this Schedule

3 (1) The Secretary of State must consult the Authority before making regulations under this Schedule.

(2) Regulations under this Schedule may make provision requiring relevant electricity distributors to exercise a reimbursement power (whether in all cases or in cases provided for in the regulations).

(3) Regulations under this Schedule may make provision for the relevant electricity distributor to establish or estimate the amount of first connection expenses — or an amount of any aspect of those expenses — in cases where that distributor is not the person who made the first connection.

(4) Regulations under sub-paragraph (3) may not require any person to supply the relevant electricity distributor with information about any expenses incurred.

(5) Regulations under sub-paragraph (3) may provide for an estimate of an amount of first connection expenses to be calculated by a relevant electricity distributor by reference only to a combination of—

(a) expenses which that distributor would incur if that distributor were making the connection at the time of the estimate, and

(b) changes in prices since the time when the connection was actually made.

Interpretation

4 (1) In this Schedule—

"first connection" has the meaning given in paragraph 1;

"first connection expenses" has the meaning given in paragraph 1;

"reimbursement payment" has the meaning given in paragraph 2;

"reimbursement powers" has the meaning given in paragraph 2;

"relevant electricity distributor", in relation to the exercise of a reimbursement power, means—

(a) in a case where the first connection was made between premises and a distribution system, the electricity distributor that (at the time of the exercise of the power) operates that distribution system;

(b) in a case where the first connection was made between two distribution systems, the electricity distributor that (at the time of the exercise of the power) operates the distribution system into which the first connection has been, or is expected to be, incorporated.

(2) A reference in this Schedule to a payment in respect of first connection expenses includes a reference to such a payment made in pursuance of section 19(1)."

(4) In section 16 (duty to connect on request), in subsection (4), after "23" insert "and Schedule 5B".

(5) In section 16A (procedure for requiring a connection), in subsection (5)(b)—

(a) omit "or regulations under section 19(2)";

(b) after "19(2)" insert "or regulations under Schedule 5B".

(6) In section 23 (determination of disputes)—

(a) after subsection (1) insert—

"(1ZA) This section also applies to any dispute arising under regulations under Schedule 5B between—

(a) an electricity distributor, and

(b) a person in respect of whom the electricity distributor exercises the reimbursement powers conferred by the regulations.";

(b) after subsection (1C) insert—

"(1D) No dispute arising under regulations under Schedule 5B may be referred to the Authority after the end of the period of 12 months beginning with the time when the second connection (within the meaning of Schedule 5B) is made.";

(c) after subsection (2) insert—

"(2A) Where a dispute arising under regulations under Schedule 5B falls to be determined under this section, the Authority may give directions as to the circumstances in which, and the terms on which, an electricity distributor is to make or (as the case may be) to maintain the second connection (within the meaning of Schedule 5B) pending the determination of the dispute.";

(d) in subsection (4), after "(2)" insert ", (2A)"." —*(Amber Rudd.)*

This amendment broadens powers to recover expenditure on new electricity connections; and powers to reimburse those who have met costs of making electricity connections (if later used for making other electricity connections). The Gas and Electricity Markets Authority is given powers to determine disputes about recovery of expenditure and reimbursement.

Brought up, and read the First time.

Amber Rudd: I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government amendments 40, 42 and 44.

Amber Rudd: Obtaining a timely and affordable connection to the electricity distribution network is essential for our growth and energy ambitions. It means that customers, including private citizens, renewables generators, house builders and commercial property developers, get access to the network to supply electricity to, or take electricity from, the grid when they need to.

When seeking a connection, a customer can use the local monopoly distribution network operator or an independent connection provider. There are now about 194 independent connection providers. Over the years, they have gained a growing share of the connections market. The Government support competition in network connections, as it gives customers greater choice and drives up standards across the board.

The Government want to ensure a level playing field for independent connection providers. However, the legislation that makes up the second-comer regime potentially places independent connection providers and their customers at a disadvantage. The regime is based on a power in and regulations under the Electricity Act 1989, which allows for the recovery of expenses for electricity connections. The regime is designed to ensure that the cost of connecting to the electricity distribution network is shared between different parties. Specifically, it provides that where a customer—the second comer—connects to, and benefits from, infrastructure that was paid for by an earlier customer, they can be required to reimburse the earlier party for a proportionate share of the costs.

However, independent connection providers are not currently covered by that regime. That reflects the fact that they did not exist in any meaningful numbers at the time when the original legislation was drafted. That means that customers who have their original connection provided by independent connection providers may not be able to recover any costs from the subsequent connecting customers. That, in turn, can make using an independent connection provider less attractive. That is an anomaly, and the proposals will update the power in the 1989 Act to ensure that it reflects the current market in connections by allowing a wider range of connection providers to be included in the second-comer regime.

That will also be beneficial for consumers. When wider network reinforcement is carried out beyond that needed for a specific connecting customer, the costs are currently covered by the distribution network company and then passed through in network charges to consumer bills. When future customers benefit from wider reinforcement paid for, in effect, through consumer bills, they too can be reimbursed. However, because of the anomaly that I have described, when an independent connection provider has carried out the connection, that reimbursement cannot happen.

The proposals will simply update the regime and ensure that the costs can be reimbursed, regardless of who completed the initial connection. That change will support competition in the energy market, and it is good news for connecting customers and good news for consumers.

To implement the change, subsequent secondary legislation will be required to amend or replace the Electricity (Connection Charges) Regulations 2002. New clause 9 replaces the existing enabling power in section 19 of the 1989 Act with a provision conferring on the Secretary of State a power to make regulations that will enable customers of independent connection providers to recover a proportion of the cost of a new connection from customers who subsequently connect to the same infrastructure. The power is included in proposed new schedule 5B to the Act, which sets out in some detail the matters to be specified in the regulations. In particular, the regulations will allow for electricity distributors to administer reimbursements and, in some cases, to estimate the cost of connections for that purpose. The new clause also amends the power of the Gas and Electricity Markets Authority to determine disputes related to connections, to bring it into line with the updated second-comer provisions. As before, the Secretary of State requires the consent of the Gas and Electricity Markets Authority to make regulations under the power.

The other amendments are consequential to new clause 9. Amendment 40 makes provision for the new clause to extend to England, Wales and Scotland; amendment 42 makes provision for the new clause to come into force on the day appointed by the Secretary of State in regulations; and amendment 4 amends the Bill's title.

Tom Greatrex: The new clause seems to be a sensible change and, as the Minister is aware, we do not have a particular problem with it. There are a couple of points that she may be able to help with, however. I listened to what she was saying, and I do not think that she covered these points of detail, which may be helpful.

Obviously this is called the second-comer regime, but in some scenarios there may well be a third comer or fourth comer as well. As I understand it, the new powers cover scenarios where there is an initial connection and then a subsequent connection, in which case the party behind the second connection partially reimburses the party behind the first. Is the intention that the equivalent reimbursement should flow further down the chain if there were to be a third or fourth connector, particularly given that the Minister hopes this dynamic will encourage a number of potential suppliers in this part of the market?

I note also that Ofgem is being given the power to resolve disputes. What assessment has been made of the regulator's capability and capacity to do that? Is that intended to become additional work for the part of Ofgem that already deals with the issue in relation to network companies, and does the Minister anticipate that there will be a greater requirement for the regulator to do that work? Does she intend that to be covered by any secondary legislation arising from this new clause?

Paragraph 2 of proposed new schedule 5B covers the powers relating to reimbursement. Does the Minister intend the secondary legislation to determine what forms reimbursement must take? Do the Government have a view on whether the reimbursement would be a lump sum or paid by instalments, or would that be determined by the regulator? Am I correct in understanding that the regulator will have the role of determining the level of reimbursement to be applied in all cases in the first instance, or is it anticipated that agreement will initially be sought between the first comer, the second comer and any subsequent companies? I hope that the Minister will respond to those specific points.

Amber Rudd: I thank the hon. Gentleman for his broad support for the proposed new clause and for his specific questions. He asks about the number of individuals, businesses or other entities that might benefit. He is absolutely right: it is not just the second comer. It is called the second-comer regime, but the new clause will allow us to extend the scope of the second-comer regime so that all customers can qualify for the so-called second-comer payments, regardless of whether they have used the local distribution network operator or an independent provider for making a connection. That is the overall point to make about the proposal: it is not about changing the structure of who is eligible for second-comer payments. Rather, it is about ensuring that independent operators can also participate in what is an existing regime.

[Amber Rudd]

I think that that theme will also address the hon. Gentleman's point about Ofgem. Ofgem is already administering this for other providers. The regime will be administered by the licensed distribution network operators in compliance with their standard licence conditions, which of course are set by Ofgem. If first or second comers feel that they have been treated unfairly, they may refer the dispute to Ofgem to seek a determination. Ofgem has already indicated that it is content with the arrangements.

The hon. Gentleman also asked about the payments and how they are calculated. He asked whether it was a lump sum or staged payments. The lump-sum payment goes back to the first comer, but if I make some wider comments about the calculation of second-comer payments, that might help to clarify how the payments will be made.

As the owner and operator of the local network, the distribution network operator will administer the payments from second comers to those who paid for the initial connection. The DNO will not always have access to the detailed cost information if the connection was made by an independent provider, but requiring the independent connections providers to share the data might damage competition, as it would mean sharing the ICPs' commercially sensitive costing and pricing information. The DNO will therefore be required to estimate the cost of the connection and the associated second-comer payment. The amendment will allow for estimates to be made, but the detail will need to be set out in secondary legislation.

I hope that I have reassured the hon. Gentleman on the levels of payments and on the process for making them. As I said, the regime is already in existence, and we are merely adding to the people who may benefit from it in order to promote competition. The structure of the regime is already in place. We are merely enhancing it and adding to the competition, while incorporating independence, our desire for which I am sure he shares.

Question put and agreed to.

New clause 9 accordingly read a Second time, and added to the Bill.

New Clause 10

POWER TO ABOLISH PUBLIC WORKS LOAN COMMISSIONERS

'In the Public Bodies Act 2011, in Schedule 1 (power to abolish: bodies and offices), after "Plant Varieties and Seeds Tribunal." insert—

"Public Works Loan Commissioners."'.—*(Mr Hayes.)*

This new clause enables a Minister of the Crown or the Commissioners for Her Majesty's Revenue and Customs, following a statutory consultation process, to make an order under the Public Bodies Act 2011 abolishing the board of Public Works Loan Commissioners and transferring its functions to another person.

Brought up, and read the First time.

The Minister of State, Department for Transport (Mr John Hayes): I beg to move, That the clause be read a Second time.

The Chair: With this it will be convenient to discuss Government amendments 45 to 47.

Mr Hayes: What a pleasure it is to return to the deliberations of the Committee after a short break, during which I have been able to follow the proceedings with interest.

The new clause deals with the Board of Public Works Loans Commissioners, commonly known as the Public Works Loan Board or PWLB. It is a statutory body, which dates back to the Public Works Loans Act 1875. With the diligence for which the Committee is rather quickly gaining a reputation, I know that hon. Members will have had a look at that Act. Just in case anyone left it in their office before rushing to do their work in Committee, I brought a copy of the Act with me. I have also brought the record of the Second Reading of that Act, which established the principles that we are discussing today and which the then Chancellor of the Exchequer introduced. I will give a prize by the end of the Committee's consideration—I do not mean this afternoon—for any Member who can tell me who the Chancellor was on that occasion. He said, saliently:

"What the Government aimed at was, in the first place, to secure the Treasury against inconvenient, inexpedient, and irregular calls being made upon it through the Public Works Loans Commissioners."—[*Official Report*, 24 May 1875; Vol. 224, c. 800-01.]

If it were still the case that the commissioners were doing that in practice, there might not be a case for the measures in the Bill.

The PWLB consists of 12 commissioners appointed by the Crown to administer the making of loans to local authorities. Commissioners are independent of the Government and are unpaid—indeed, unpaid by statute. Under section 4 of the National Loans Act 1968, which I also have with me, the PWLB sets a statutory lending limit, which is currently £70 billion. The existing level of debts amounts to about £64 billion. During consideration in the House of the Bill that became the National Loans Act, the then Chief Secretary to the Treasury made it clear that, even at that stage—noting that most of the legislation being dealt with was made in the previous century and therefore "is no longer relevant"—the purpose of the body was to secure the public interest in respect of loans taken out by public bodies. That referred not only to local authorities but to nationalised industries, which were dealt with in some detail in that consideration. Increasingly, those public bodies have become local authorities.

4.15 pm

Since 2004, however, decisions on such borrowing have been fully devolved to local authorities. In my judgment that was an enlightened decision and, as I cast my eye around the Room to see the source of that enlightenment, my eye descends on the right hon. Member for Greenwich and Woolwich, who, as the Minister at the time, introduced the legislation that empowered local authorities to make decisions about investment and the associated loans in a fresh way. The system is, in essence, one of self-regulation. Local authorities regulate the regime and are now free to finance capital projects by borrowing without requiring Government consent, provided that they can afford to service the debts out of their revenue. That qualification is critical. When the right hon. Gentleman introduced the legislation—again, I have the record of his contribution on that occasion—he made it clear that that important check secured the

public interest, as the Chancellor of the Exchequer in 1875 and the Chief Secretary in 1968 were so keen should be the case.

As a result, the decision-making functions of the PWLB commissioners became, in practice, obsolete. Local authorities were responsible for their own decisions on whether to borrow and how much. Further, the day-to-day operations of providing loans are now carried out by the Debt Management Office, or DMO, which is an Executive agency—

4.17 pm

Sitting suspended for a Division in the House.

4.32 pm

On resuming—

Mr Hayes: We were discussing the Public Works Loan Board and the changes that have been made over time that have made its work less relevant and, ultimately, made its purpose redundant. I was describing the delegation of its functions and powers to the Debt Management Office. The Public Works Loan Board has a secretary, who is a Treasury civil servant, and in essence the powers are delegated to him. That means that with the devolution of decision making about the taking of loans, and the change in the circumstances of the board in relation to the Treasury, the exercise of its powers has been—I was going to say negligible, but that would be something of an exaggeration—non-existent.

At one time, local authorities had to go through a credit approval process when they wanted to invest. That was time-consuming and ultimately became regarded as unnecessary—thus the changes introduced by the right hon. Member for Greenwich and Woolwich, as I mentioned a moment ago. That was certainly the regime that prevailed when I was a local councillor before I became a Member of Parliament in 1997. The powers that the right hon. Gentleman gave local authorities have not led to a series of problems. There is no evidence that they have borrowed irresponsibly, and there is no history of problems with their repayments, which are of course how we gauge whether they are capable of funding the investments they make.

The purpose of the measures in the Bill is, in a sense, to do the final piece of work that became the inevitable consequence of the changes made in 2004. The highly regarded prudential regime, as it is known, means that there is no scope nowadays for commissioners to exercise influence or discretion over lending to local authorities. The aim is to abolish the Public Works Loan Board while ensuring that permitted borrowers—now mainly local authorities, as I said—will continue to be able to access central Government loans in the same way that they do now.

The purpose of including the PWLB in schedule 1 to the Public Bodies Act 2011 is to confer on the Government the power to make an order under the PBA which will have the effect of abolishing the PWLB and transferring its functions to an eligible person, as defined in the PBA. We briefed Members on this matter because it is, of course, quite a radical step on the face of it. I assure the Committee, as I have done informally, that the abolition of the PWLB and the succession arrangements will be subject to proper parliamentary scrutiny under the PBA process.

This proposal is purely about governance reform. It is not about the ability of local authorities to borrow or the checks and balances in place upon their repayments. It will not impact on the prudential regime or local authorities' existing loans with the PWLB at all. Local authorities will be able to undertake new borrowing from the successor body as they do now, at rates that offer good value for money. Interest rates will continue to be a policy matter for HM Treasury. Following the commencement of the provisions in the new clause, the Government plan to publish a consultation document providing details of proposals for the abolition and succession, which we have to do under the PBA.

After taking into account responses from the consultation, both Houses of Parliament will have the opportunity to scrutinise the draft legislation, which will, of course, be accompanied by an explanatory document as required by section 11 of the PBA. The abolition of the PWLB will remove bureaucracy and align accountability for lending to local authorities with the DMO's existing responsibilities for day-to-day operational management. That is very much in line with the Government's wider efficiency and modernisation agenda.

It may be worth adding that it has been exceedingly difficult to find people to become commissioners. As I said at the outset, there should be 12 but we currently have seven. As we are obliged under existing statute to recruit more, we are looking to add two more. Until the Bill becomes an Act, which I hope it will, we have to do that. There is no real incentive to become a commissioner, given the changes that I have described. Commissioners, for the sake of the record, are unpaid and unrewarded in that sense in any way.

My hon. Friend the Member for Newark has kindly said that he had not expected me to be able to furnish the Committee with details of the 1875 Act or, indeed, the 1968 Act, nor to have studied the Act of which the right hon. Member for Greenwich and Woolwich was the originator. My hon. Friend said—I end on this note—that my diligence is as great as my eloquence. I am too modest to draw the conclusion he drew, and almost too modest to draw it to the attention of the Committee. I am a proud supporter of local government and its continued ability to borrow to invest, and I am equally proud of the fact that we are clearing up something of a legislative mess.

Roberta Blackman-Woods: Let me say what a pleasure it is to welcome the Minister back to his place. As we know, the new clause will give the Government the power to abolish the Public Works Loan Board. We all have to accept that that was largely achieved by my right hon. Friend the Member for Greenwich and Woolwich when he was a Minister. This appears to be a largely uncontentious measure; nevertheless, that body has been in existence since 1875, as we have all heard. The Minister and I have a strong commitment to preserving our heritage, so we must tread carefully and be sure that all the questions that should be asked have been asked. I have a number of questions for the Minister this afternoon.

I shall start by asking about consultation. On 14 July last year the Government said that they were going to review governance arrangements for the PWLB and consult on them. However, we do not seem to have had a consultation on the new clause, and I am a bit

[Roberta Blackman-Woods]

surprised by that. What we have heard from the Minister today is that he is asking us to approve the new clause providing powers to abolish the PWLB, and then he will consult. I suggest gently to the Minister, in an analogy appropriate to 1875, that that is putting the cart before the horse. It would be more normal and more rational, would it not, to have the consultation exercise, hear what people have to say and then decide whether it is appropriate to abolish, or even have the power to abolish, this board? Will the Minister explain why he thinks it is appropriate that the Government did not go ahead with the consultation last year, which they said they would, but have instead brought this measure forward completely out of the blue to seek the power to abolish the PWLB and then have a consultation? That does not seem to the Opposition to be doing things in the right order.

I thank the Minister for arranging a meeting with the relevant officials last week. Indeed, the Minister's approach has been a model for other Ministers to follow in giving the Committee access to officials so that we could ask appropriate questions. I very much welcomed that meeting, but, as with all such meetings, I had more questions at the end than I had had at the beginning. There are a few issues that we did not get sufficient clarification on, either from that meeting with officials or from the Minister's earlier comments.

We know that the Public Works Loan Board no longer makes decisions about loans to local government. It is pretty clear that, since 2004, local government loans are expected to follow the prudential borrowing scheme and that local government should inform the Treasury of loans that are made. What was not clear, and is perhaps still not clear, is whether the Public Works Board has any residual function. Does it have any say whatever in terms of what is happening to local government borrowing more generally, even if there is no specific function to approve particular loans? Indeed, from our meeting last week it was not apparent whether anybody has oversight of what local authorities are actually borrowing. It is important to have that clarification today.

4.45 pm

We know that the functions of the Public Works Loans Board ended up with the Debt Management Office, an agency of Her Majesty's Treasury. It is not clear at what point the office is able to intervene to turn down a loan if it thinks it is outside the prudential borrowing requirements. The degree to which the office has oversight is not clear, nor is it clear whether, at some future stage, it could interfere in setting the terms for the prudential borrowing requirement itself. Some clarification on who sets that requirement would greatly help our deliberations on whether the measure we are discussing is needed.

All of us want assurance that there is good oversight of local government borrowing, but also that there is not too much oversight or interference, and that there can be effective scrutiny of what is going on. At the minute, local authorities borrow according to the prudential rules, but it is not clear whether the commissioners had some general oversight or adhered to the public sector borrowing requirement, and whether that has been passed on to the DMO.

The Government have said that they wish to establish a new mechanism for local authority lending, which they want to consult on. However, again, we do not seem to have any idea of what the new system might be, who will have oversight of it or the degree of autonomy it will give to local government; absolutely critically, we have no idea whatever of how we will get parliamentary scrutiny of that mechanism. We know that, at the moment, an annual report is produced. It goes to the Public Works Loans Board Commissioners, but does not appear to go anywhere else, and we do not know whether it could. Could the Treasury Committee, for example, call for that particular report? Is it aware of its existence? If not, should there be a report on public sector borrowing by local authorities each year? If so, where should it be considered in Parliament? That is an interesting question on which we have had no comment from the Minister or his officials.

We also know that local government itself is seeking to establish a new borrowing scheme. The Local Government Association produced a report in mid-2012 proposing the creation of a collective bond-issuing agency. Participation would not be compulsory, but would be attractive to smaller local authorities that might not be able to obtain the best price in the conventional bond market. As of 15 December 2014, a total of 48 local authorities had agreed to invest in a new agency that would provide that function and it is anticipated that the first loans will be granted in spring 2015.

Again, there has been no indication from the Minister or his officials, or in any of the information they have passed on to us, of whether the new scheme will be acceptable to the Government. Will it be overseen by the Debt Management Office? How are we, as parliamentarians, to be given some reassurance that local authority borrowing will be subject to effective scrutiny, not only from local authorities themselves but in this House?

I would greatly appreciate it if the Minister could come back to me on these fairly substantive outstanding issues on what, on the face of it, seems a fairly innocuous measure.

Dr Whitehead: I rise briefly to make what is perhaps a bit of a personal protest about how this particular new clause has been introduced and presented to us today. There are some issues about the lack of scrutiny of it, but I very much concur with my hon. Friend the Member for City of Durham that the Minister's facilitation of meetings to discuss the issue is a welcome way of doing business on the Bill.

The new clause is introduced outside the terms of the long title of the Bill; when the Bill went before the Lords, the new clause was not in the legislation and nor was it on its Second Reading in this House, but halfway through Committee, suddenly it is in the Bill. In order to include the new clause in the legislation, an amendment must be made to include an addition to the long title. I know that that practice has become more common than it ought to in recent years—indeed, the said amendment refers to another clause as well—but I cannot believe that that is a good way of making legislation, and nor does the House of Commons brief guide "Making Laws". If we have a look at that guidance, it has a jolly little insert box that says:

"Did you know Bills have two titles? The short title…is the one people use to talk about it. The long title…is the one that says what it does. Any changes made to the Bill must conform to the long title."

Presumably, that guide now ought to be amended to say, "Unless it doesn't." That would clarify the matter for visitors to the House of Commons.

I am a little concerned by the Minister's explanation that amendment 47 is consequential on new clause 10. That cannot be right because that is the amendment that actually adds something to the long title of the Bill. Unless something is added to the long title of the Bill, new clause 10 is not in order. Therefore, new clause 10 must be consequential on amendment 47. In the Alice in Wonderland world that we are now in in terms of long titles of Bills, it might be useful if explanations conformed to the actual strange things we are now doing to legislation rather than put the matter the other way round. At the very least, I would anticipate that the Minister might write to those hard-working people who produce the guides for members of the public about how we make legislation in this place so that they can have an accurate picture of what actually happens, rather than what is theoretically the case according to what we think is the way we go about legislation.

Mr Raynsford: I shall be brief, but I want to raise one further Alice in Wonderland element and then add a little historical observation. The Alice in Wonderland part is the actual terminology of new clause 10. The Minister will know that the way in which he is effecting the abolition of the Public Works Loan Board commissioners is by inserting into the Public Bodies Act 2011 a new power or listing of the Public Works Loan commissioners to the list of bodies that can be established by Ministers. However, what I notice is that it is being inserted after "Plant Varieties and Seeds Tribunal." Is this bringing us back to the whole story of invasive species that we were debating a week ago or is it entirely coincidental? I would welcome the Minister's observation on whether this is a piece of serendipity or whether there is some malign intention to do away, not just with the custodians of our country against invasive species, but with the fine people who have established probity in government finance throughout the past 150 years or so since Sir Stafford Northcote set them up.

My second observation relates to history because the Minister was generous in referring to my contribution towards the process leading to the present in the introduction of the prudential borrowing regime in 2003—it came into effect in 2004—but, of course, there is a longer story behind that. I apologise for injecting an element of partisan debate into what otherwise has been a rather non-partisan discussion, but hon. Members should be aware that the prudential borrowing regime was introduced because the then previous Conservative Government, headed by Baroness Thatcher, had interfered with Sir Stafford Northcote's framework for lending to local authorities by imposing draconian additional restrictions on local authority borrowing. That was the beginning of the process of, essentially, drawing to an end the life of the Public Works Loan Board commissioners because the Treasury was given much more specific and draconian powers to control local authority borrowing than had previously existed. That is what we were getting rid of in 2003 by establishing a prudential regime.

I am pleased that the Minister has been generous in conceding that that was the right thing to do, and in recognising that the fears that were voiced at the time by the then Opposition, as well as by Members of our party, that that should not be allowed to open the door to unwise borrowing have proved groundless. The safeguards that we put in place have not proved necessary. The scheme has worked well, which is why the Minister has some explanations to give to the Committee because the present Government do not really believe that. Look at borrowing by local authorities for housing: the current Government impose a cap on local authority borrowing limits below the cap that would otherwise apply through the prudential regime. They do not allow local authorities to borrow for housing investment up to the prudential borrowing cap; they have a separate lower cap.

The LGA estimated—this is about a year ago so it may not be up to date—that the local government community could probably create something in the order of 60,000 new homes if it was free to borrow up to the prudential borrowing limit, rather than being restricted by the current cap. I put it to the Minister that although it in no way changes the purpose of this new clause, there is an unanswered question about whether local authorities should be allowed to borrow within the framework of a prudential borrowing arrangement that has proved successful, has not opened the floodgates to irresponsible borrowing, and has been generally seen as a worthwhile contribution to public finance. I leave it at that.

Mr Hayes: The hon. Member for City of Durham raised a number of questions, and before she did so was very generous—rather too generous, actually—in saying that I have been a model of how a Minister should behave in Committee. There have always been Ministers who have involved the Opposition in consideration, and I benefited from that as a shadow Minister under the previous Government.

Let me try to deal with all the questions that have been raised. I will not necessarily deal with them in the order that they were offered, because I want to add some excitement to our affairs, even at this late stage in the day. I will deal first with the remark that the right hon. Member for Greenwich and Woolwich made about coincidence. I, as other members of the Committee I am sure will rush to agree, generally take the view that Archbishop Temple took of coincidence, in that I think, as he did, that people ascribe God's miracles to coincidence until they stop happening and they realise that there is no such thing as coincidence. But there certainly is serendipity. As the right hon. Gentleman said, it is serendipitous—and no more than that—that the provisions in new clause 10 should find themselves adjacent to changes to the Plant Varieties and Seeds Tribunal.

5 pm

I will return to the right hon. Gentleman's second remark towards the end of my consideration, once, as a matter of chivalry and courtesy, I have dealt with the shadow Minister's important questions. The hon. Lady asked what responsibilities the commissioners retain. It is right to say that in practice their function has become redundant, but she has perfectly properly asked what their responsibilities remain in statute. Their responsibilities are to produce an annual report—a review—which they

sign. In practice, they meet once a year, and the report is prepared by officials. To confirm, there is no scope at all for commissioners to exercise influence or discretion over the Public Works Loan Board's activities. I cannot be plainer than that.

The shadow Minister asked, "Why now?" The Treasury carried out a review of the Public Works Loan Board in April 2014; this Bill was therefore the most appropriate legislative opportunity to make the changes that had their origin in that review. She also asked, "Why have a further consultation?"—a fair question, given what I have just said. However, perhaps I can respectfully remind her that we are obliged to do so under section 10 of the Public Bodies Act 2011, which means that we have to consult on any change of this sort.

Roberta Blackman-Woods: I am grateful to the Minister for his thorough explanation. However, my question was not about the nature of the consultation or what legislation it was required on; it was about why the Government had brought forward this measure before consulting, when they had indicated that they would consult last summer and are instead carrying out a consultation afterwards.

Mr Hayes: I think that might be the second example of serendipity in our consideration of this matter. I suppose the answer is because the Bill is here: the necessity to consult is a legal requirement; the opportunity afforded by the Bill to take this step is, in truth, a product of circumstance. The hon. Member for Southampton, Test asked why it was added now. I suppose the blunt answer to that—you will not hear this very often from a Minister, Mr Hood—is because it could be.

Dr Whitehead: I thank the Minister for his straightforward answer, but it rather underlines my point that this is the "Anything we couldn't put in previously and hadn't quite thought of, but have now decided to do" (No. 2) Bill. The Minister might at least acknowledge that this rag-bag of a Bill is having further rags added to it regularly, and what we are discussing this afternoon is one of them.

Mr Hayes: We would not be the first Government, and I would not be the first Minister—dare I say, there may even be Ministers in this Room from other political parties who have done this—to use legislation to effect all kinds of virtuous things, even where, at first glance, that legislation was not their natural place to reside. However, I might be one of the very first Ministers to admit it.

Mr Browne: Surely the most rational explanation is that this Government, even well into their fifth year, remain so vigorous and so determined to reform Britain for the best across so many different fronts and so many different departments, that it is difficult for us to accommodate all our energetic new ideas without putting a lot of them into this single Bill.

Mr Hayes: I am not a rationalist, so I am not sure I would want to identify with rationalism in any way, but I am certainly vigorous, and I will take the compliment in the terms that it was offered.

The hon. Member for City of Durham also asked what the key powers conferred by the 1875 Act were and who now exercises them. The key powers are to refuse a loan on the basis of a lack of security against repaying the loan, to appoint a secretary to hold the security—I mentioned that earlier—and to delegate the PWLB functions to that person and to issue a report as I have described. All the functions that remain have been delegated to that civil servant—the secretary—and are overseen in practice through the HMT/DMO accounting officer structure.

The hon. Member for Southampton, Test mentioned the long title of the Bill. I do not want to stray into other matters, except to say that he is right: the long title of the Bill will need to be amended to take account of all the exciting, vigorous features which are now part of it. However, as I have mentioned before, it is by no means unprecedented, as he knows, for the long title of a Bill to evolve over time, because it is not uncommon for Governments to bring forward amendments to Bills during their passage.

The hon. Member for City of Durham drew attention to the need for Members to be properly briefed when that happens. I wanted to do so, because there is a responsibility to properly inform Members about the detail and assuage any doubts. To that end, what I will do—I know this will please almost everybody in this Room—is send a short note on the 1875 Act and subsequent legislation to Committee members. Various members have drawn attention to that during their considerations.

Dr Whitehead: Far be it for me to add to this interesting historical diversion, but my understanding was that a Bill has a long title so that we can understand and address what, roughly speaking, is in it, particularly on Second Reading. It is indeed the case that Governments bring forward amendments, but they are normally within the context of the long title of a Bill. That is why the long titles of Bills have evolved to include "and for connected purposes". The long title can be strained in order to fit a 'connected purpose', but these changes are clearly so far outside the connected purposes that we need an amendment to the long title as well.

Mr Hayes: That is a wonderfully starry-eyed view—I say this not pejoratively, but rather admiringly—of the understanding which all Members gain of Bills during the course of their consideration on Second Reading. None the less, the hon. Gentleman will know that that is precisely why, in introducing measures, there is a test of scope. If measures are found not to be in scope, they would not be brought forward. This measure was found to be in scope, not least because infrastructure is an interesting and challenging thing to define—

Andrew Miller: *rose—*

Mr Hayes—although I hope that the hon. Gentleman might be about to define it.

Andrew Miller: The 2010-11 report points out that one of the duties of the Public Works Loans Act 1875 was to report annually to Parliament. How will that happen under the new process?

Mr Hayes: I certainly do not envisage any change to parliamentary scrutiny, because I share the hon. Gentleman's interest in this. At present, it is perfectly proper for Parliament to consider how much is being borrowed and by which local authorities, and whether those local authorities have repaid against money that has been borrowed. That should continue to be the case. Whatever the new arrangements are, during the course of the consultation, I will personally emphasise—as I am sure the hon. Gentleman would—that those should be important requirements of the new arrangements.

Without making more ado of this, in essence I believe that the measures contained in the new clause before us allow us to complete the work of the right hon. Member for Greenwich and Woolwich. They are also in the spirit of what Sir Stafford Northcote—who was the Chancellor of the Exchequer who introduced the original Bill in 1874, which became the 1875 Act, and who died during a visit to Downing street—meant when he determined that it was right that the Government should maintain a diligent concern as to what is borrowed and what is repaid.

Roberta Blackman-Woods: Let me say kindly to the Minister that I must be particularly dim this afternoon, because I do not feel any the wiser about the answers to most of the questions I asked, particularly those about where the reporting function is for the amount of local authority borrowing, whether it adheres to the prudential borrowing regime, where parliamentary oversight of that system rests and, indeed, what role the DMO has in approving loans that are undertaken by local government, if any at all.

However, perhaps we will have to wait to be enlightened by the Minister's note, which those of us on this side of the Committee will obviously await with great anticipation. If the note does not answer those questions, perhaps we could consider this again at later stages of the Bill. I would ask the Minister to add one thing to that note, which is how the consultation process will be undertaken if this measure is approved and whether, in carrying out that exercise, he will seek to answer the questions that have been asked today. That is so that when people eventually have to make a decision on whether abolition will take place, they will have all the information before them and will be assured that there will be proper oversight of local government expenditure before that decision is made.

Mr Hayes: Yes, we would ensure that the consultation is speedy, but comprehensive; and yes, we would include the matters the hon. Lady has described, particularly in respect of parliamentary oversight.

Roberta Blackman-Woods: I thank the Minister for that reassurance.

Question put and agreed to.

New clause 10 accordingly read a Second time, and added to the Bill.

Ordered, That the debate be now adjourned.—*(Dr Thérèse Coffey.)*

5.13 pm

Adjourned till Thursday 15 January at half-past Eleven o'clock.

Written evidence reported to the House

IB 30 Friends of the Earth
IB 31 Dr Janet Moxley
IB 32 Arun District Council
IB 33 Save Wildlife
IB 34 Roger Humphry
IB 35 Helen Cuppleditch
IB 36 GMB
IB 37 Quaker Peace & Social Witness
IB 38 RenewableUK
IB 39 ClientEarth