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Lord Tunnicliffe: My Lords, in the immediate aftermath of the war, the UK completed over 650 projects to refurbish schools, hospitals and bridges in Basra. We have also given £250 million to the UN and the World Bank, some of which has been used to build schools, hospitals and bridges across Iraq. However, the UK Government have been clear that in the long run it was more effective for us to help the Iraqis best use their own resources to fund reconstruction. With our support, the Basra provincial council has spent a further $58 million on schools and hospitals in Basra.

Baroness Rawlings: My Lords, I thank the Minister for his Answer. However, since 2003, despite HMG pledging £744 million, of which £540 million from DFID was meant to go towards the rebuilding of Iraq, plus a visit by the noble Lord, Lord Mandelson, the Deputy Prime Minister, with 23 big British companies, few British firms have invested beyond the oil and gas giants and few schools, hospitals or bridges have been built. Why have HMG not checked on the funds and the reconstruction instead of subcontracting to local Iraqis, many of whom, it was reported, have creamed off millions of the aid money? That report has been dispersed today on the BBC website. Can the Minister give a breakdown of the figures and tell the House what the Government have actually achieved?

Lord Tunnicliffe: My Lords, it is at moments like this when I feel really pleased about the fact that I am giving up the DFID brief. Efforts by the British Government have put together commitments up to $10 billion at recent conferences through the Basra Development Commission. Some $1 billion has already been committed for inward investment. We do not take the noble Baroness’s view on the diversion of funds. Our detailed appraisal of projects in Iraq found one instance of fraud in the Southern Iraq Employment and Services Programme during the extremely difficult period of 2004-05 when security deteriorated quickly and DFID was unable to undertake the usual monitoring of how funds were spent.

Lord Avebury: My Lords, the noble Lord will have noticed the UN Secretary-General’s warm commendation of the British and European Union contribution to the International Reconstruction Fund Facility in Iraq, but as the contributions to that fund come to an end at the end of this month, what is the United Kingdom doing under the alternative UN development assistance framework, which is now being evolved?

Lord Tunnicliffe: My Lords, I do not have the precise details of that involvement but, broadly speaking, we support the UN's approaches. We are very strongly of the view that Iraq, which has the third biggest oil reserves in the world, will fund its own development. The problem is that Iraq is extremely difficult to do business with. We are trying to help it and, through the UN, build its capacity to do business with the rest of the world.

Bovine Tuberculosis

Question

11.10 am  
Asked By Baroness Byford

To ask Her Majesty's Government whether they will review the amounts of compensation given to farmers whose cattle have been killed due to bovine tuberculosis.

Lord Davies of Oldham: My Lords, there are currently no plans to make significant changes to the table-based valuation compensation system for TB-affected cattle.

Baroness Byford: My Lords, I am grateful for that response and I formally welcome the noble Lord to his new ministerial post—I think that I am correct—at Defra, although he is the third person to be responsible for this Lords brief in little more than a year, which is regrettable. Is he aware that, in 2006, a cattle compensation advisory group was established? Recommendations were made that have not been implemented. Will he address this matter urgently?

Lord Davies of Oldham: My Lords, I am grateful for the noble Baroness’s comments, although they do not quite have the accuracy that she normally reflects. I am being asked merely to take primary responsibility for Defra in the House, although I have some other responsibilities in the department. On the Question, which is the most important thing, she will know that the fairness of the compensation scheme has recently been tested in the courts. I cannot comment too much on that, except to say that, in the case that was brought, the judgment was in favour of the way in which Defra operates the scheme. There is the possibility of appeal to the House of Lords, so I am not in a position to comment much further. The scheme that was introduced in 2006 is the subject of some anxiety and concern, but she will recognise that that will always be the case with the valuation of compensation, particularly when the disease is still pronounced in certain parts of England and Wales. That is as far as I can go at this stage.

Lord Cunningham of Felling: My Lords, will my noble friend confirm that approximately 10 years ago some 5,000 cattle were being killed because of bovine tuberculosis, whereas last year, I understand, the number was 40,000? Is it not a bad use of taxpayers’ money to pay ever more compensation to slaughter ever more
Lord Cunningham of Felling: My Lords, I should declare that I am an owner and landlord of agricultural property. Two weeks ago, the president of the British Veterinary Association said that in some areas TB was out of control. As the noble Lord, Lord Cunningham, has rightly said, the incidence of the slaughter of cattle is increasing year in, year out. The problem has gone from bad to worse since the noble Lord, Lord Rooker, in 1998 kindly came to my former constituency. Nothing seems to be being done. It is also a badger welfare problem in that badgers suffer a terrible death if they get TB. Given these shocking figures, will the Government follow the lead of the Welsh Assembly and immediately authorise a badger cull in TB hot spots?

Lord Davies of Oldham: My Lords, we certainly are following closely developments after the Welsh Assembly Government's decision to carry out badger culling, but the scientific evidence that we have indicates that that may not prove to be a significant solution to the problem, although it may make a contribution. If it proves to be successful, of course we will learn from those lessons. Scientific evidence from a committee set up to examine exactly this issue does not lead us to believe that all measures should be taken to reduce the incidence of the disease. Let me make the obvious point that, if compensation is set at the proper level, which we believe it is, it encourages farmers to give early notice and to take early action to prevent the development of the disease.

Lord Burnett: My Lords, I should declare that I am an owner and landlord of agricultural property. Two weeks ago, the president of the British Veterinary Association said that in some areas TB was out of control. As the noble Lord, Lord Cunningham, has rightly said, the incidence of the slaughter of cattle is increasing year in, year out. The problem has gone from bad to worse since the noble Lord, Lord Rooker, in 1998 kindly came to my former constituency. Nothing seems to be being done. It is also a badger welfare problem in that badgers suffer a terrible death if they get TB. Given these shocking figures, will the Government follow the lead of the Welsh Assembly and immediately authorise a badger cull in TB hot spots?

Lord Davies of Oldham: My Lords, we are concerned about the costs of compensation. That is why we introduced the new valuation scheme in 2006; we wanted to produce a further degree of fairness for the taxpayer as well as to ensure that farmers are properly compensated. However, my noble friend is not right to say that nothing has been done. Considerable work is being done to develop a vaccine. We have already put £20 million into the research programme and we are looking at ways of developing that research further. We are concerned that all measures should be taken to reduce the incidence of the disease. Let me make the obvious point that, if compensation is set at the proper level, which we believe it is, it encourages farmers to give early notice and to take early action to prevent the development of the disease.

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they are negative, and negative also at culture test. They have never been positive. Could the valuation form be looked at to take account of these anomalies?

**Lord Davies of Oldham:** My Lords, we have gone from the general to the precise and I now find myself floundering on the precise. There are real issues with regard to the compensation scheme, as my noble friend appreciates. I will take on board the point that he makes about the problem of definition and see what can be done.

**Baroness Nicholson of Winterbourne:** My Lords, would the Minister like to demonstrate joined-up government? While I appreciate that he is dealing with agriculture and the environment, none the less, given the extreme rise in the bacilli of the tuberculosis infection in the children of farmers whose farms are heavily infected with tubercular cows and killings, will he not connect with the Department of Health and try to make a reality of referrals of those children to the department? It is a very serious problem.

**Lord Davies of Oldham:** My Lords, that is the second time that the point has been made about the importance of the Department of Health in this respect. It is a very serious point and I will take it on board. The noble Baroness will forgive me if I felt that being briefed on the Defra aspects of this Question was quite sufficient today without looking too much into the health aspects.

**International Development**

**Question**

11.22 am

Tabled by **Lord Judd**

To ask Her Majesty’s Government what action they are taking to secure unilaterally and multilaterally through the European Union and the United Nations the integration of security and sustainable development policies in the third world; and what are the implications for budgetary aid.

**Lord Judd:** My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I remind the House that I am a trustee of the think-tank charity, Saferworld.

**Lord Tunnicliffe:** My Lords, instability and crime destroy development and can create a vicious cycle of poverty and conflict. The UK Government are working to promote safety, security and access to justice in more than 24 countries worldwide—from promoting police reform in Bangladesh to reducing gun crime in Brazil. Multilaterally, we are promoting more effective and better co-ordinated international action. When giving budgetary support to partner Governments, we have a number of safeguards in place to ensure that spending benefits the poor, including consideration of human rights and security issues.

**Lord Judd:** I thank my noble friend for that reply. Would he not agree that effective development can take place only in the context of a secure environment, and that getting that right is an essential part of development? This involves police, courts and the military, and of course the community itself. Are we concentrating on this, and making sure that in budgetary aid, funds are ring-fenced to ensure that this is happening, so that successful development can take place?

**Lord Tunnicliffe:** My Lords, I agree with my noble friend that supporting poor people’s physical security is a vital part of reducing poverty. DFID’s security and development strategy recommends that security and justice issues should be considered routinely by DFID country programmes. We will also expand the number of countries that we support, and accountability and security systems are in place. It is vital that the military are part of that combination. A major part of a forthcoming White Paper from DFID will be devoted to this issue. On the matter of budgetary aid, we monitor this extremely carefully, with particular regard to any possible military diversion and the human rights aspects of the countries involved.

**Lord Hannay of Chiswick:** My Lords, will the Minister not recognise that although the sentiments expressed in his two replies are impeccable they are totally at variance with the Government’s record and bear no similarity whatever to it? The Government’s development aid is increasing rapidly, which I welcome, but they are cutting back quite sharply on aid for conflict prevention and resolution. That is certainly not joined-up government. When will the Government start practising what they preach?

**Lord Tunnicliffe:** My Lords, the Government do practise what they preach. Overall funding for conflict prevention has not been cut, but there has been a big increase in the UK’s assessed contributions to peacekeeping through both the UN and the EU due to exchange rates and increased activity. To compensate for that diversion, we have increased resources for conflict resolution by US $71 million over the 2007 Comprehensive Spending Review allocation, giving a total of US $171 million for discretionary conflict prevention, stabilisation and peacekeeping activities.

**Baroness Rawlings:** My Lords, for the sake of transparency, British taxpayers have a right to know where, when and how aid money is being used. Will the Government take steps to improve transparency in British aid spending by publishing full details on the DFID website? Why is DFID still giving aid to countries that have their own aid budget?

**Lord Tunnicliffe:** My Lords, the annual reports from DFID that I have seen—I do not whether they are on its website; I shall check and write back—are extremely comprehensive and transparent. If they were any more comprehensive, they would be even heavier than they are. I do not know of the all examples of where we give aid to countries that have their own aid budget, but I know about India. It has a modest aid
programme, but there are considerable areas of poverty there. The aid that we tend to give is our specialist capability, not substantial sums of money.

Lord Wallace of Saltaire: My Lords, perhaps I may ask about the joined-up government aspect of this Question. How far is DFID working with the Ministry of Defence and the Home Office on the security dimension to development, given the problems that we have with the structure of our police force in finding people to work in police training in other countries? How closely are we co-ordinating with other member Governments in the European Union on EU assistance to the African Union and its member countries?

Lord Tunnicliffe: My Lords, the public service agreement 2008-11 commits us to seek global and regional reduction in conflict and its impacts through improved UK international efforts to prevent, manage and resolve conflicts. Delivering this requires all government departments to work together. The MoD, FCO and DFID have a specific pooled programme to that end. Will the noble Lord repeat his second question?

Lord Wallace of Saltaire: My Lords, how closely are we co-ordinating with other member Governments of the European Union in helping the African Union and its member Governments to strengthen their security policies?

Lord Tunnicliffe: My Lords, the European Union is one of the largest donors of security and justice assistance. We work closely with the EU to ensure that its security sector reform and rule-of-law policy programmes are in line with the approach adopted by the UK to African Union and similar programmes.

Baroness Amos: My Lords, further to the Minister’s reply to the noble Lord, Lord Hannay of Chiswick, will he clarify whether we continue to have an Africa conflict prevention pool to work in a co-ordinated way on conflict prevention issues on the African continent, and whether that budget has been cut?

Lord Tunnicliffe: My Lords, I cannot give a specific answer on that budget, but we have a continuing pooled conflict prevention fund. The significance of the fund is not so much the money but understanding the importance of working across government in these areas. That is particularly so in conflict, working in-country across government, including the military.

Zimbabwe

Question

11.30 am

Asked By Lord Dykes

To ask Her Majesty’s Government what representations they will make to the Government of Zimbabwe concerning recent death threats to opposition members of the joint Government.

Lord Davies of Oldham: My Lords, in view of earlier comments, I am substituting for my noble friend Lord Malloch-Brown, who is abroad, in answering this Question. It will be the last time I answer Foreign Office Questions for the foreseeable future, but who knows what opportunities may open up in a fourth Labour term? We remain deeply concerned about human rights abuses in Zimbabwe—harassment of human rights defenders, arbitrary arrests and intimidation, repressive legislation and the lack of press freedom.

The inclusive Government have, in the global political agreement, committed to ending human rights abuses and violence and to restoring the rule of law. We and the international community continue to urge the inclusive Government to respect these commitments and adhere to international standards.

Lord Dykes: My Lords, the Minister sounded like a permanent Foreign Office Minister in his reply, for which I thank him. Does he agree that this matter is deeply shocking news? It is on a par with Mike Thompson’s tragic BBC reports about a country that is now ruined, devastated and in a terrible state as a result of the self-indulgent madness and brutality of the government majority party. Now that it is a joint Government, will the Minister reassure the House that the UK will make every effort, following the point made by the noble Baroness, Lady Amos, on the previous Question, closely to monitor these matters, especially with the United States, other EU countries, particularly Germany, Spain and France, and leading Commonwealth countries to make sure that these democratically-elected politicians who join the joint Government are not threatened in this way?

Lord Davies of Oldham: My Lords, we are deeply concerned about the humanitarian situation and crisis in Zimbabwe and we will do all in our power to relieve that position. We are doing two things in particular. The House will appreciate that the UK is one of the largest donors to Zimbabwe. There is some improvement in the economy. Public officials are being paid, which was not the case a short while ago. The Zimbabweans are sending to London the Prime Minister and the Foreign Minister, who has still to obtain a visa, to meet our ministerial team. We will be pressing on these issues and others and we are involved in making as constructive an effort as we can for Zimbabwe under its inclusive Government to recover from the appalling disasters of the past.

Lord St John of Bletso: My Lords, does the Minister agree that the root problem behind the continued farm seizures, as well as the death threats on MDC members of the Government of National Unity, stems from the Youth Brigade, which is controlled by several Intelligence Organisation, which is controlled by the Central and the political violence of the MDC leaders? Until that is tackled, the threats will continue. On a more positive note, three months ago the country suffered from hyper-inflation, with a 100 trillion Zimbabwe dollar note being worth 20 pence. However, since the MDC took control of the Ministry of Finance, the country now has deflation with food back on the supermarket shelves.
Lord Davies of Oldham: My Lords, I accept the first point of the noble Lord’s contribution; namely, that there are institutional reflections of what has been an unlimited dictatorship over very many years, capable of the most appalling affronts to human rights, which will need to be eradicated for the country to develop along any lines of international acceptability. We must place a great deal of hope in the inclusive Government making progress in these areas; hence the meetings that are taking place shortly.

On the question of the economy, I am grateful to the noble Lord for reflecting the fact that there are some encouraging signs in the Zimbabwean economy. That economy was in a quite appalling position, even worse than the Weimar Republic some 80 years ago, but it is showing signs of some degree of recovery. That is why I mentioned the fact that public servants are being paid. But the country has a very long way to go.

Baroness Amos: My Lords—

Lord Howell of Guildford: My Lords—

Lord Hunt of Kings Heath: My Lords, if noble Lords are quick in asking questions, we can hear from the noble Lord and then from my noble friend.

Lord Howell of Guildford: My Lords, the Minister speaks of an inclusive Government in Harare, but is not the problem that there are two parallel Governments? We are all anxious to help Prime Minister Morgan Tsvangirai but, at the moment, the ZANU-dominated police and army forces are attacking, arresting and reportedly actually killing people in the other party, which is supposed to be their friend and colleague. Is it not time that Zimbabwe’s neighbours, which all signed up to the global political agreement, should be pushed into being much more vigorous in correcting this situation and ensuring that the Government really work as a joint effort rather than one gang trying to murder its colleagues? That is an important change. Until that has happened, we can give aid and find that it is useless.

Lord Davies of Oldham: My Lords, of course the noble Lord is right. The Southern African Development Community brokered the new, inclusive power-sharing agreement and Government and has some responsibility for its success.

Lord Avebury: My Lords—

Lord Hunt of Kings Heath: My Lords, I am really sorry, but we could not quite do it so we will have to move on.

Lord Grantham: My Lords, with the leave of the House, I indicate at this earliest opportunity that in the heat of the moment I omitted to declare my interest as a dairy farmer when posing my supplementary question to my noble friend. I apologise to the House for this failure.
The protocol is annexed to the report, but I will briefly set out its key provisions. In cases where the police seek access to the precincts in order to arrest a Member, Black Rod must be notified. Black Rod or the Yeoman Usher will accompany the police and an arrest will be made only in their presence. That will ensure that, in the making of the arrest, no breach of parliamentary privilege is committed. In cases where the police seek access to the precincts of the House in order to effect a search, and where a warrant may lawfully be required by the House authorities, a warrant must always be obtained.

Before admitting the police to the precincts to undertake a search, Black Rod, having consulted the Clerk of the Parliaments and my legal counsel, will seek the authority of the Lord Speaker. The Lord Speaker will consult, as appropriate, the Leader of the House and others. Any search of a Member’s office or belongings will proceed only in the presence of Black Rod or the Yeoman Usher. Where any material is covered by parliamentary privilege, the police shall be required to sign an undertaking to maintain the confidentiality of that material until any issue of privilege has been resolved.

I hope that noble Lords will agree that this protocol constitutes an appropriate system for dealing with any criminal investigation involving a Member of this House. On the one hand, it shows a willingness to comply fully with any criminal investigations being carried out by the police; on the other, it puts in place a robust and transparent system for ensuring that Members’ rights are respected and that parliamentary privilege is not breached. I beg to move.

**Lord Jenkin of Roding:** My Lords, the noble Lord the Chairman of Committees omitted one sentence. He read out from paragraph 5 of the protocol that,

“In cases where the police seek access to the precincts in order to arrest a Member, Black Rod must be notified”.

He then went on to paragraph 6. He left out the sentence:

“Black Rod will in turn notify the Lord Speaker”.

Was it not one of the major criticisms of what happened at the other end that the responsibility for it was left with the Serjeant at Arms, and that the Speaker of the House of Commons somehow managed to avoid any responsibility for what had happened? Is it not of the utmost importance that, in matters of this significance to the functions of the House and the duties of its Members, it must be a Member of the House—in this case, the Lord Speaker—who authorises the police to come in? It should not be left to an Officer.

**Lord Brabazon of Tara:** My Lords, I shall not comment on what happened in another place. I would only repeat my original remark that the Lord Speaker is the person who has to give authority for this. Ultimately, it is up to the Lord Speaker and no one else.

Motion agreed.

### Constitutional Renewal

#### Debate

**11.41 am**

**Moved By Lord Tyler**

To call attention to the legislative proposals for constitutional renewal; and to move for Papers.

**Lord Tyler:** My Lords, in moving this Motion, I must first congratulate the Minister, who is now in his place. He is obviously a man of great influence and power. When preparing for a debate of this sort, Ministers normally rely entirely on officials in their departments, but in his case he persuaded the Prime Minister to produce the briefing that was published yesterday. What amazing timing. In this debate, we shall be touching on issues of considerable concern not just to Members of your Lordships’ House but to the public at large, and therefore it is very timely.

The Government have been talking about constitutional reform and renewal ever since they took office. Indeed, the Prime Minister was talking about it again yesterday. Yet Ministers seem to use the reform agenda as a sort of rhetorical JCB; when in a hole, they dig even further down. Talk is cheap, and yesterday we had yet more from the Prime Minister, but the present House of Commons is on course for five more years of illegitimacy if the present system is allowed to continue. Why should people trust in a Parliament any more than they trust in this one if, just as happened at the last general election, not one single Member of Parliament enjoyed majority support among his or her constituents? That is a dire prospectus for democracy.

The Prime Minister has now promised, again, a constitutional renewal Bill. From what he said yesterday, it will do little of any substance whatever. Your Lordships will recall that, at the end of March, I brought before the House and obtained a First Reading of my own Constitutional Renewal Bill, so Mr Brown’s version will rightly be known as the “Constitutional Renewal (No. 2) Bill”—how apt for a Bill which promises to be second choice and second-rate. I published my Bill because I gave up on the long, long period when we were awaiting the Government’s proposals. Their first draft dodged the big issues and mainly sought to enshrine outdated conventions in modern statute. Ministers promised improvements; none came, and it looks like none will. So today, I want to address some of the issues that are in my Bill—the real thing—rather than the Government’s likely pale imitation.

My Bill deliberately does not refer to the two big issues on which the Government have made some progress—Lords reform and party funding. The agreed package across the parties on the former will, I hope,
come forward, and the Government will implement that in the next few months. Meanwhile, we will be voting next week on the issues that are raised by party funding. My noble friends will deal with specific issues of reform, but my Bill concentrates on those issues on which the Prime Minister has made promises, as have many other Members of the Government, but failed to deliver. There is nothing in my Bill that Labour has not itself suggested should happen, and now is an opportunity to investigate the delivery.

The first is the engine of democracy—the electoral system. The arguments about the defects and the features of the present system are well rehearsed and have been for many years. It is an absolute subversion of democracy for any Government to win a majority in the House of Commons with such a small minority of the vote in the country. The present Government enjoy just 35 per cent support among those who voted and only 22 per cent among those entitled to vote. That scarcely gives them legitimacy.

There is therefore an unanswerable case for change. I defy anyone to tell me that the system is fair or that it gives the voter real power. It is not and it does not. Indeed, the current first-past-the-post system offers the elector party lists, each with only one name on it—no real choice whatever. The solution is surely too important to be left to self-interested parties and politicians: the public must have a role in the decision-making. My Bill would pave the way for electoral reform, first, by fixing the dates on which elections could be held at strictly four-year intervals and then by providing for a citizens’ assembly to determine the voting system that should be used for elections to the House of Commons. It would not be just another committee or commission of the great and good, but a genuinely public process effectively subjecting our present system and the alternatives to a real jury trial. It would be a public choice and the assembly’s conclusion could then be put to a national referendum so that any new system would have broad support from the population at large.

The process could be swift. If we willed it, reforms could be in place in this Parliament, but clearly we would have to start now. I am confident that, like the Power inquiry, which was chaired by the noble Baroness, Lady Kennedy of The Shaws, citizens would choose the system that gave them the most choice among candidates not just between parties; namely, the single transferable vote. There is the fundamental issue. How do we elect our House of Commons and thereby choose and give our confidence to a Prime Minister. What then? What powers should the Prime Minister enjoy? Members of your Lordships’ House will be well aware of the comments made by Andrew Rawnsley, a respected commentator. He said:

“Within his own universe, no democratic leader is potentially more powerful than a British Prime Minister with a reliable parliamentary majority and an obedient Cabinet.”

The present Prime Minister may not remember what it is like to have a reliable parliamentary majority let alone an obedient Cabinet, but the point stands. Gordon Brown promised to surrender or limit many of the powers at his disposal. He has not; my Bill would. It would put on a statutory basis the right of this House and the other place to ratify international treaties and other important international agreements such as the star wars deal between this country and our partners.

Then there is the right to go to war—the gravest of decisions for any Government or nation to take—which should surely be firmly on the statute book. Ministers should have to have the support of MPs to commit the nation’s troops to armed conflict. Noble Lords will doubtless have in mind that critical vote in the other place that took this country to war in Iraq. I was there. It was a genuine time of debate and an agonising one for all sides the House, particularly on the Government side. However, we learnt subsequently that the case for war was found wanting and advice confirming the legality of that action was altered at the last minute. The Attorney-General, who gave the advice, was a Member of the Government and it was his final opinion that suited the political case that enabled the Government to make war. It seems that he who appoints the piper plays the tune. These are serious allegations but they come from the highest level in the Attorney-General’s office.

The only answer is transparency. My Bill would bring to an end a system of advice permeated with political prejudice, riddled with secrecy and rightly discredited as a result. Any legal advice used in support of a political case put to both Houses of Parliament should be published for MPs and Members of your Lordships’ House to see and address.

Meanwhile, the role of the Attorney-General clearly needs to change. The Prime Minister himself said so in July 2007. He was right then and he is right now. Yet the Government’s own proposals are feeble. They contradict the views of the two cross-party Commons Select Committees, with their Labour majorities. My Bill tackles this issue head on, separating the office of Attorney-General entirely from any ministerial position or responsibility.

Next there is the issue of the Civil Service. In July 2007, the Prime Minister said that, “this Government has finally responded to the central recommendation of the Northcote-Trevelyan report on the Civil Service made over 150 years ago in 1854”.

The only problem is that they have not. He spoke in the past tense about something that he has yet to do. My Bill would put these measures in place and would cap the number of Damian McBrides—the special advisers—that taxpayers fund for their political radars rather than for their expertise.

I know that my noble friend Lord Lester of Herne Hill has additional proposals in his executive powers and Civil Service Bill. I hope he will be able to contribute to our debate today. Surely the Government should be listening to his suggestions now.

Finally, my Bill addresses the issue of the moment: the conduct of parliamentarians and the public’s loss of trust in our politicians. Some may say that constitutional reform is being used as a shield for a political class which claims that it is the system, rather than individuals, that is at fault. The truth is that it is both. There are a few unscrupulous individuals in British politics—precious few—but the whole way we do British politics is itself unscrupulous. It would be unsatisfactory in and of itself, even if every politician was an angel.
My Lords, I need not comment further on what my noble friend has put so persuasively. I just make this point: we have had successive and considerable debate about the difference between the treaty and the original constitution. I do not propose to go any further down that particular route.

As I was saying, the Government have the lightest legislative programme in modern times. They are clinging to office without any idea what they want to do with power. Time is running out. The Prime Minister has at most 10 months before the law forces the general election that he has resisted. The time for commissions, committees and endless consultations is over. This new “grand committee” that we were told about earlier in the week, which actually turns out to be a Cabinet sub-committee, is extraordinary. These ministerial escape chutes will no longer do.

What we need now is not more protracted debate but urgent decision.

When the Minister responds, I hope that he will not insult the intelligence of Members of your Lordships’ House by making promises for yet more talk. He and his colleagues must now concentrate not on what needs to be discussed but on what needs to be done and when it is going to happen. As the Prime Minister said yesterday:

“It will be what we now do, not just what we say, that will prove that we have learned and that we have changed”.—[Official Report, Commons, 10/6/09; col. 795.]

This is his chance to prove it. I beg to move.

11.55 am

Lord Howarth of Newport: My Lords, we should all be extremely grateful to the noble Lord, Lord Tyler, for enabling us to hold this debate. I hope that he will forgive me if I do not devote my speech to examination of his particular propositions in detail; we are not, after all, yet in Committee on his Bill, so I will talk about rather more general issues. I want to counsel some caution amidst all the current zeal and busyness over constitutional reform and amid all the talk of radicalism.

That is not to say that I do not have great respect for the propositions of the Liberal Democrat party. Its members have thought consistently and seriously over a considerable number of years and we owe them a debt for keeping these issues before us. However, at the same time, I would like to rein them back a little if I could. Our historical experience is that, in matters of constitutional change, the old adage, “more haste, less speed” applies. We can look back at many historical instances: the Levellers; the British enthusiasts for the French revolution, who formed societies to correspond with the French Jacobins; and the Chartists. All sowed invaluable and precious seeds of change, but they were slow to germinate. Constitutional change in this country has been characterised by incrementalism, which is a good thing on the whole.

Lord Holland wrote to the King of Naples at the beginning of the 19th century, when the newly installed King of Naples had inquired whether Lord Holland would be able to supply him with a written constitution. He replied:

“You might as well ask me to build you a tree”.

The metaphor of organic growth that Edmund Burke taught us to use as we think about the constitution is profoundly wise.

That is not to say that this is a moment for complacency. Mr Podsnap in Our Mutual Friend observed:

“We Englishmen are Very Proud of our Constitution, Sir. It Was Bestowed Upon Us By Providence. No Other Country is so Favoured as This Country”.

I do not think that Mr Podsnap would catch the national mood of today. There is a restlessness; there is a seeking after change. However, I suggest that, as parliamentarians in either House of Parliament, we are trustees of the British constitution. We hold the constitution in trust on behalf of the people who have allowed us, for the time being, to play a part in politics and government. The constitution is not the plaything of enthusiasts in think tanks, nor of the caprice of the moment Benches. It is significant that it has been the convention in the House of Commons that significant constitutional measures are debated in Committee on the Floor of the House. I very much hope that that will remain the tradition, and certainly that the guillotine will not be applied to any such legislation.

Nor, of course, should constitutional change be embarked upon merely as a matter of party advantage—and least of all, I suggest, out of panic. It is a non sequitur to say that, because the people have expressed their strong displeasure at how the system of allowances has been allowed to develop, it follows that there need be wholesale constitutional reform. It is true that parliamentarians have been less self-critical and more self-indulgent than they should have been, within the code of a club, but the remedies that are needed should be precisely addressed to these problems.

Major constitutional reform requires, as a precondition, extensive debate, much pamphleteering, much listening, much speechifying, much listening again and the slow forging of an emergent consensus. That consensus needs to be a great deal wider and deeper than the
consensus between the Front Benches. My right honourable friend the Prime Minister has recognised exactly that. In his Statement repeated in this House yesterday, he stated:

"Democracy reform cannot be led in Westminster alone … Rather, it must principally be led by our engagement with the public … It cannot be top-down".—[Official Report, 10/6/09; col. 641.]

That is exactly right.

I think in that same spirit what the Prime Minister has to say about his personal preference for a written constitution is expressed in entirely appropriate terms:

"I personally favour a written constitution but I recognise that changing this would represent an historic shift in our constitutional arrangements. Therefore, such proposals will be subject to wide public debate and ultimately the drafting of such a constitution should be a matter for the widest possible consultation with the British people themselves".—[Official Report, 10/6/09; col. 642.]

In that spirit, it is indeed appropriate to venture forward. If we are thinking about the implications of a written constitution, I am sure that we shall not overlook the drastic implications for the relationship between the judiciary and the legislature. We should observe that even the preternatural wisdom of the founding fathers of the American constitution landed Americans to this day with gun laws that they are unable to get rid of as a result of a component of the constitution which was designed to ensure greater equality vis-à-vis what had been a feudal society. The constitution gave every citizen the right to bear arms because the aristocracy in Europe had had the right to bear arms. The result is that you have gun laws which provide a licence for people to murder each other on a rather large scale because it is one of the sanctities of a written constitution which seems to be impossible to reform.

Some noble Lords will have read a very interesting article by the noble Lord, Lord Turnbull, in the Financial Times recently, in which he expounded the attractions of the separation of powers. I think any parliamentarian from this country who has visited Washington and seen the powers that are exercised by congressmen and senators under that constitution cannot but be envious. Above all, the power of appropriation gives congressional and senatorial committees extraordinary power over the Executive. In the American Congress, elected politicians are not dominated by the Executive as they are here, and that is attractive. But how would you have a system of separation of powers that avoided the characteristic problems that we also see in Washington—the power of lobbyists and most importantly the inability of the Administration to be able to achieve its legislative ambitions? The constitution was engineered precisely to ensure checks and balances that make it difficult to legislate. How welcome would that be in this country? To some it would be very welcome, but not to all. Among the consequences, I think, of the inability of US Administrations to achieve their purposes in domestic policy is that they have had a propensity instead to go adventuring abroad, whether to Guatemala, or Vietnam, or Somalia, often with very unhappy consequences indeed. These issues are very complicated and there are many lessons to learn from history.

Where then is there agreement, and what constitutional reforms might we wisely put first? Of course, we need reforms to the system of allowances that has been the subject of such vexed controversy, and I will not say any more about that because we are going to have plenty of other opportunities to talk about it.

To my mind, the most important front upon which we should engage to renovate our democratic culture is the renewal of local government. The Communities and Local Government Select Committee in another place has just produced a very thoughtful and very valuable report entitled The Balance of Power: Central and Local Government. This is among the five major issues that the Prime Minister has proposed that we should set out to debate. On the devolution of power and engagement of people in their local communities, he said that:

“the Communities and Local Government Secretary will set out how we will strengthen the engagement of citizens in the democratic life of their own communities as we progress this next level of devolution in England. So we must consider whether we should offer stronger, clearly defined powers to local government and city regions and strengthen their accountability to local people”.—[Official Report, 10/6/09; col. 642.]

But note the use of the term “devolution”. The heart of the difficulties that we find as we try to strengthen our democracy and encourage greater participation and responsibility within our democracy is that historically power in this country has stemmed from the centre. It is the legacy of monarchy. Powers of local self-government were historically granted to chartered boroughs by the Crown. Our constitutional history from the Reformation until today is essentially the story of a struggle for power between Parliament and the Executive.

There were the constraints on absolute monarchy in the 17th century and the achievement of a limited monarchy in 1688-89, but then the snatching of defeat from the jaws of victory: as Parliament gained more control over the Executive, the Executive gained more control over Parliament as Ministers took upon themselves the powers that the Crown had originally exercised. Now we see Parliament trying to pull some of those powers back or titbits being offered by the Executive. Indeed, part of the noble Lord’s Bill is a power for the House of Commons to ratify treaties and to validate going to war. But whether this would be a real transfer of power from the Executive to Parliament is doubtful because, of course, the Executive dominates Parliament and the votes would be whipped.

When we consider local government, we hear the condescending language of “earned autonomy”. Local authorities would exercise powers, not because it is a right of people in their own communities to enjoy such powers, but because the powers would be granted condescendingly by central government, from which power flows. So what the Prime Minister proposes would be a remarkable breach with historical tradition. I think it is a necessary breach. It is extraordinarily important that we should genuinely invigorate our local democracy and thus the whole of our democratic culture.

Indeed, we will not get a smaller House of Commons unless there can be real self-government at the local level. That will not happen unless central government are prepared to relinquish control of resources to an important extent. Can we see the Treasury willingly letting go? It is hard to forecast. Will people in this
country tolerate the inconsistencies and disparities of the provision of services that would follow from a greater degree of local autonomy if the centre was not redistributing resources and thereby exercising its influence? We do not like postcode lotteries.

The Prime Minister also rightly insists that we must create a better public engagement with politics. The withering of local democracy that we have seen is, of course, part of that problem. We need to consider why people have become alienated from the Westminster democratic process. Is it because they consider that the debates that really matter happen elsewhere, in broadcasting studios and on the internet? Is it because they consider that the power that really matters is elsewhere, in the hands of judges, the European Union or the devolved Administrations? Is it because there are these days no great clashes of ideology or principle? Is it because of the weakening of class identification? These are complex issues, but we must do our very best to reconnect the people with our politics at Westminster.

Where there is no consensus is that there should be an elected second Chamber. That is a matter of great divisiveness here and a matter of substantial indifference among the public. I simply observe that it is not the panacea that some people think it would be for our national ills, or even for our political and governmental ills.

I conclude with a sentence or two on the media. Nothing was said in the Prime Minister’s Statement about the media, but in our unwritten constitution the media have a very important constitutional role. They mediate information; they mediate the debate. There are brilliant reporters, commentators and interviewers. They often show us up in our failure to hold Ministers and Governments to account as we should. I would of course uphold their right to do that and to expose abuse, injustice and incompetence in government and politics. But they cause great damage when they are cynical, casual, reckless and when they treat the coverage of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics has been another great damage when they are cynical, casual, reckless and when they treat the coverage of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport. My main indictment is that the trivialisation of politics as a power game and even as a blood sport.
people, ensuring that we are seen to act in the public interest and not on the basis of self-interest. We can do much under both headings without legislation. That was recognised in the Statement yesterday, and I welcome it. I would take it further. There is a need for more extensive pre-legislative scrutiny. We can do more in this House in making use of evidence-taking committees for legislative scrutiny. Both Houses can do more in relation to petitions, not least e-petitions.

What then requires legislation? The Government propose to introduce a Bill to provide for statutory regulation of parliamentary standards. Other proposals may need to be incorporated in the constitutional renewal Bill. What should be considered? I suggest two candidates. In an earlier debate, I advocated putting on a statutory basis those standard-setting bodies that fall under the Cabinet Office. Those include the Committee on Standards in Public Life. Given the need for public reassurance, that would be a beneficial move. The committee could be the regulatory body envisaged in yesterday’s Statement, but serious consideration should be given to putting it and related bodies on a firmer footing.

The other proposal relates to your Lordships’ House. Provisions governing conduct, such as the power to expel, may be included in the Bill envisaged in the Statement. However, current concerns extend beyond conduct to encompass membership—that is, becoming a member and the size of the House. We need to put the House of Lords Appointments Commission on a statutory footing, providing reassurance to the public that all nominees meet a clear—and high—quality threshold. We also need to make provision for Peers to take permanent leave of absence. It may be possible to achieve that without legislation, but we need to explore how best we can allow Members to take honourable leave of the House after distinguished service. The size of the House is already a concern. It will become even more so after the next general election. It is imperative that we act as quickly as possible to reduce the size of the House.

I am conscious of trying to put too much into a Bill that is already five Bills in one. Our approach must be one of combining statutory provision with non-legislative actions to address current—and legitimate—public concerns about the conduct of parliamentarians. On conduct, we have to craft rules that are clearly expressed, transparent, fair, enforceable and seen to be all of those.

My second point covers what we should not include in legislation in this Parliament. We have already seen significant constitutional change over recent years, or rather—crucial to my argument—significant constitutional changes. They have been disparate and discrete measures, collectively having a major impact on our constitution, but without deriving from any clear conception of the type of constitution appropriate for the United Kingdom. The Government have at no point articulated an intellectually coherent approach to constitutional change. When we debated the constitution in December 2002, the then Lord Chancellor—the noble and learned Lord, Lord Irvine of Lairg, who we are delighted to see in his place—admitted that the Government had no overarching theory. There has been something of a change of direction under the premiership of Gordon Brown, but we still do not know the intended destination.

Given the incoherence of the changes and of yesterday’s Statement, the last thing we need is to rush into making more, especially changes that the public cannot relate to the current crisis of confidence. I very much endorse the comments made yesterday by the right reverend Prelate the Bishop of Durham and the noble Baroness, Lady O’Neill of Bengarve. We have to get a clear grasp of what we have done so far. We need a major exercise in cartography. To undertake the exercise I have in mind, the body has to be detached from Government.

For that reason, I have previously made the case for a commission on the constitution. It could take the form of a parliamentary committee of inquiry, of the sort advocated by the Public Administration Committee in the other place. Though the format may be somewhat traditional, it is important that the form of consultation with the public and interested parties is anything but. We have the means to harness new technology to ensure wide-ranging and interactive consultation. We can draw on an extensive range of opinion and not simply the usual suspects. It may be that we should consider making such a body permanent.

The main point is that we need to make sense of where we are. What are the constitutional principles that govern, and now link, the different parts of our constitution, and how well do the parts relate to one another? That, I submit, is a necessary condition before we consider any further major changes to the constitution of the United Kingdom. Given that, as a starting point to such an exercise, it will be helpful if the Minister will tell us the philosophy that dictates the Government’s approach to constitutional change. Do they have a philosophy? Yesterday’s Statement suggests that the answer is no. I invite the Minister to surprise us.

12.21 pm

Lord Armstrong of Ilminster: My Lords, I congratulate the noble Lord, Lord Tyler, on choosing this subject for debate this afternoon. He is, perhaps, luckier than he expected. It is indeed timely. With two right reverend Prelates taking part in today’s debate, perhaps I may be forgiven for taking a text for my contribution. My text will be the contribution to yesterday afternoon’s discussion by the noble Baroness, Lady O’Neill of Bengarve. It was wise and brief; I only wish that I could match it, both in wisdom and brevity.

The restoration of trust in our parliamentary institutions, and particularly—but not only—in Members of the other place, requires us to deal urgently with Members’ expenses and allowances. It is sad that Members can no longer be trusted to police their expenses themselves. Members of both Houses of Parliament should be able to be trusted to act responsibly and with integrity on their expenses and allowances, as well as on other matters. As it is, not only should we embrace transparency; we also have to accept independent scrutiny and supervision. However, I suggest that the membership of the body that is set up for this purpose should include a minority of representatives from your Lordships’ House and from the other place. It
should not be difficult to identify one or two Members from each House who could be trusted as having the integrity to take an unbiased part in the work of the body and who would have the knowledge and experience to contribute an understanding of the legitimate needs and concerns of the two Houses and of their Members.

For the rest, as is already clear from the earlier speeches in this debate, in the wake of the furore over Members’ expenses and allowances, many ideas for wider constitutional reform are already swirling around. I agree with the noble Lord, Lord Norton of Louth, that the necessity for wider constitutional reform does not follow logically from the argument about Members’ expenses and allowances, but it has created the furore and it is right that we should use the opportunity to consider seriously what we should do about it. There is not now time to legislate on all the ideas swirling around about constitutional reform; indeed, there may not be time to legislate on any in this Parliament. It is more important to get it right than to get it written, so we should not rush into a change, but use the interval for a mature and considered public discussion of the ideas and suggestions, the merits and demerits of each, and how they relate to each other. I respond sympathetically to the plea for intellectual coherence made by the noble Lord, Lord Norton of Louth.

I suggest that this public discussion should not, and perhaps even cannot, be led or co-ordinated by the Government at a time when it will inevitably be overshadowed by the prospect of an imminent general election. Constitutional reform that is to be widely accepted needs to be founded on a degree of consensus which is above and beyond any narrow party policy. I understand the view of the noble Lord, Lord Tyler, that not all party politicians are angels. However, it seems to me, as it overshadows by the prospect of an imminent general election. Constitutional reform that is to be widely accepted needs to be founded on a degree of consensus which is above and beyond any narrow party policy. I understand the view of the noble Lord, Lord Tyler, that not all party politicians are angels. However, it seems to me, as it overshadows by the prospect of an imminent general election. Constitutional reform that is to be widely accepted needs to be founded on a degree of consensus which is above and beyond any narrow party policy. I understand the view of the noble Lord, Lord Tyler, that not all party politicians are angels. However, it seems to me, as it overshadowed by the prospect of an imminent general election. Constitutional reform that is to be widely accepted needs to be founded on a degree of consensus which is above and beyond any narrow party policy. I understand the view of the noble Lord, Lord Tyler, that not all party politicians are angels. However, it seems to me, as it}

Lord Lester of Herne Hill: My Lords, does the noble Lord remember what happened when his suggestion was taken up many years ago and we had Lord Kilbrandon’s commission on the constitution, which went around the country, did exactly what the noble Lord said and led to precisely nothing.

Lord Armstrong of Ilminster: I remember it well, my Lords, and I am grateful to the noble Lord, Lord Lester, for reminding me of it, but I believe we can do better than that in the current situation.

I am not one who thinks that we should give ourselves a written constitution. In a sense, of course, we already have one: our constitutional arrangements are described in great detail and with great authority in many learned volumes, but these are descriptions, not prescriptions. The fact that the constitution is set out in conventions and not in statutes means that it is a living organism—as the noble Lord, Lord Howarth, said, a tree—and not an ossified structure. Because we have a mature democracy, we have the great advantage of a mature and developed constitutional system that has grown over many years, adapting to the needs of the times. It is flexible enough to broaden out from precedent to precedent, as situations change and circumstances require.

I do not propose this afternoon to discuss any of the ingredients of constitutional reform that have been swirling about our ears in recent weeks. I resist that temptation, although I have my own ideas about most of them. I wish only to air a modest proposal, which could be introduced without legislation and with immediate effect, and which would make for better drafted legislation, better parliamentary scrutiny of legislation, better accountability of government to Parliament, better public appreciation of the role and importance of Parliament, and greater self-esteem among Members of both Houses of Parliament. All it requires is a little restraint and self-discipline in government. Is that too much to hope for?

We have experienced in recent years the introduction of a series of massive portmanteau pieces—blockbusters—of legislation, each of which brings into one single gargantuan blockbuster of a Bill an often ill-assorted and sometimes unrelated set of measures. The Government’s own draft Constitutional Renewal Bill last year was a case in point, including in one Bill, as it did, half a dozen more or less unrelated measures. The Coroners and Justice Bill, which is now going through this House, is another such measure. This is very convenient for the Government of the day, since each gargantuan Bill needs only one Second Reading, one Committee stage, one Report stage and one Third Reading in your Lordships’ House and in the other place. These Bills never get thorough or even adequate parliamentary scrutiny, at least in the other place, and there is a growing tendency for much of the detailed legislation required to implement the main proposals to be left to delegated legislation, which is often very complex and difficult to understand, not always as well drafted as it should be, and incapable of being amended by Parliament. The Government get away with murder.

My proposal is that the Government should make a self-denying resolution to eschew these huge portmanteau blockbusters of legislation, revert to the habit of
introducing simpler single-subject Bills, and allow Parliament to take time to heed and reflect on the views of interested parties and public opinion, to scrutinise the Bills properly, and to amend them where they need to be amended. That might mean a larger number of Bills coming to Parliament, but they would be smaller clearer Bills, each concentrating on a single purpose. That should give us lighter and more transparent legislative programmes, better parliamentary scrutiny of legislation, and probably less and certainly better legislation. This would give Members of both Houses of Parliament a renewed sense of the value of their work, and would help to restore public confidence in our governmental and parliamentary institutions. In short, I suggest that this modest proposal could be effected without legislation, and would be good for the Government, good for Parliament, and good for the country.

2.33 pm

The Lord Bishop of Liverpool: My Lords, I, too, thank the noble Lord, Lord Tyler, not only for this timely opportunity for the debate but for the many important features in his Bill. In his helpful Explanatory Note, he emphasises the importance of discerning principles. I welcome that, because this debate must proceed philosophically by looking at certain principles. I should like therefore to discern and explore one particular principle from his Bill and apply it more broadly to this whole debate on constitutional renewal for which, as we have heard, the Prime Minister has called.

We have before us a proposal to create a citizens’ assembly to review and renew the electoral system. This assembly will have great power and will in effect occupy a place of authority over Parliament in deciding and framing the question for a referendum to determine the nature and the character of Parliament. However, this assembly will not be elected. On the contrary, it will be appointed and will actually exclude from its membership people who have been duly elected to the Parliaments in the United Kingdom and in Europe. That is specified in the Bill. What is the principle here? I should be glad to hear the noble Lord, Lord Tyler, expound it when he responds.

Let me be clear; I am not criticising this, I am simply drawing attention to the fact that at the heart of this Constitutional Renewal Bill is an appointed body with extraordinary authority to shape the constitution of Parliament. I happen to be content with this proposal, but that is because, like many in your Lordships’ House, I see merit in appointed bodies, provided that the processes are transparent and accountable. The truth is that in today’s world, election, especially in this media-dominated culture in which we live, does not always deliver what is needed. Election, with respect, delivers up the political class, which is perhaps why the noble Lord does not want to use election for the citizens’ assembly, which will help to determine how the political class will be elected in future.

Please do not get me wrong; I respect the political class, and not even in the present climate would I dare to rubbish it. However, it is too narrow a constituency to produce what is needed, especially in this House, for a revising and legislating Assembly. We need to recover the unity of Parliament in the constitutional debate—two Houses, but one Parliament: a Commons that is elected and with the authority of having the last word, and a revising Chamber to advise, revise and refine the legislation. Such a revising Chamber should be made up of what is in effect and what could be called the elders of our society: men and women experienced in different walks of life, who, from their expertise and wisdom, can shape the laws that govern our common life. Such people cannot be limited to the political class but must be recruited and appointed with transparency and accountability and for fixed terms.

In this one Parliament, there should be— I long to see this recovered to our debate—a mutuality between the two Houses, each distinctive in character and composition but mutually dependent, the elected looking to the other for the wisdom of experience, the appointed deferring to the elected and acknowledging their authority to have the last word as the voice of the people: one Parliament of two Houses under the Crown, as a sign that our own accountability is in two directions; below to the people, above to the source of our moral intuition. I hope that this debate on constitutional renewal will not set the one House against the other. I hope that it will not force one House to imitate or to compete with the other. I hope that we can recognise our distinctiveness and not be afraid of having two Houses of different character within the one Parliament.

12.38 pm

Lord Maclean of Rogart: My Lords, it is a privilege to follow the right reverend Prelate and then to discover that I am to be followed by another right reverend Prelate. A circle of sanctity is being put around my presence here. I express appreciation to my noble friend for the timeliness of this debate. I very much agree with his sentiments. Consequently, I will not need to repeat every word that he said. I broadly accept the thrust of his arguments, but I should like to draw attention to some other general questions.

In some quarters, notably in government circles, there has been a propensity to say that we are faced with such crises of management, in relation to the international financial situation in particular, that we are effectively required to postpone the important issues of constitutional reform with which we are engaged. I resist that argument because to me the financial crisis is at least in part due to bad government. By that, I do not mean bad Ministers so much as a bad system, which has not allowed real debate to take place about some of the issues with which this country has been faced for some time. There was a kind of consensus between the main party of government and the main party of opposition that we should live in a largely deregulated economy. That kind of consensus has contributed to the banking sector’s extraordinary difficulty with billions of pounds being spent by the taxpayer to tackle this situation.

It is not the case that we are living in a fixed constitutional situation. As the noble Lord, Lord Howarth, said, the change is incremental; he appeared to be quite content with that. Some of the changes
[LORD MACLENNAN OF ROGART]

take place quite without deliberation, but they have a significant impact on the way in which we achieve our aims of government. For example, in recent weeks, the Prime Minister decided to parachute into this House from outside three extraordinarily significant Ministers: the noble Lords, Lord Mandelson, Lord Malloch-Brown and Lord Myres. That action was not totally consistent with the expressed intention of reforming this House to make it more electorally accountable.

Furthermore, the establishment of the new ministry under the noble Lord, Lord Mandelson, has translated a number of departments into one with almost half the Ministers—I think, five of the 11 Ministers in this gargantuan department—being Members of this House, which has the consequence of depriving the elected Members of the possibility of directly addressing these people. I make that point not wholly critically but simply to indicate that I believe that the noble Lord, Lord Norton, is right to say that there is a conspicuous lack of coherence of view in addressing these constitutional changes.

I have mentioned the three noble Lords, for each of whom I have the highest admiration, who have become Ministers. The question is not whether they should be here but whether they should be in the Government. If they are bringing things to the Government, another theoretical constitutional issue is raised. Do we need to have these Ministers as Members of either House in order to be Ministers? They certainly could be required by Parliament to come and give an account of themselves. If they are seen to be offering such major contributions, it is worth asking ourselves that question. I am not advocating a policy. I am just trying to illustrate the need for the kind of overall coherence of philosophical approach about which the noble Lord, Lord Norton, spoke.

It seems to me that our incremental approach has serious drawbacks, the main one being that it is not speedy enough to respond to the situations that we are faced with as a nation. For some time, there has been discussion about whether the prerogative powers of the Crown, for example, were appropriate in the modern world. Many people felt that the arrangements for scrutiny and decision-making on the war in Iraq were 18th century at best, which accounted in no small measure for the division of the public over that major, central issue. It cannot be said that what we have is satisfactory or what has been proposed will address that problem. In the constitutional renewal Bill that we considered in the Joint Committee last year, there were proposals for the scrutiny of these decisions to involve the country in armed conflict, but they were so watered down that it was quite clear that Parliament would be given no serious authority over the decision-making of the Government in the event of a national or international emergency that might lead to the commitment of troops.

We have to recognise that we are not the great constitutional thinkers that we have imagined, certainly in respect of ourselves, although we have written remarkably strong constitutions for other people. I think particularly of the Labour Government’s skill in providing a constitution for that great country India and of how well it has lasted, how strongly it has stood up to the ravages of communalism and poverty and how it has been built on.

I do not believe that the Prime Minister’s sympathy for a written constitution, which he expressed in his Statement yesterday, is other than a very wise instinct. However, it cannot be achieved overnight and groundwork needs to be done. If we are going to involve the public, it cannot be done too quickly or just by a group of wise men, as the noble Lord, Lord Armstrong, suggested constitutional reform might best be done. I am not clear that his historical picture of how constitutional change has come about is very accurate. With the greatest respect, it seems to me that the great leaps forward have often come about as a result of a radical movement, which has led to a party riding that wave of reform and delivering.

Certainly, some things can be done without legislation. I do not doubt that it would be possible to make the Select Committees on departmental matters more accountable to Members of Parliament and less to the Whips. That sort of thing could and should be done before the next election. I was glad to see references to this possibility in yesterday’s Statement, but there are other matters involving interaction between the Executive and the two branches of the legislature that cannot be done on the back of an envelope. Consideration is required not only of the composition of the two branches, how they are to become more democratically accountable and how the public are to be involved, but perhaps also of a division of functions. What are their roles? They are not supposed to replicate each other. But if they are both legitimately elected, why should one have a hierarchical superiority to the other? Do we think that we have to stick with the notion of the primacy of the House of Commons, a body that is patently in the Executive’s power and only exceptionally calls the Executive effectively to account? Is it enough to say that, when a general election is held, the Government must govern and therefore may go on doing anything they like for up to five years? That is not the modern appreciation of how a parliamentary system should work. It ought to be much more responsive to minority opinions, taking into consideration points that may not be thought of in advance by the mainstream parties.

These, I admit, are philosophical considerations, but they lead me to the view that certain things that need to be done could be done now. I wholly accept the urgency of doing something about parliamentary expenses and I am not at all unhappy about the fact that this is related in the public mind to the need to restore confidence in Parliament by wider changes. There may be no logical connection, but there is a bubbling debate and it is therefore an apt moment to address some of these questions.

The great risk facing this country is that we will go into a general election with our electoral system unchanged. As my noble friend said, this has produced a Parliament in which no Member enjoys the support of 50 per cent of the electorate. There is a serious need to have an ad hoc arrangement for the next Parliament that would ensure that at least 50 per cent of the voters supported their own Member. That would be a proper
We now have on the table creative proposals from the noble Lord, Lord Tyler, and others—nobody has yet mentioned that. Last Monday, Professor Vernon Bogdanor published his new book, The New British Constitution. With proposals like this, we must have a debate and not suddenly be pushed in one direction. That is not an invitation just to more talk—I take the noble Lord’s point—but to a wider discussion in which his particular and interesting proposals are to be understood. Most people in this country have only just become aware of the depth of the constitutional problem. It is time to let the saucepan simmer a little longer, rather than quickly serving the vegetables half-cooked.

In case anyone should imagine that by criticising the Government I am implicitly supporting one of the other parties, let me be even-handed. I regard with equal suspicion the call for an immediate election, or for PR. These do not address the problems in hand—either the problem of the breakdown of trust in Parliament, or the problem of the constitution. They both assume that if we only voted again, or voted differently, the sun would come out from behind the cloud and everyone in the country would smile again. No—the people I meet day by day in the north-east of England are not eager for an election, and they are not fussed about proportional representation. They want representatives they can trust who will address their real questions and interests. They do not think that another vote, of whatever shape, will achieve that. That is the real problem. It is a problem of legitimacy and accountability. Those are the issues underlying the proposals of the noble Lord, Lord Tyler, and we need to attend to them urgently.

Fine-tuned regulation matters, but the political malaise runs much deeper. We were warned just now about getting too philosophical, but I will say this. The cultural transition sometimes called “postmodernity” has at last washed up on the shores of politics. What does that mean? Our political systems have been relentlessly modernist, wedded to a philosophy of sociocultural progress and evolution; but most people have at last become aware of the depth of the constitutional problem. It is a problem of legitimacy and accountability. Those are the issues underlying the proposals of the noble Lord, Lord Tyler, and we need to attend to them urgently.

12.53 pm

The Lord Bishop of Durham: My Lords, I, too, am grateful to the noble Lord, Lord Tyler, for his timely raising of this subject, in line with the Green Paper of two years ago, the White Paper of last year and his own Bill of March this year, which subsequent surprising events have shown to be—shall we say?—prophetic. I know that my right reverend friend behind me will join in celebrating the fact that the noble Lord who has just spoken is the ham in the episocal sandwich. We hope that the noble Lord enjoys that status while it lasts.

The constitution is far more important than party politics. One might almost propose that party politicians should be kept away from constitutional reform lest it appear that they were rejigging things this way or that for party advantage; whereas the constitution ought to be the framework within which those debates take place, and not itself subject to them. That is the point made by the noble Lord, Lord Tyler, about a citizens’ assembly; though if an appointment to such an assembly were made partly by the Prime Minister, and then under a scheme run by the Secretary of State, it is hard to see how independence would be seen to have been achieved. Most people in this country think that the House of Commons is the citizens’ assembly, and, if that is not working, it is not clear how putting another structure above it would do the trick. One can imagine an infinite regress—perish the thought.

That leads to my first main point. It is alarming that the Prime Minister is using the need to clean up the expenses system as a Trojan horse to smuggle in major constitutional proposals, threatening to force them through in a rush. If even a Government in happier times, with no whiff of scandal or internal division, were suddenly to propose such a package, we would be startled: how much more when this is bound to appear as a diversionary tactic, a displacement activity, a desperate attempt to flail around in the water as the sharks close in? We need constitutional reform, but this is not the way to go about it, and this Government are not the team to do it. If we are to have serious change, it must command massive assent across the country, and the Government are now incapable of achieving that.
that we have gone on too long assuming that voting every few years will ensure those things. It does not and will not—hence the crisis in legitimacy and accountability. These are complex concepts. This is not the moment to explore in detail how they work, and how to create structures within which they can work; but it is because we need that exploration that I hope that the Government will be dissuaded from rash and hasty reform, replete with multiple unintended consequences.

We can at least say this. As the Prime Minister acknowledged yesterday, legitimacy does not arise just from having people vote for you. Legitimacy is also sustained by doing the job and being trusted. Public consent and approval can come through the ballot box, or in other ways. When you do not get the second form of legitimacy, sustained trust, people lose interest in the first, the ballot box. That is why more people vote in “Big Brother” than in general elections. Just as the “celeb” culture is conscripting the monarchy it imitates, so now the “Big Brother” culture is conscripting politics into its spurious and shallow populism.

These rather obvious reflections have an immediate bearing on the key questions that we must address, not least about reform of your Lordships’ House: voting matters, but doing the job matters even more. The belief that only elected Members can have any sort of legitimacy, or that once someone has won a vote it gives them carte blanche to do whatever they like for the next five years, rings extremely hollow when it is precisely some of the elected Members in another place who have brought the system into disrepute. Our whole political system has encouraged career politicians who have never run a farm or a shop or a school or a ship, and who lurch from utopianism, which gets most of them into politics in the first place, to pragmatic power-seeking, which is what they turn to when Utopia fails to arrive on schedule. The suggestion that we should solve our present problems by electing more people like that to replace the widely experienced specialists on these Benches shows how out of touch some people are with the real problems.

Many of the interesting proposals of the noble Lord, Lord Tyler, have to do with accountability, which is obviously needed—let us reform the expenses system et cetera as soon as we possibly can. However, we still hear it repeated, and again from the Prime Minister yesterday, that MPs are accountable to their constituents. Well, they are and they are not: a great many seats are completely safe, and will be even if we redraw boundaries.

Further, the media and party advertisements encourage voters to vote primarily for a party and its leader and only secondarily for the candidate. But the real problem is that if we vote “this lot” out, that will simply mean voting “that lot” in, and for many in the country today, it is the whole lot who are felt to be the problem. You and I know that that is overly simple, but voting, or not voting, for someone every four or five years remains an extremely inexact and inefficient way of holding them to account for a complex and demanding job. We need accountability, but voting twice a decade—even if we made it compulsory as in Australia; now, there is a thought—does not come anywhere near providing it. Greek and Roman democracy used sometimes to put their rulers on trial, sometimes even during, but certainly after, their term of office. The Athenians invented in the fifth century BC an interesting system called ostracism, where you could have a popular vote to banish somebody for 10 years. It occurred to me that one of the forthcoming new Members in your Lordships’ House might be rather interested in that. I can envisage a television programme which would have as its slogan, “You’re ostracised!”

Accountability needs to be built back into the system. The House of Commons needs to return to real debates and real holding of the Government to account. Perhaps we need a Government appointed outside Parliament, as in America—as the noble Lord, Lord Howarth of Newport, indicated, and the noble Lord, Lord Maclennan, also suggested. That is at least worth discussing. Certainly, the present system, with up to 100 MPs in ministerial roles and another 100 eagerly awaiting their chance, has eliminated the debating and accounting role of the Commons and reduced MPs to constituency activists who rubber-stamp the Executive’s decrees instead of holding them up to the light of serious discussion. We need in turn a strong House of Lords that will hold the Commons to account, which we will not get by voting in another few hundred party-whipped career politicians. As I said yesterday, be careful before you chop down your ancient trees. Political top-soil erodes faster than you might think. We may need some kind of outside, non-parliamentary body or figure, such as the Prime Minister is proposing, or perhaps the kind of independent Attorney-General favoured by the noble Lord, Lord Tyler in his Bill. But how such a person would be appointed if the office is to be free from the taint of special party pleading and how such an office is to be held to account are difficult matters requiring careful consideration. I do not see that that has yet been addressed, far less resolved.

In and through it all, we are in the business of doing justice and loving mercy. You do not achieve those either by issuing more regulations or by tinkering with the structures; you get them by humble service. “Do justice”, says the prophet Micah, “love mercy, and walk humbly with your God”. That last does not simply superimpose an old-fashioned personal piety on the practicalities. It closes the gap, the gap between freedom and order, between justice and mercy, between responsibility and trust, and between utopianism and pragmatic power-seeking. Whether or not you believe in God, the acknowledgment that we are only stewards of something greater than ourselves, as the noble Lord, Lord Howarth, said—is absolutely necessary to keep the system in balance, to foster and sustain the real legitimacy and the true accountability that we lack. Without that, we shall lurch from one sort of tyranny to another and one sort of chaos to another—we have a bit of both at the moment—even if, perhaps especially if, people keep voting from time to time and so imagine that they belong to a participatory democracy while the inward meaning has been lost.

These are only short notes towards the much fuller discussion that we should have, but I hope that they point towards that fuller discussion and warn against blundering ahead with ill-considered proposals on the one hand or an ill-timed election that will not solve the
underlying problems on the other. We have a chance in the next few years to engage creatively and constructively with the issues which the noble Lord, Lord Tyler, and others have outlined. Let us not squander that opportunity by being bounced into giving wrong answers to wrong questions. There are right questions out there, and we on these Benches want to work with the whole House and the country at large to find the right answers. As I said in your Lordships’ House a couple of years ago, it looks as though constitutional change has been done on a wing and a prayer. We on these Benches are very happy to supply the prayer, but we want to be assured of the quality of the wing.

1.06 pm

Lord Desai: My Lords, they say in Hollywood that you should never act with children or animals. The rule here is: never follow a right reverend Prelate.

I congratulate the noble Lord, Lord Tyler, on getting a sort of Second Reading on his Bill without actually having a Second Reading. As the noble Lord, Lord Armstrong, said, while it is not as bad as the Coroners and Justice Bill, it is a sort of portmanteau for lots of things and meanders all over the place—our Civil Service, the Attorney-General, treaties and conflicts and various other things. I should like to concentrate on what is more urgent now—one reason for congratulating the noble Lord is the timeliness of this debate.

When you talk about House of Lords or constitutional reform, people say, “It doesn’t interest anybody in the Dog and Duck”. This is one occasion on which the people in the Dog and Duck are interested in the constitution. While their attention will not last for very long, because the football season will no doubt resume, it is important to seize the initiative and put forward some proposals which command attention and debate. We can then take away people’s reactions and work further on it. This is why I congratulate the Government on their Statement yesterday. People ask, “Why now? Why is it so broad-ranging?”. But let us seize the moment.

We have suggestions for parliamentary, electoral and constitutional reform. It is important not to mix them up, because they will require things to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot. It is urgent that we fix the expenses structure in another place, but that is their business. I am sure that something will have to be done at different speeds. You cannot do them all at one speed and without thinking quite a lot.
unless the House of Lords throws a tantrum. If we are going to have a written constitution, we must make quite sure that we do not take away from Parliament the power rapidly to change the constitution. The obstacles that we place in the way of the Parliament to alter the constitution should be well thought-out, because we do not want to find ourselves in the situation where we cannot amend the constitution.

The noble Lord, Lord Maclennan, mentioned the Indian constitution. It is interesting that the Constituent Assembly of India deliberated over two and a half years to frame the constitution, which derived somewhat from the Westminster model. Over the years, it has evolved; one very good innovation that it has, which we should perhaps adopt, is that Members of one House are allowed to be present in another House when as Ministers they have to answer questions. While the present Prime Minister is in the upper House and not elected, or is only indirectly elected, he can answer questions in the lower House and speak in debates. There is no reason why we should not do that. The ancient prejudices about the Commons and Lords not being on the same turf is entirely obsolete now. There is no reason why we should not have people going back and forth and performing ministerial functions—in which case, if we had an elected House of Lords, the Prime Minister would not be able to parachute competent people to be Ministers here but would have people over there to send across. That would be something to think about as and when we amend the constitution.

What we have here is a great opportunity to do something fairly quickly—for example, with the parliamentary expenses. Then we can have long discussions about PR and about what is in the Jenkins report, or something of that sort, which could be agreed on either in a referendum or by the next Government. I do not think that you could immediately alter from our present position to PR in the next nine months; I do not think that you could immediately alter from the Westminster model. Over the years, it has evolved; one very good innovation that it has, which we should perhaps adopt, is that Members of one House are allowed to be present in another House when as Ministers they have to answer questions. While the present Prime Minister is in the upper House and not elected, or is only indirectly elected, he can answer questions in the lower House and speak in debates. There is no reason why we should not do that. The ancient prejudices about the Commons and Lords not being on the same turf is entirely obsolete now. There is no reason why we should not have people going back and forth and performing ministerial functions—in which case, if we had an elected House of Lords, the Prime Minister would not be able to parachute competent people to be Ministers here but would have people over there to send across. That would be something to think about as and when we amend the constitution.

The larger reform of the constitution will take much longer, and we should have a game plan or road map to tell us, over the next 10 years or so, that we shall approach in a different way from short-term measures, such as those for dealing with MPs’ expenses.

On the noble Lord’s Bill and the Iraq war, we should acknowledge that this Government initiated a vote in the House of Commons on the Prime Minister’s power to declare war. I am in the unusual role here of defending this Government, but they have over the past 10 years done a number of very good constitutional things, with the Human Rights Act. The reform of the Supreme Court has been established and a lot of devolution has taken place. It is not as if the Government had been idle about constitutional reform. Your Lordships’ House has been reformed, may be not fully but partially. There have been good reforms. Because people do not like what happened in the Iraq war, they miss the point that there was still a constitutional innovation. You cannot say, “Get me a constitutional innovation that will not only give the House of Commons the power to decide about the war but get us a war that everybody would like”. That is not possible. No electoral or constitutional system will guarantee you both. What you can have is the House of Commons giving the Prime Minister the power to launch the war; you cannot actually guarantee that a Prime Minister’s evidence or statements will always, in retrospect, be found to be as desirable as people would like. Hindsight is a great thing, but you cannot constitutionally guarantee it beforehand.

Finally, we have an opportunity to get people's attention. While we have that attention, it is our task to have a road map. If we have to consult citizens, let us not have an Assembly, but use the internet and let everyone contribute to the constitution debate. If we do not want Parliament to do so, some independent think tank such as the Constitution Unit can be put in charge of gathering people's opinion. If we can do that we will have people participating in a process in the broadest manner possible.

1.20 pm

Lord Lester of Herne Hill: My Lords, even my sternest critics would agree that I am in favour of constitutional reform. Having said that, I agree with those noble Lords spiritual and temporal who have said today: “Fools rush in where angels fear to tread”.

I agree with all those who have said one way or another that constitutional reform of a structural and institutional kind cannot be rushed and therefore needs to be approached in a different way from short-term measures, such as those for dealing with MPs’ expenses.

I do not agree with those noble Lords—the noble Lord, Lord Armstrong, will forgive me for mentioning him in particular—who believe that the English constitution as laid down by the Victorians and extolled by Bagehot and Dicey is a thing of great wonderment that does not require further serious reform. We often forget what a peculiar constitution we have. In his new book The New British Constitution, to which the right reverend Prelate referred—I believe it to be a first-class answer to some of the points that the noble Lord, Lord Norton of Louth, made about the lack of coherent principles—Vernon Bogdanor points out what a peculiar constitution we have. Why is it so peculiar? Because in the democratic world we are the only country, with the possible exception of New Zealand, that has an absolute and sovereign Parliament, according to the dogma of parliamentary supremacy.

Whenever I ask law students about the legal source for that doctrine, they never know the answer. I will not embarrass anyone today by taking the question. We are in a peculiar position because the only constraints on the absolute sovereign Parliament are the constraints that come from membership of the European Union and adherence to the European Convention on Human Rights. In other words, European standards have to come in to rescue inadequacies in our constitution in restraining the abuses of power by Parliament as well as by the Executive.

The only branch of government that has seriously addressed that problem in my lifetime has been the judicial branch, which since 1976, by developing common-law principles of public law, administrative law and judicial review, has made great strides—owing to the
laziness of the other two branches of government in dealing with this—to restrain the misuse of public powers. I commend the judicial branch for what it has done in the absence of proper work, as I say, either by the executive branch or by the legislative branch, in codifying principles of public law.

The tide for constitutional reforms undertaken by this Government came in in 1997. Tony Blair's new Labour Government, with their large majority—too large a majority, as it turned out—had debated and negotiated carefully in opposition with the Liberal Democrats under the Cook-Maclennan framework, in which my noble friends Lord McNally and Lord Maclennan and I took part, a package of reforms, including the Human Rights Act, the Freedom of Information Act, removing the hereditary element from the House of Lords, moving towards what became the Constitutional Reform Act on the appointment of judges, and so on. That was worked out in opposition, in a sensible way, and it was translated in the main into reforms while the tide for reform was in.

However, it was a botched job in some important respects. The way in which the removal of the hereditary element was handled, with a secret deal that broke promises to the Liberal Democrats, was not satisfactory. It has retained the anomaly of hereditary Peers who are here only because that was the pragmatic thing to do in getting through that reform. I say nothing about whether we should have an elected or partially elected Chamber; I am simply talking about removing the hereditary element.

On the Freedom of Information Act, as my noble friend Lord McNally in particular will remember, we were put under huge pressure. We were told, just before an election, that we would lose the Act altogether if we did not agree to unnecessary exceptions and qualifications being written into it. We caved in and were much criticised for being pragmatic in getting that Bill through. In terms of devolution, we have moved towards a quasi-federal system of asymmetrical government in which I think there are still problems.

The prerogative is another odd thing about our constitution. Ministers are clothed in monarchical powers. Their prerogative powers—their executive powers—derived not from Parliament but from the medieval monarch and, now, from the Queen. That does not happen in any other country with which I am familiar. All Commonwealth countries, common-law countries and European civil law countries have codified systems that make their legislature or their constitution the source of the powers exercised by Ministers.

The prerogative has some undesirable effects. The first of these, which I mention because no one else will have heard of it except possibly the Minister, is the Ram doctrine, propounded by Sir Granville Ram—a great Trollopian name—after the Second World War. The doctrine is that Ministers and government departments can do whatever they like as though they are private persons unless Parliament has said to the contrary through legislation. I came across this when I discovered that the Cabinet Office, some years ago, was suggesting that, on the basis of the Ram doctrine, data could be transmitted from one department to the other with no legislative or other standards whatever. Just as I could pass something to my noble friend Lord Maclennan as one private person to another, so government departments could pass information affecting the subject in the same way. It is absurd that the Ram doctrine was seriously being used in the Cabinet Office and beyond.

Another, much more scandalous example was what happened to the Chagos islanders—those dispossessed people who were removed from their homeland and dumped in the Seychelles and Mauritius on the theory that the Queen can do no wrong in the colonies. When the courts said that that was a gross abuse of power, Mr Blair, the Prime Minister, and Mr Straw, the Foreign Secretary, did not clothe themselves in primary legislation but overturned the courts' judgments using prerogative powers. In my view, that was a disgrace, but a disgrace about which our constitution had nothing to say. Regulating the prerogative and transferring the source of prerogative powers, which we need, from the monarch to Parliament are a necessary part of constitutional reform.

All that was when the tide came in, as I said, in 1997. I commend the Government for the way in which they carried out what constitutional reforms they did. When Gordon Brown became Prime Minister, the tide came in again briefly. It looked as though on the basis of the Governance of Britain Green Paper we could have a second and more profound reform. I willingly accepted becoming the unpaid independent adviser to Mr Straw and Mr Wills in the Ministry of Justice because I really thought that there was the political will to carry out those reforms. I was most impressed by the high standard of work done by the civil servants engaged on the constitutional renewal Bill. However, I was disappointed that, whenever Ministers had to make choices, they always chose the lowest common denominator of agreement across departments, never the highest common factor. Therefore, when I left the department—resigning on the basis that I was serving no value to it and wasting its time, because we did not really agree—there was a constitutional renewal Bill that could have been published the next day.

That was eight months ago. The Bill would have been weak, but it could have been published and I do not know why it has not been since. I have heard no good reason. I am sorry that it has not happened, particularly given the Civil Service reform that the Bill contains. Noble Lords such as the noble Lord, Lord Sheldon, and I have been pressing for that for years and years. The Cabinet Secretary did an admirable job, in my view, in producing perfectly sensible arrangements within the Bill. It still has not happened, the Bill still has not been published and we are getting near the Recess. I simply do not understand why that is so.

On the human rights side, I have some slightly unfriendly words about the position of the Opposition. So far as the Government are concerned, we have the Human Rights Act, for which I campaigned. It is a good thing. It has worked with judges and lawyers, but it has not worked with the wider public, partly because it has been blamed by Ministers for their own default, partly because the media do not like a right of privacy that they think comes from the Human Rights Act.
[Lord Lester of Herne Hill]
and partly because the Act—unlike a normal, constitutional Bill of Rights and freedoms—derives from a European treaty, not a domestic legal order.

We ask a very odd question in this country. In the rest of the democratic world, people say, “Does this misuse of power violate the charter of rights and freedoms?” We do not. We say, “Does it violate a convention right?” In looking at the abuse of powers, the ordinary woman or man in the street finds that an unattractive question to be answered. The Government were mistaken in trying to deal with the unpopularity of the Human Rights Act by cobbled another suggestion side by side—a Bill of Rights and responsibilities that created no new rights and no new responsibilities. I regard that as farcical and am sorry that so much time was wasted on it.

I am afraid that I also find the statements made again and again by David Cameron—that he will tear up the Human Rights Act if and when the Conservatives win power—to be a dismal response. I believe that the Irish will vote yes to the Lisbon treaty. If the Conservatives then win, they will be looking for bones to throw to their Euro-sceptic right-wing and they might believe that tearing up the Human Rights Act is politically attractive.

That really would be a stupid thing to do. Why? Because we need effective remedies in this country, in British courts, for violations of our fundamental rights and freedoms. The more you tamper with the Human Rights Act as its stands and weaken the remedies that British courts can provide, the more you lead to our having to go to Strasbourg and a European Court of Human Rights that already has 100,000 pending cases. I do not believe that politically, legally or sensibly it is other than constitutionally illiterate—to use Ken Clarke’s moderate language—to think of tearing up the Human Rights Act and weakening the effective remedies that we already have. Those remedies are quite moderate. They do not allow the courts to strike down Acts of Parliament; they allow the Executive a breathing space in giving effect to the judgments. We have won great respect in the European Court of Human Rights through the jurisprudence fashioned by our courts, which makes the British legal influence in Strasbourg much stronger now than that of any other European state.

I can only hope that sensible people such as Dominic Grieve QC MP, who will have responsibility for this if the Conservatives win power, will drop the idea of scrapping the Human Rights Act and weakening our effective remedies. I hope that they will instead move toward a charter of rights and freedoms, protecting fundamental law and the citizen against the misuse of power. None of that can, I am afraid, be done by this Government; the tide has now gone out for that kind of thing. We will have to hope that, after the next election, we will get towards the written constitution that other countries have and we deserve.

1.35 pm

Lord Grocott: My Lords, I am in awe of the psychic powers of the noble Lord, Lord Tyler, who was able to put down a Motion that is being debated the day after the Government made a Statement on the same subject. Obviously, it could not have come at a better time. Perhaps he can put his skills to the service of us all by giving us advance notice of government statements in future. I shall use my time to make three general and two specific points about constitutional reform. It will not surprise the House to know that the two specific ones relate to electoral and to Lords reform.

My general points are the framework within which I would look at proposals for constitutional reform, and a number of speakers have touched upon them already. The first for me, and in many ways perhaps the most urgent, is that on this, of all subjects, we must move in step with the public. It is no use conjuring schemes for constitutional reform that bear no relation whatever to the issues that interest the public. We suffer from the same condition as any institution that I have ever had anything to do with, in that we are much more interested in talking among ourselves about ourselves than we necessarily are in talking about our responsibilities outside the structure of our own institution.

There is a very good and simple illustration of that in today’s proceedings of the House. There are two debates down for discussion; this one, on constitutional renewal, and another on, “the quality and cost of public transport and the level of crime”. Does it surprise anyone that there are twice as many people down to speak on this debate as on the other? If we asked the people outside this House which of those two subjects they think should attract the most attention—and to which we should devote the most time—the House which there would be absolutely no doubt whatever about the response. It would be the latter.

We know that from opinion polls. I am wary of them, but I checked a fairly regular MORI poll that comes out on the issues that concern the British public, which they list in order of the subjects that the public raised in a poll of 1,000 people. Again, there were no surprises there: 59 per cent raised the economy, 30 per cent raised race relations and related matters of immigration and asylum, 30 per cent crime and law and order, and 20 per cent unemployment, factory closures and lack of industry. The only point at which any reference that could in any way be considered as constitutional reform comes is 26th on the list, at 1 per cent—just behind bird flu. Now, that should be a sobering thought to us when we debate these issues. I am not saying that we can never do anything that the public are not demanding instantly, but it should put these discussions into perspective.

On the same subject, salutary lessons come from the European Union which, time and again, seems to spend far more time talking about its structures and modes of operations than in dealing with the issues that the people in Europe seem to want it to discuss. I am very wary, then, when there is a disconnect between the things that we are discussing and those which people in this country think are important.

I will give one last bit of evidence on this particular theme. It is well known to anyone who has been a Member of Parliament that there are a number of occasions when, during the week, both Houses are debating particular issues that seem to be of monumental significance when you are taking part in them. You
discuss them with colleagues then go home at the weekend where you do your advice bureaux, go to schools and factories and you find that people there are raising issues totally unconnected with the things that you thought were so important during the week.

That is a salutary lesson. This is addressed perhaps more to the Conservative Front Bench than anywhere else, but because of the fundamental importance of the link between politicians and the public—the link between the individual Member of Parliament and the public—I am sceptical about suggestions for reducing the number of MPs. It is a nice little headline, but I do not see how you enrich our democracy and get closer contact between people and MPs in Parliament by reducing the number of MPs, and I am not so sure that it would be so popular if suggested in individual parts of the country. We must keep in touch with the public.

The second thing that I want to say at a general level, and it might sound rather conservative, is that I am not one of those who take the view that the British system of government and our constitution is something that we should be ashamed of or is beyond repair. I do not think there is any serious evidence for that. There are numerous things that need to be done and I am happy to participate in them, but does it sound too much like “Land of Hope and Glory” to say that ours is a constitutional system that has been copied, usually in the Commonwealth, by many other countries in the world and has operated successfully in many other countries? For all the day-to-day complaints, on any international comparison we are one of the freest countries in the world for freedom of expression and we have one of the easiest mechanisms of access to the people in power—through our MPs returning each weekend to constituents and connecting them to the Government.

There is a level of intimacy and access in our country which we should be proud of and we should cherish. I have come across that in my own experience on a number of occasions. When you talk to parliamentarians abroad, they are amazed at the extent to which the lives of MPs in this country are dominated—quite rightly—by the needs of their constituents. MPs need to ensure that meetings are held regularly in the constituency. We must keep in touch with the parts of the country. We must keep in touch with the public.

My third general principle is this: in all aspects of constitutional reform, and this is certainly true of Lords reform, we should beware of what the right reverend Prelate referred to—the law of unintended consequences. That applies to Lords reform. I find it difficult to take seriously the argument that you can have a massive change in the way that this House operates that has no real significance in relation to the rest of the constitution. Perhaps this is mildly insulting to this House, but my concern throughout with Lords reform has had less to do with the effect on this House than on the whole of the constitution, particularly in the way that it would inevitably diminish the power and authority of the House of Commons. Coupled with that, any change in this House would look to the relationship between the two Houses. I would be very wary of any system that led to adjudications between the two Houses being made by the courts or that kind of development. Those are the things that concern me most and the framework within which we should view constitutional reform.

I now come to the two specifics, and one of those may not be supported by colleagues and friends of mine in the Liberal Democrat Party, although others may be more sympathetic—the issue of voting reform. Perhaps the noble Lord, Lord McNally, will remedy this when he comes to speak, but we have had three Liberal speakers so far and not one of them has referred in any size, shape or form and certainly not with any real acclamation to the one real example we have of proportional representation in this country—elections to the European Parliament. That is from a party that is passionate about proportional representation. That is a system that is already in existence.

I do not like proportional representation. The noble Lord, Lord Tyler, suggested that self-interest motivated all the actions on this issue of the two big parties, as he described them. I can only plead in mitigation that I have had the same view throughout my political life. Within the Labour Party, it has sometimes been very popular to advocate electoral reform, and at other times less so, but that has always been my view. The noble Lord needs to acknowledge that when the Liberal Party advocates electoral reform, it could be argued that it is not entirely without party self-interest being somewhere in the background. As far as I know, the various mechanisms that are recommended would all probably result in increased representation for the Liberal Party. There are elements of self-interest, but we should not dismiss arguments on the basis of whether they are self-interested or not.

What makes me so worried about the prospect of electoral reform, certainly for the House of Commons, is the fact that it destroys the link, which is fundamental to our democracy, between a Member of Parliament and the constituency. I know that I will be told that there are lots of other forms of electoral reform. That is why it is such a difficult argument to have from my perspective. If you say that a system is wrong it is like saying that the wrong kind of leaves are on the line and that there are lots of alternatives to deal with the various problems. But we should be honest. As far as Europe is concerned, the system there has not delivered on some of the things that its proponents said that it would. I had these arguments long before the European PR system was introduced, but we were told that electoral reform would increase voter interest and turnout because it would liberate all the Conservatives in the north-east and all the Labour voters in the south-east who never had any possibility of representation. That is why it is such a difficult argument to have from my perspective. If you say that a system is wrong it is like saying that the wrong kind of leaves are on the line and that there are lots of alternatives to deal with the various problems. But we should be honest. As far as Europe is concerned, the system there has not delivered on some of the things that its proponents said that it would. I had these arguments long before the European PR system was introduced, but we were told that electoral reform would increase voter interest and turnout because it would liberate all the Conservatives in the north-east and all the Labour voters in the south-east who never had any possibility of representation under first-past-the-post. There is no shred of evidence for that. The turnout at European elections has certainly not improved since we moved from first-past-the-post to proportional representation.

Without going into any further detail, if we are to have a debate on electoral reform, please let us have it with our eyes wide open and include in it an honest appraisal of whether the system as it exists for the European elections has been a success. I am well aware that there were many criticisms at the time, and that it
was my Government, a Labour Government, who introduced the system, which came as a result of a manifesto commitment. But let us compare like with like—systems actually in operation with other systems in operation—and see what conclusion we come to.

Lord Grocott: My Lords, I have to say to the noble Lord, Lord Lester, that I feel very strongly that there comes a point when a system has to be defended. You cannot have an argument or a debate where people like me who favour first-past-the-post are defending a system that is well known, and tried and all its faults are known—I acknowledge its faults—and the other side of the argument is saying, “Well it’s not that system. It’s this other system”, and somehow there is a perfect system. It is wishful thinking to think that there is a perfect electoral system. The minimum should be the least bad electoral system.

The other specific point is Lords reform. This House owes the noble Lord, Lord Steel, a debt of gratitude for his work with his Bill on Lords reform. It is a model Bill that deals with two or three specific problems—the point of the noble Lord, Lord Armstrong. It is short and can be picked up by noble friend Lord Bach and incorporated in full into the constitutional renewal Bill just like that. It has an enormous amount to recommend it.

We should all welcome the opportunity to take part in what is a never-ending process of trying to improve our constitutional arrangements. Our constitution is not broken beyond repair. We do not need a clean sheet of paper. We need to identify improvements as and when we see them. I am happy to take part in that debate and hope we approach further discussions of this sort with that kind of framework in mind.

1.51 pm

Lord Wallace of Saltaire: My Lords, I take that view. When the local church is also becoming the local Post Office and local shop, there is much we have to thank the church for and I strongly support that.

I felt puzzled as I listened to some of the earlier speeches. The speech of the noble Lord, Lord Howarth, could have been made about political reform in 1831—and probably was—with its Burkeian approach to politics: slow growth, deep conservatism, not sure whether the French Revolution was a good idea and opposed to the guillotine. The noble Lord at least recognised that the Liberals had been interested in reform for “a considerable number of years”. I remind him that it is 150 years, with an interest in Lords reform for 98 years so far. We are not wishing to push things too fast, just a little faster than we thought when we first met in the 1850s to talk about a party based on peace, retrenchment and reform.

The noble Lord, Lord Norton of Louth, calls for a commission on the constitution and that really took me back. You will find in Volume 9 of the collected papers of the Kilbrandon commission on the constitution, which met between 1969 and 1973, a memorandum which I wrote as a young academic. It is just next to the memorandum on the constitutional relationship between the United Kingdom and the Crown dependencies, which the noble Lord, Lord Bach, knows well. It is the only thing on the subject. As he has said to a Commons committee, it still leaves the relationship deeply ambiguous so that we do not quite know where we are on that. I recall, in the middle of that commission, my wife and I being invited into the Treasury to talk to the constitution unit then headed by Sir Michael Quinlan, whose requiem mass, sadly, I shall be attending like that. I was struck that the English Democrat elected as Mayor of Doncaster ran on an actively anti-political platform. He happens to be the father of my local Conservative MP in Shipley, so I know something of him. His first action is to propose to cut in half the number of elected councillors for Doncaster. We are facing an anti-political and potentially anti-democratic mood. We have to respond in those terms.

We also need to recognise that this is not just a British problem. There is to some extent a collapse of trust in the political elite across the whole of Europe. We are in a slightly happier position than Italy, at least in national politics. In Italy, the level of trust in local politics and your city remains high. Part of what has gone wrong in Britain is that we have destroyed local representation and trust in local politics. We are faced with a much weaker position than some of those in other European countries. Again I am struck that the one country in Europe where the crisis of politics seems to be least acute is Germany, where church-going, the small town and small company remain strongest and the local bank still remains. These are all the things we have lost and are going to find hard to regain.
next week. We spent a morning discussing whether it was possible to conceive of devolving financial responsibility from the Treasury to any devolved level of government. Treasury officials simply could not imagine that you could do this. The world has not changed at all in this respect.

The noble Lord, Lord Grocott, said that the one real example of proportional representation in this country is for the European Parliament. In the United Kingdom, we have a different system of election in Northern Ireland, in Scotland, for Scottish local government and in London. I have even voted in the London elections. Last week, Alex Salmond splendidly talked about the advantages of a minority government through a different electoral system which, he pointed out, has to negotiate with its opposition parties and has to persuade, not bully, bluster and force things through. I understood the noble Lord, Lord Howarth, as being strongly in favour of government that can force things through and does not have to negotiate or persuade. That for me, and others, is part of what is wrong.

I want to talk about four particular aspects of the British crisis: first, the executive dominance of Parliament; secondly, the central dominance of politics in Britain; thirdly, the whole new Labour project of government as delivery rather than dialogue and participation; and fourthly, the style of government we have. By “style” I mean action through initiative, the search for the daily headline, that Ministers must issue new instructions on almost everything and the whole destructive relationship between Westminster-obsessed media and centralised government. I agree with the noble Lord, Lord Howarth, on one thing: we need also to talk about the rights and responsibilities of the media and perhaps subject their pay and expenses to the same level of transparency to which they wish to subject ours. I would also quite like to subject their contributions to the British tax revenue base to similar scrutiny: the Barclay brothers operating out of Sark; Lord Rothermere claiming to be a non-domiciled person; and the News Corporation operating out of Bermuda.

The question of executive dominance of Parliament is clear to all of us. If we do not reduce the number of Ministers and abolish the unnecessary position of a Parliamentary Private Secretary, we will not regain a worthwhile Parliament and House of Commons. I did a quick count this morning of the number of Ministers in particular departments. The department of the noble Lord, Lord Mandelson, now has 11 Ministers. Putting the Ministry of Justice and the Home Office together—they were after all one department—there are now 12 Ministers. The Lord Chancellor’s Department used to have two Ministers and in those days the Home Office had five Ministers. It has grown. The Department of Carpets and Soft Furnishing—I mean, the Department for Children, Schools and Families—has seven Ministers, as does the FCO. The Department for Communities and Local Government has six. All of them are concerned to tell local authorities and schools what to do in their own particular ways. We could reduce the number of Ministers quite substantially, partly by devolving our autonomy back to local government. We have more Ministers than any other Government in Europe by a large margin.

Central dominance, with a stream of instructions, targets, demands for information and measurement is part of what has gone wrong with the whole basis of government in Britain. There has been a long-term trend, from the distrust of local government that Mrs Thatcher had to the distrust of local government that the Blair Government had—which is, after all, new Labour’s distrust of old Labour, with all of those corrupt local councils scattered over the north of England. We have all these national schemes interfering in what used to be local autonomy, such as academies and building schools for the future.

I note that Michael Gove, as the shadow Minister for education, made a speech in Bradford the other week saying that he would impose faith schools throughout the country. From Bradford’s point of view, the imposition of separate faith schools across West Yorkshire and east Lancashire is not the sort of thing that an MP from Surrey should think about terribly easily without understanding the difference of our local circumstances. To noble Lords who talk about the postcode lottery, I say that we are a diverse country. We do not have the same standards of services throughout the country; that is part of the myth of the postcode lottery. We should be delivering services in a different way and accepting that local circumstances are different.

The reinvigoration of local democracy is part of the key to regaining public trust. It is where most people interact with government and where they now find that they are facing distant offices and appointed quangos. The noble Lord, Lord Grocott, defends the role of the MP in his constituency. That is partly because the MP has in many ways displaced what used to be local government. One of my party’s MPs was telling me that half of the issues that come to his surgery are really local council matters. That is because we now have wards of 15,000 to 20,000 electors for most local representatives. We are the only developed democracy where local representation has been so weakened and has so little fiscal and financial autonomy.

What do I mean by “delivery rather than dialogue”? The whole new Labour project, in which delivery is what counts and the citizen is a customer and consumer—with public-choice economics, the new public sector management, the private finance initiative and large numbers of outside consultants brought in—has delivered public services that are seen by those who receive them as distant and ineffective. There are deep cost inefficiencies to this approach and huge contradictions between the Government’s citizenship agenda, which talks of active citizens and involvement, and a public service delivery system which is done through regionally delivered contracts and outside consultants which therefore have no form of accountability at local level. I have listened to Hazel Blears twice in the past year on how to produce active citizenship. I did not understand her on either occasion.

Constitutional renewal is not just about Westminster; it is about the whole relationship between government and citizens. It is about a different approach to government. That is one reason why the simple election of a new Conservative Government—a sort of “Blair II”, after new Labour—will not provide even the beginnings of any answer and, indeed, threatens only
[Lord Wallace of Saltaire] to lead to yet another cycle of popular disillusion. What we need is public services delivered more locally and more diversely. We need a leaner central government, a more independent Parliament and certainly a livelier, multi-level local democracy.

I am pleased and honoured that my party has asked me to chair a working group on how we provide local democracy; we will be working over the next six months. I look forward to seeing the Conservatives defining what they mean by “reinvigorating local democracy”. I have read a number of their papers on this and I do not understand them any more than I understand Hazel Blears. I note that the Prime Minister yesterday talked about the reinvigoration of local democracy but, again, there was no content.

This is part of an approach to government in which we must start from the recognition that Westminster has lost public trust and must devolve authority back to the people through local democracy as well as cleaning up its own act.

2.05 pm

Lord McNally: My Lords, as always, it is a pleasure to follow my noble friend Lord Wallace, whose speech was, as usual, well researched, incisive and amusing. I also pay tribute to my noble friend Lord Tyler for bringing forward this debate on the back of a “Constitutional Renewal (No. 1) Bill”. My noble friend has been one of those who have, as the Americans say, stretched across the aisle to try to find consensus on constitutional reform. This debate is all the better for that. I take pride in these Benches and the contributions that we have heard from my noble friends Lord Maclellan and Lord Lester in their tradition of a long commitment to constitutional reform. To that tradition we could add the names of my noble friends Lady Williams, Lord Ashdown and Lord Goodhart. I accept that some aspects of constitutional reform would be in the self-interest of the Liberal Democrats, but anybody looking at the record reasonably would say that our consistency goes beyond self-interest.

I also welcome today the presence of the noble Lord, Lord Strathclyde. I am not going to tease him for this. I really appreciate that he should take part in a Liberal Democrat day to speak to the House: I hope that it will not be for the length of time he took in our last debate, on my noble friend Lord Steel's Bill, which was two minutes under an hour. Nevertheless, it is important in the last year of a Parliament that we hear the authoritative voice of the Conservative Party on these matters. It would be depressing if we thought that the idea of constitutional reform would simply hit the buffers if there was a change of Government. As my noble friend Lord Lester has asked for clarification about the Human Rights Act, I also ask whether Lords reform is indeed a third-term priority for a Conservative Government. As the late John Junor used to say in the Sunday Express, “I think we should be told”. I look forward to the speech of the noble Lord, Lord Strathclyde, with more than my usual, ever-present interest.

On the philosophy, I notice that this year’s Reith Lectures are by Professor Michael Sandel, professor of government at Harvard University. He is addressing many of these topics. As many speakers have said, these issues are not just UK-located. I shall listen to and read those lectures with great interest.

Like the noble Lord, Lord Desai, I believe that we should seize the moment. That is why, with all due respect to the noble Lord, Lord Armstrong, the right reverend Prelates and others who have advised caution, it is almost breathtaking when we think of the amount of study, work, discussion and debate that has gone on about constitutional reform to claim that it has all suddenly come upon us as a shock and that we should look at it slowly and carefully.

It was mentioned that I sat on the Cook-Maclennan Labour/Liberal Democrat committee before the 1997 election. The reason both the Labour Party and the Liberal Democrats wanted to look at the constitution in 1996 was that we saw the linkage between what we saw as underperformance in all aspects of our society and the way in which we were governed. That is why the Cook-Maclennan committee was set up and why, when a Labour Government came in 1997, they were ready to bring forward a whole raft of constitutional reforms that I suspect will stand the test of time and will not be reversed by any incoming Government.

In fact, this Government’s record is divided into two parts. Between 1997 and 2001, they relied heavily on the Cook-Maclennan report and carried through a lot of worthwhile constitutional reforms, but then—I have got to say with some regret—constitutional reform was handed over to the noble and learned Lord, Lord Falconer, Mr John Prescott and Mr Jack Straw. Then evidence of the back of the envelope and party short-term advantage came into constitutional reform.

We on these Benches make no apology for using this day for again rehearsing the need for urgency. It is the Government’s decade of inaction and neglect which has resulted in a massive crisis of public confidence in Parliament itself. This brings with it a second danger, namely that a Government addicted to the quick fix, spin and the need to appease the 24/7 news cycle will adopt solutions to these problems which will weaken and undermine our parliamentary democracy. I said in an earlier debate that the foundations of this institution run deep and the walls are strong. That does not mean they cannot be fatally undermined by too readily ceding power to outside bodies and unelected quangos. I say to my noble friend that I suspect trying to solve the problems by extra-parliamentary appointments is extremely dangerous. Citizens’ assemblies may have an attraction, but I think it was the right reverend Prelate the Bishop of Durham who said that the way he was brought up was that the citizens’ assembly is down the corridor in the House of Commons.

The aim of reform must be to strengthen our democracy and make it more accountable to the people, and as has been said so often, enable it to keep our overly powerful Executive in check. The constitutional reform Bill that my noble friend Lord Tyler has brought forward is intended to set the bar for Jack Straw’s long-promised Bill. I have known Mr Straw for more than 40 years since our days as student politicians, and it gives me great sadness to say that his political epitaph will be that one of the most radical student leaders of his generation has evolved into one of the
most conservative of constitutional reformers. My noble friend Lord Lester mentioned how the Freedom of Information Act came into being, and we did make a deal in wash-up under threat. I was told then quite specifically that Mr Jack Straw in particular would remove the Freedom of Information Act entirely if we did not make the concessions that we did.

Lord Lea of Crondall: My Lords, I am most grateful to the noble Lord for giving way, but is not the assessment of Mr Jack Straw’s career one that could be looked at exactly the other way round? The mistake that he has been making in recent years, which may result, on Lords reform for example, in nothing being achieved before the election, is due to this wild revolutionary idea that you can have a fundamental change by just passing an Act, as opposed to incrementalism. The incremental cake has been 80 per cent cooked. None of the cake in the discussion today has been cooked at all. In this regard, is that not the moral of the career of Mr Jack Straw?

Lord McNally: My Lords, I hope that I get extra time for that intervention. I will leave that to history. All that I would say to the noble Lord is that he, rather like the noble Lord, Lord Grocott, I once knew in other times and other places as genuine, radical reformers who have now metamorphosed into conservatives—with a small “c”—and it saddens me greatly. I think that the fact that some of the most fervent opponents of constitutional reform are found on the Labour red Benches is a very sad thing indeed but, as I said, we are fortunate that although time is short, much of the groundwork has been done by the Power inquiry and by the Select Committee on Public Administration, chaired by Mr Tony Wright, who I am pleased to see has been given a key role in developing policy over these next few weeks. As I have said, the building blocks of reform are all there ready to be assembled. My noble friends and other noble Lords have dealt with other areas of reform, most notably my noble friends Lord Lester, Lord Maclennan and Lord Wallace.

I want to deal briefly with two issues. First, I hope we can in this Parliament bring forward measures to protect and enhance the status of the Civil Service by putting its rights and responsibilities on a statutory basis. I often like to quote the memorable words of the noble Lord, Lord Sheldon, who said that in Britain the BBC and our Civil Service are the two great gifts the 20th century has bequeathed to the 21st. None of the cake in the discussion today has been cooked at all. In this regard, is that not the moral of the career of Mr Jack Straw?

As one who was one of the early beneficiaries of the special adviser concept to run parallel with the mainstream Civil Service, I am not one to decry it. However, it needs careful policing, particularly during long periods of one party being in office. My noble friend Lord Tyler has made some admirable suggestions in his Bill on how we should, quite properly, clip the wings of special advisers. One thing that I think should be looked at—we have had an example of it in this Administration and there were examples in the other—is that should beware of making it too easy for civil servants to become political advisers, or vice versa. Those should not be areas that are too easily blurred, and as I say, it is something that can and does arise in long periods of government.

Finally, I turn to the reform of this House. There is a need for a similar sense of urgency about reform of the other place, but let me concentrate today on this House. Some noble Lords have claimed that I have changed my mind about reform, because I have thrown my weight behind the Bill of my noble friend Lord Steel. I am well aware of its origins among a group of politically motivated men, three of whom are sitting here today. They thought that this could perhaps stem wider reform, but I am convinced that unless we use the time left in this Parliament to deal with the most outrageous aspects of its composition, then the public respect which we hitherto have enjoyed will quickly turn to contempt.

If there is not a change of Government at the next election, membership of this House is likely to climb to more than 800. The proportion of Members coming in for their tick and expenses and little else is likely to grow as the large number of Peers created between 1997 and 2007 grow old. We must do what we can now on these issues, and the key elements are in the constitutional reforms proposed by my noble friend Lord Steel.

I will just say this in my one minute of extra time—here I agree with the noble Lord, Lord Grocott—we should not be too quick to say that our political system is busted. There is a need for reform; but I am much influenced by my father. He was a process worker in ICI, but he read books, he read newspapers, he went to trade union meetings and he went to his parish political meetings. We should not forget that our political democracy works because hundreds and thousands of political activists, of all political parties, go out, knock on doors and argue their case with the electorate. When I hear, as I heard a lady say on television last week after the election, “Oh, I never vote; my parents never voted”, I have to pose the question to her and the millions like her: how do we make a political democracy work unless it involves democrats working in it? That does not mean collapsing our confidence in our present system; it means bringing reform where we can, but defending it when we have to.

Baroness Farrington of Ribbleton: My Lords, just for the record, extra time is not allocated by the Whips, but it is occasionally taken.

2.21 pm

Lord Strathclyde: My Lords, I, too, have enormously enjoyed the debate, rather more than I was expecting. There have been speeches of importance, many of
which deserve re-reading at a quieter time. It is also a
great pleasure on this occasion to follow the noble
Lord, Lord McNally; normally it is the other way
round.

Lord McNally: My Lords, that is why I was so
polite about the noble Lord.

Lord Strathclyde: My Lords, I knew there had to be
a reason and we have discovered what it was.
The noble Lord naturally gave me an opportunity
and an invitation to talk about the Conservative Party’s
plans for the constitution in the next Parliament if we
are fortunate enough to be invited by the British
people to take over from the Government. However, I
shall disappoint him by telling him that I shall not be
writing the manifesto on constitutional matters this
afternoon; on the contrary. But I shall take up some of
the issues raised by others, as well as adding one or
two thoughts of my own.

I join with the noble Lord, Lord Wallace, who
talked about the public disillusion that he found—as
did many Peers—when he was electioneering over the
course of the past few weeks. There is a tremendous
sense of frustration—anger, even—among voters about
what has happened vis-à-vis the expenses. I have a
feeling that that frustration was also born out of a
more general frustration with what has developed in
politics, not only over the past 10 years but over a
considerable amount of time. They are frustrated with
politicians who pronounce what they are going to do
and then, as soon as they are elected, find every reason
not to be able to do that.

This happens at all levels of politics. It is the kind of
frustration that people feel when their plumber comes
in a car and they find that they receive a parking fine,
not for a trivial amount of money but perhaps for
£100. They feel frustrated on a large scale when terrorists
from overseas cannot be deported because they hide
behind the provisions of the Human Rights Act. They
feel it in their everyday lives. I hate to think what the
risk analysis book in Durham Cathedral looks like or
feel it in their everyday lives. I hate to think what the
basis for this is?

My Lords, I knew there had to be
a reason and we have discovered what it was.

We face the imminent expulsion of the Law Lords
from Parliament and the new Supreme Court towers
opening up opposite it, which I predict will lead to
friction and clashes between the new court and Parliament
in the years ahead. We have a cynical exploitation of
the Human Rights Act, which too often drives a coach
and horses through common sense. We have a huge
waste of resources on proto-regional governments
which, when they were asked, we found that people
did not want. We have major transfers of authority
from our belittled Parliament.

Lord Lester of Herne Hill: My Lords, I would be
grateful if the noble Lord could give an example of
what he is talking about. He has levelled these charges
about the new Supreme Court and the Human Rights
Act; could he give one example so that we understand
what the basis for this is?

Lord Strathclyde: My Lords, my point about the
Supreme Court is a little hard to give because it is not
yet in existence. My fear is that a new Supreme Court
over the road in Parliament Square will find itself
clashing increasingly with Parliament; that, as it has
been removed from Parliament, we will see the growth
of judge-made law rather than Parliament-made law.
We already have an example of that on the role of
privacy, which has been decided not by Parliament but
by the courts. That may be a good thing or a bad
thing—I make no comment—but it has been decided
by judges, not by Parliament.

The Parliamentary Under-Secretary of State, Ministry
of Justice (Lord Bach): My Lords, what has that
possibly got to do with any move to a Supreme Court?
I share the concern of the noble Lord, Lord Lester.
How is that relevant in the slightest to the justified or
unjustified criticism the noble Lord makes?

Lord Strathclyde: My Lords, I can explain it quite
clearly to the noble Lord. I fear that this is the start of
a trend that can only continue. It has not been thought
through. By removing the Supreme Court of the United
Kingdom from this place to another we will encourage
the judiciary to behave in that way.

Lord Maclean of Rogart: My Lords—

Lord Strathclyde: My Lords, before I give way—and
I am very happy to do so—I should remind noble
Lords that this is a time-limited debate and that I have
quite a lot to get through.

Lord Maclean of Rogart: My Lords, very quickly,
does not the noble Lord accept that the development
of the law of privacy has been on the basis of the
Human Rights Act, which was enacted by Parliament,
including this House? How he can suggest that it was
not anything to do with Parliament but was to do with
the courts is very hard to understand.

Lord Strathclyde: My Lords, that is the precisely
the point I am making. Through having the Human
Rights Act, judges have gone into new areas of the law
which Parliament has not decided upon.
Another thing we have seen is a cascade of referendums, but none on the EU constitution. I know the noble Lord, Lord McNally, will be stressed about this but it is worth repeating how ironic it is that many enthusiasts for renewal and a written constitution in this debate broke their written pledge in the Labour and Liberal Democrat manifestos for a referendum. I know why that was done. There was a deal struck between the Labour Party and the Liberal Democrats which went, “We do not need to debate this at the general election because we will promise a referendum. Then, when we get to the other side of the election, we will scrap that suggestion”. That is why it is an unanswerable question and why the Liberal Democrats hate it being raised. If you cannot keep your own written promise, what price drumming up respect for a written constitution, and what claim do you have to be among the authors of it?

A year ago, amidst national mourning, the Government lost the services of the noble Lord, Lord Lester of Herne Hill—he explained why this afternoon—as their constitutional adviser. He praised the deal in the mid-1990s with the Labour Party but as soon as there is a deal in the House of Lords he bleats that somehow it is unfair. Now the noble Lord also spoke in a code. He said that he was not interested in getting into the debate between an elected House and an unelected House. What that means, in my experience, is that Peers feel that you could not elect anybody better than themselves, and the same, I suspect, is true for the noble Lord, Lord Lester of Herne Hill.

Lord Lester of Herne Hill: My Lords, I am very sorry but I have to say to the noble Lord, since he attacks me personally, that when he reads what I said he will find it bears as little relationship to reality and what I in fact said as what he has just said about the Supreme Court or the Human Rights Act.

Lord Strathclyde: My Lords, on the question of the Human Rights Act, I think it would have been helpful to those who do not know about the noble Lord if he had declared his substantial remunerated interests in these subjects. We know it, but those outside the House do not. Further, to hear some of the Liberal Democrats speeches in this debate, you would think that Peers feel that you could not elect anybody better than themselves, and the same, I suspect, is true for the noble Lord, Lord Lester of Herne Hill.

One thing Britain has benefited from is stable Governments, with representatives at Westminster directly accountable to their electors and extremists shut out of office. Why on earth should we change that to suit the constantly thwarted ambitions of a third most popular party? Forgive me if my history is a little shaky; perhaps the noble Lords, Lord Howarth and Lord Wallace, can put me right. But I am not right in thinking that with the decades of Liberal control of Parliament from the 1830s to the 1880s and the great landslide of 1906, we were never given this incredible elixir of proportional representation? Indeed, when the first Lord Avebury put it to the vote in the Commons, just 17 of those massed Liberal MPs supported it. Mr Gladstone was not having any, and neither should we.

PR is said to stand for proportional representation. We all know that what it means is permanent representation—permanent representation for Liberal Democrats in office, a glorious never-never land in which those great Platonic guardians will be immovable from office and decide which of the more popular parties will exercise it. We live in it every day in this House, as Liberal Democrat Peers decide which parts of the Government’s legislation will go through and which will not. I chuckle when I hear Mr Clegg saying that he wants PR to shake the hold of the two establishment parties. What he really wants is one establishment party—his own—with permanent representation in office. That is what PR is all about.

Because time is getting on, let me conclude with two brief points. First, can I renew my suggestion of a regular Question Time for the two Secretaries of State now in this House? I am delighted to see the noble Lord, Lord Adonis, on the Front Bench. I do not want to break the valuable rule that Ministers in this House answer for the whole Government and that our Question Times are varied, but an additional provision to scrutinise these Ministers would be widely welcomed.

Because time is getting on, let me conclude with two brief points. First, can I renew my suggestion of a regular Question Time for the two Secretaries of State now in this House? I am delighted to see the noble Lord, Lord Adonis, on the Front Bench. I do not want to break the valuable rule that Ministers in this House answer for the whole Government and that our Question Times are varied, but an additional provision to scrutinise these Ministers would be widely welcomed.
Secondly, as we all come to write our manifestos for the election that the Prime Minister cannot indefinitely delay, can I research the status of an old wisdom? For this side, the Salisbury doctrine, as reinforced in the report of the noble Lord, Lord Cunningham, will apply if we are not elected. We have observed it scrupulously these past 12 years. I am not sure of the position of the Liberal Democrats but I think that they have honoured it and would wish to continue to honour it from now on. Will the Minister give an assurance that the Labour Party, if in opposition in this unelected House, would observe it again? This is one principle that surely needs to be explicitly and clearly reaffirmed.

The real joy of this debate is that there will be, as we heard yesterday, a whole series of opportunities in the next few months to debate these issues many times again, with the publication of the constitutional renewal Bill, the clauses on reform of the House of Lords and, indeed, the short Bill on the new super-regulator for the whole of Parliament. There are many other things that I wish to say, but I know that I will have the opportunity to do so in the months to come.

2.27pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My Lords, I start off by agreeing absolutely with the noble Lord, Lord Strathclyde. I have enjoyed this debate much, much more than I thought I was going to. However, I have a feeling that that is where the enjoyment, both of myself and of those of in the House at the present time, may end. The Government put their case yesterday and I have to make a confession straightaway. The Government have not changed their mind overnight. Noble Lords may well have heard on an earlier occasion some of what I am going to say. That has not stopped this debate being an absolutely terrific one, if I may say so, with wonderful speeches from all sides expressing different points of view. It has been a delight to take part in it.

The great expertise that there is in this House on this subject has shown itself today. Even if I am not going to say anything particularly original this afternoon, one thing that the Government will have gained from this debate is the listening; is what will appear in Hansard tomorrow and what will be there for ever afterwards. There is a great advantage in seeing in print what was said in one of the Houses of Parliament on this subject at this time. We will take great note, I can assure the House, of what has been said on all sides in this important debate.

The noble Lord, Lord Tyler, deserves congratulations both on his timeliness and also on what he has had to say. He is quite right too to call for decisive and prompt action. My right honourable friend the Prime Minister yesterday made clear the path we must pursue to renew our democracy. The goal of this process of renewal must be the regaining of the country’s trust. A number of noble Lords have spoken, whether they used the word trust or not, about how trust seems to have departed as it were in the relationship between the people and Parliament.

I am sure we all agree with my right honourable friend the Prime Minister’s view that most Members of Parliament enter public life to serve the public interest in the same way that Members of both House are in politics, not for what they can get, but for what they can give. I think that still is absolutely true. Nevertheless, public confidence has been badly shaken. We must renew our democracy but, particularly when we are discussing these matters, we will not regain the trust of the people in these difficult times without to a large extent setting aside for the sake of our common democracy the differences that exist and have existed for some years between our parties. The Prime Minister sounded a warning yesterday:

“At precisely the moment when the public need their politicians to be focused on the issues that affect their lives … the subject of politics itself has become the focus of our politics”.—[Official Report, Commons, 10/6/09; col. 795.]

Our debate today has shown that this need not be so—that we can lead by example in openly and constructively discussing the steps we should take to make right our parliamentary democracy.

Without wishing to test the House’s patience too much, I believe it is important to review the Government’s plans for democratic renewal. At its first meeting on Tuesday, the Government’s democratic council decided to bring forward new legislative proposals before the Summer Recess on two issues which have been the subject of constructive cross-party discussion. Interestingly, those issues have not played a prominent part in today’s debate because we have talked in broader terms about the future of democracy, so let me remind the House. The first proposal pertains to the immediate creation of a new parliamentary standards authority with delegated power to regulate the system of allowances. That decisive step will underlie our commitment that the House of Commons, and subsequently this House, must move from the old system of self-regulation to independent statutory regulation. The proposed new authority would take over the role of the Fees Office in authorising Members’ claims; oversee the new allowance system following proposals, of course, from the Committee on Standards in Public Life; maintain the Register of Members’ Interests; and disallow claims, require repayment and apply firm and appropriate sanctions in cases of financial irregularity.

The second legislative proposal of course relates to a code of conduct. The House will be asked to agree a statutory code of conduct for all Members of Parliament, clarifying their role in relation to the people and to Parliament. It will codify much more clearly the different potential offences that have to be addressed and the options available for sanction. As was said yesterday, those measures will be included in a short self-standing Bill on the conduct of members in another place, which will be introduced and debated before the Summer Recess. That will address the most immediate issues about which we know the public are most upset. During the pay day few weeks, many of us will have had experiences like that of the noble Lord, Lord Wallace of Saltaire, as he walked down Saltaire high street. I am sure that we all welcome the clarity and transparency the proposals will bring. However, they represent only the first stage of the Government’s legislation programme for constitutional and democratic reform; I think that the House will be pleased to hear that.
The House knows that the Government believe that the House of Lords should also be reformed. Following a meeting of the House Committee, and at its request, my right honourable friend the Prime Minister yesterday wrote to the Senior Salaries Review Body to ask it to review the system of financial support in this House to increase accountability and transparency and reduce cost. For the first time there will also be legislation for new disciplinary sanctions for the misconduct of Peers. Given the vital role that transparency has played in sweeping away the decrepit system of allowances and in holding power to account, we should do more to spread the culture and practice of freedom of information. The Government will set out further plans to look at broadening the application of freedom of information to include additional bodies which also need to be subject to greater transparency and accountability.

Lord Howarth of Newport: My Lords, will my noble friend kindly tell us some examples of what those bodies are likely to be?

Lord Bach: My Lords, if I recall from my reading of the press during the past few days, a number of them are public bodies financed by the taxpayer. The BBC is one; others escape me at the moment, but they are in that category.

In the past 12 years, we have created the devolved Administrations, ended the hereditary principle in this House, and introduced the Freedom of Information Act and the Human Rights Act. That is what I believed until a few minutes ago, but it now appears that those measures were all the responsibility, almost uniquely, of the Liberal Democrats. History has been to some extent rewritten. I always thought that this Government had been responsible for the passing of that legislation—bringing it to Parliament and carrying it through both Houses—but I will apparently have to review carefully my no doubt rather strange belief. I was intrigued by the view of history of the noble Lord, Lord McNally, which was that there was a kind of golden age up to 2001 and that after that it had been downhill all the way. The Home Secretary between 1997 and 2001, when those great reforms occurred, was my right honourable friend the Justice Secretary, Mr Jack Straw, and I remind the noble Lord that any moves there have been towards reform of the House of Lords for a number of years are the responsibility of the very same politician; that is the view that many of my noble friends take, whether they are on the side of reform or not. To say that somehow the Justice Secretary has been a force for conservatism over the past few years in a constitutional sense seems to be rather stretching a point.

Lord Lea of Crondall: My Lords—

Lord Bach: I wonder whether I can just finish this point, my Lords. If I were to be cynical, I would say that my right honourable friend had achieved more reform on his own as part of this Labour Government than any member of the Liberal Democrats for almost 100 years.

Lord Lea of Crondall: My Lords, I agree substantially with what my noble friend has said, with one exception, which is not about the period when Jack Straw was Home Secretary. It is a well known fact that, over the past two years, the Steel Bill has had a three-quarters or 80 per cent cooked cake but, in the interests of an ostensibly far more radical plan, the noble Lord, Lord Steel, has not actually achieved that Lords reform. That is what has been rather disappointing to many of us. In no sense is that a general assessment of the radical instincts or achievements of Mr Jack Straw, which have been considerable.

Lord Bach: My Lords, I thank my noble friend for his point but, as an old Liberal Prime Minister once said, let us wait and see.

Just as through recent changes we are removing ancient royal prerogatives and making the Executive more accountable to Parliament, so Parliament itself must now become rather more accountable to the people to establish and renew its legitimacy and status. That has been a theme of the debate. Therefore, democratic reform cannot be led in Westminster alone; it must principally be led by our engagement with the public, which sometimes we are not very good at. This Government will build a process that engages citizens from every background and every part of the country, so over the coming weeks the Government will set out proposals for debate and reform on a number of major issues.

A matter that is clearly of great interest to this House is electoral reform. Following the publication last year of a review of the electoral system, we will set out proposals for taking forward a debate on electoral reform. I hope the House agrees that we should be prepared to propose change only if there is a broad consensus in the country that it would strengthen our democracy and politics by improving the effectiveness and legitimacy of both government and Parliament and by enhancing the level and quality of representation and public engagement. It is surely right to concentrate on what will interest or engage the public, lest we fall into the trap of making politics the focus of our politics.

The Government have done much to take power away from Westminster and place it in the hands of citizens and local communities. We are all familiar with the establishment of the devolved Administrations. That was a matter of great constitutional and democratic significance, but the process of devolution is not finished; it is clearly ongoing. We have made proposals to complete the devolution of policing and justice in Northern Ireland. Next week the Calman commission will report with recommendations on the future of devolution in Scotland within the Union.

However significant these constitutional changes may be, we must continue to seek new ways to empower and engage citizens. The Government will shortly set out how we will strengthen the engagement of citizens in the democratic life of their own communities as we progress to the next level of devolution in England. There will be among those who spoke today, I hope, people who will say “hear, hear” to that. My noble friend Lord Howarth referred to that in his excellent speech. We must consider whether we should offer stronger, clearly defined powers to local government and city regions, and strengthen their accountability to local people.
Moreover, we have a duty to ensure that our democratic processes are legitimate and truly representative. We need to improve electoral registration. We will consider how we can increase the number of people on the register and help to combat fraud. On receipt of the Youth Citizenship Commission’s report, and having heard from young people themselves, we will set out the steps that we will take to increase the engagement of young people in politics, including whether to give further consideration to lowering the voting age.

This is not the limit of our ambitions. Setting out not only the rights that people can expect, but the responsibilities that come with those rights as a British citizen, is a fundamental step in balancing power between government, Parliament and people. The Government have published proposals and these will be subject to wide public debate. Should the country want a written constitution, the drafting of such a constitution will be a matter for the widest possible consultation with the British people. My noble friend Lord Desai, the noble Lord, Lord Armstrong, and the noble Lord, Lord Norton, among others, all spoke on their views about a formal written constitution.

Last but not least, I come to a matter that we have discussed often and will no doubt discuss at length in the future—the reform of this House. We would argue that the Government have taken historic steps to make our democracy fit for this century. The House of Lords Act 1999 removed the right of all but 92 hereditary Peers to sit in this Chamber. That must count as one of the most significant legislation to affect this House in more than 90 years, but we will not rest on our laurels. The Government are committed to introducing comprehensive reform to deliver on the votes in another place in March 2007. The Government’s White Paper, published last July—for which there is, we believe, backing from other parties—committed us to an 80 or 100 per cent elected House of Lords. It is the Government’s view that it is now time to carry this commitment to completion. We will publish proposals for the final stages of House of Lords reform before the Summer Recess, including the next steps towards resolving the position of the remaining hereditary Peers. The noble Lord, Lord Strathclyde, asked about the Salisbury convention. I will be careful in answering him. The answer is that, of course, we will observe the Salisbury convention in the same way, and to the same extent, as the opposition parties.

I end by saying that we believe that what my right honourable friend the Prime Minister said yesterday in his Statement—repeated here by my noble friend the Leader of the House—represents a strong plan of action to deal with profound issues. The excellent speeches of the two right reverend Prelates dealt with the profundity of the issues that we must face, as did most of the other speeches that we have heard today.

The Government will introduce a constitutional renewal Bill soon, but we must first address the issues raised by the expenses crisis. We must recognise that one piece of legislation will not solve all the problems facing the country. Only by a co-ordinated programme of reform can we renew our democracy and merit once more the trust of the country. Once again, I thank the noble Lord, Lord Tyler, for introducing this debate and all those who have spoken in it.

2.55 pm

Lord Tyler: My Lords, by my reckoning there are several minutes until our three and a half hours are up, but even if I took up every minute I could not do justice to all the contributions that have been made to this debate. I heartily endorse what the Minister has just said: we will all read Hansard tomorrow with exceptional care. It is customary to say that there has been a thoughtful and thought-provoking debate, but this one genuinely has been. I will look at every contribution with great care tomorrow. I hope that others will, too. It would perhaps be invidious to take up time in pointing out particular contributions, but I am particularly grateful to the two right reverend Prelates for their speeches, which were very interesting. As the Minister said, it has been a terrific debate and I am grateful to all who have contributed.

I go back to a point made by the noble Lord, Lord Norton of Louth. He said that there is a crisis of confidence in the political class. That is the background to our debate, but I would argue that it is not just about individuals but about the institutions that give rise to the political class. That is how they get there. It is the whole context in which those people come to those roles. We cannot simply divorce the two. We cannot simply deal with the present crisis, to which my noble friend Lord Wallace referred so eloquently, of a lack of confidence and trust in individuals. There is also a lack of trust in the institutions that those individuals occupy.

There is an interesting and notable correlation between those who sit in the safest seats in the other place and those who seem to have made the most excessive expense claims. That is backed up by academic research, so we cannot simply leave the issue of safe seats on one side and look only at the immediate expenses crisis.

Lord Grocott: My Lords, can the noble Lord, Lord Tyler, confirm that there is no safer seat than being No. 1 on a party list?

Lord Tyler: My Lords, I am grateful to the noble Lord, Lord Grocott, for making that point because, of course, there are party lists at the moment. Every single first past the post election is fought from a party list. The difference is that there is only one person on it. That is its significance.

Coming to the contribution of the noble Lord, Lord Grocott, I admire the way in which he persistently defends what is, I think, the indefensible. He suggested, as I understood it, that the results of the European election somehow undermine the case for PR. Yes, it undermines the case for the regional list system, but I give the noble Lord some facts. No BNP candidate has been elected under single transferable vote in the local elections in Scotland, but they have under first past the post in England. Similarly, there is no evidence whatever that the AV-plus system recommended to both Houses by Lord Jenkins of Hillhead would result in any extremists being elected. As has been said in
this debate, in many generations of use of the single
transferable vote in the Republic of Ireland, extremist
parties have not been elected. Do not let us be given
this nonsense that, somehow, PR leads to extremists
being elected. It simply is not true.

**Lord Trimble:** My Lords, the noble Lord no doubt
inadvertently omitted to refer to the experience of
the single transferable vote in Northern Ireland, where
there has been no shortage of extremists elected by
virtue of the system.

**Lord Tyler:** My Lords, as the noble Lord himself
has evidenced, it has also resulted, in the long term
and over a long period, in reconciliation in Northern
Ireland. He himself must take credit for that. I do not
believe that that would have been nearly so easy with
the first past the post system.

There were also references from many sides to the
need for the public to have more confidence between
elections that they have real power and influence over
their representatives. It is for that reason that I have,
on behalf of my colleagues, tabled an amendment to
the Political Parties and Elections Bill, which we will
be discussing in your Lordships' House on Report on
Monday; to deal with the possibility of recall. It has
to be a very careful process, a due process, not the sort
of Star Chamber nonsense that the party leaders are
indulging in. Indeed, we should involve the new
parliamentary standards authority in the process.
When a Member has been found to have bent the rules
or misbehaved, there should be some way for the
constituents of that representative to trigger a by-election,
if a sufficient number of them are in that frame of
mind. I know that the leader of the Conservatives has
said that he is in favour of recall, so I hope that
Conservative Members of your Lordships' House will
support our amendment.

I take the point made by the noble Lord, Lord
Desai. We have to seize the moment. The public
are looking to us, to both Houses, to take advantage of
this situation, rather than simply brushing it under the
carpet. It is extremely important to take the point
made by the right reverend Prelate the Bishop of
Durham. I am not sure whether he was instancing the
cathedral in the wonderful city of Durham, which we all admire. I also admire both the
cathedrals in Liverpool. It is important that we
not only make good use of and admire the great
structures that this country has built, not least this
building, but look to what is going to be appropriate
for the 21st century, as our ancestors looked ahead
in Liverpool.

The Minister referred to some of the immediate
legislation that is to be put to your Lordships' House.
He also mentioned the parliamentary standards authority.
I hope that in coming weeks we will get a much clearer
idea of the interrelationship between it and your
Lordships' House. Very little has been said about that
and, from what has been said, it has been rather
difficult to discern what is intended.

The Minister also said that the statutory code of
conduct will relate to all Members of Parliament. We
are Members of Parliament just as much as the Members
in other place. Will the code of conduct relate to us or
will there be a separate code of conduct? To whom
are we going to give the task of developing those
proposals? The Minister referred to the role of the
Senior Salaries Review Body in relation to the financial
support given to Members of your Lordships' House.
When do we expect that? Will it be in the autumn and
will it be retrospective? The sooner we hear about that,
the better.

I will read the *Hansard* for this debate with great
care tomorrow because there have been some notable
contributions. Noble Lords who have attended, unusually
perhaps, on a Thursday not to speak but to listen will
acknowledge that this has been a remarkable debate. I
am extraordinarily grateful to all noble Lords who
have been here. A number of noble Lords on all sides
have expressed disappointment that they were not able
to speak. I am proud to be a parliamentarian and this is a
parliamentary democracy but, as the Minister said
today and the Prime Minister said yesterday, we have
to find new ways to engage the public if we are
to recoup their trust and confidence. I share the
frustration of the noble Lord, Lord Strathclyde, but
it seems that his frustration does not extend to
putting forward any proposals on behalf of his party.
If, in a certain number of months, we are to be
faced with a general election in which there will be a
manifesto, I trust that the noble Lord, Lord
Strathclyde, will have an important role in writing
some of it, not least in incorporating in it the proposals,
to which he has put his name, for an elected House of
Lords. I look forward to that opportunity with great
excitement.

I was also interested in the point that the noble
Lord made about the cathedral in the wonderful city of
Durham, which we all admire. I also admire both the
cathedrals in Liverpool. It is important that we
not only make good use of and admire the great
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have been here. A number of noble Lords on all sides
have expressed disappointment that they were not able
to be here. I shall not embarrass them by mentioning
them, but several noble Lords intended to come but
were not able to spare the time. In your Lordships' House, we are not elected, but we are all accountable
to the British people. We must find better ways of
taking on that responsibility. We will all read what has
been said today with that in mind. I beg leave to
withdraw the Motion.

*Motion withdrawn.*
Public Transport: Cost, Quality and Crime

Debate

3.06 pm

Moved By Lord Bradshaw

To call attention to the quality and cost of public transport and the level of crime on public transport; and to move for Papers.

Lord Bradshaw: My Lords, I start by offering the congratulations of, I hope, the whole House to the noble Lord, Lord Adonis, on his elevation to Secretary of State. He brings to the job knowledge and enthusiasm far surpassing that of several previous Secretaries of State. I shall also refer to what is going on, or not going on, in London. The Secretary of State may recall the Answer I got on 9 June:

"Industrial relations issues are matters between employers and their staff. The Government would expect that any disputes that could not be settled by discussion should be settled by using the various mechanisms that are available".—[Official Report, 9/6/09, col. WA 147]"

Amen to that, but Londoners are being held to ransom. Many people who fear losing their jobs are making extraordinary efforts to get to work because they think that if they are missed for a couple of days, they can be missed for a good deal longer. I believe the behaviour of Mr Crow and the RMT to be utterly reprehensible. There are mechanisms. People on the Underground are well paid and have long holidays. I think the action is pretty disgraceful.

My main theme today is that the consumer—the passenger and freight user—is not adequately served by the present structure of the railway industry, which is made up of a variety of bodies that serve their own, rather than the consumer's, interests. I do not blame the Minister for the structure, but the Office of Rail Regulation is independent of government, which is a good thing, but spends most of its efforts supervising Network Rail and adjudicating disputes between operators about access. Network Rail is independent of government or, at least, not subject to intervention. It is interested in presenting a good face. How does it achieve that? It does so by producing unambitious timetables compared with those in 1989, for example. They are slack timetables, and any railwayman will tell you that when working complicated junctions, presenting trains within 10 minutes is the way to run an unpunctual railway. Network Rail does not manage engineering work properly—my noble friend Lady Scott will refer to that—it does not provide a 24-hour railway, it uses buses too much, it does not deal with service disruptions and it pays its staff excessive bonuses. ATOC represents the interests of train-operating companies, often in the very short-term. It is akin to a trade union or professional association, and it certainly does not put the interests of the user first. We hear a lot about consumer focus, but that is largely marketing jargon.

Passenger Focus collects information about performance and tries to establish what the passengers want, but it has no teeth. The Minister will recall the article in Transit magazine, which I drew to his attention, in which Passenger Focus found that of the new trains the Pendolino has the worst rating. The private sector designed this, and it really has not done its job properly.

The DfT has to make the case to the Treasury for more money. It lets franchises through a very expensive, secretive and disruptive process that is very short-term. It tries to influence strategy without an adequate professional background, and, as the DSRA, is becoming a large bureaucracy. Who represents the consumer? I also refer the Minister to my second letter to him about NATA, the New Approach to Appraisal, the system by which judgments are made on where we will invest in the transport network. That still places far too much emphasis on adding together the short-term savings in time made by motorists, and it does not achieve the shift to public transport or save carbon.

I suggest that we think in terms of a new public corporation akin to the BBC. I know that the BBC is far from perfect, but it does operate in the public interest. This would comprise an independent, competent and enthusiastic chairman and two or three deputies. I might even be tempted to suggest that if the forecasts about the next election are right, the Minister might be the sort of person whom I have in mind. It should be someone of status who can command people to do what they want, rather than some cipher or someone who has made his career in a merchant bank.

The new body would have a clear remit to work in the users' interests and would have independent members and the four chairmen of Network Rail, the ORR, Passenger Focus and ATOC. It would let franchises on a more sensible basis that ensured incentives to improve the customer experience. The Minister has often said that he has an open mind about franchising. I might even be tempted to suggest that if the forecasts about the next election are right, the Minister might be the sort of person whom I have in mind. This body would undertake strategic planning—that is, planning beyond the next five years—and there would be no organisational upheaval, except possibly in the DfT. I would not move the short-term arrangements for finance, staff relationships or new works to the new body; I would simply tell it to focus on what the consumer will get.

What should franchises and local authority bus contracts look like? They should contain a limit on fares and charges, which I think my noble friend will mention. They should be long enough to encourage investment in crime prevention. I was very pleased to see what was included in the new Southern franchise. This body would undertake strategic planning—that is, planning beyond the next five years—and there would be no organisational upheaval, except possibly in the DfT. I would not move the short-term arrangements for finance, staff relationships or new works to the new body; I would simply tell it to focus on what the consumer will get.

The new body would have the freedom to buy as much as possible from a non-monopoly supplier; that is, to step outside Network Rail and its almost ridiculously high estimates for carrying out small works. They would be free to suggest better timetables with better connections—something that has never been properly addressed—and they would be free from arbitrary targets about such things as the seating pitch. On the other hand, they would concentrate on the things that people want, such as more accommodation for luggage.

I draw the Minister's attention to one problem with the revenue-share arrangements, or the cap-and-collar arrangements, which operate in a number of franchises. If we want these franchises to carry out improvements, they must make a business case to their own boards, but if 80 per cent of any improvement goes to the Department for Transport it destroys the business case that must be presented within the companies. I do not know the answer, but we must ensure that
the incentive to invest and improve is kept alive and out there so that everyone tries to do better all the time.

The franchises would have to meet standards to get extensions, but past achievements would become very relevant and would lead to an advantage in the next bidding round. People would know that, if they did the right things, they would not only please their customers but gain some advantage when it came to reletting or renegotiating the franchise. I remind the Minister that local authorities encouraged the modernisation of the bus fleet to encourage compliance with the Disability Discrimination Act and modern ticketing. They gave bus companies a reverse discount on the bidding price provided that those companies did all the things that were wanted under the Act. I remember that your price could be up to 15 per cent less than the next bid, provided that you made the modifications to your bus fleet.

I turn to two or three other matters, one of which is coach passengers’ rights. These are being negotiated with the European Commission. I have an answer from the Minister. It is not a very good one because, in most countries in Europe, local passenger bus services are provided under public service obligation conditions. In the UK, they are mostly provided under commercial conditions, but I am well advised that if we have anything that increases the cost of local bus travel, particularly if we have another repeat of the situation with drivers’ hours, we will find that local bus operators will carry heavier burdens, produce fewer services and charge higher fares.

The fear of crime is reckoned to deny public transport of about £11 billion of business a year. I am not suggesting that whatever you did would get all that money in, but a very large sum of money is to be gained by public transport if we can do a lot to allay the fear of crime. I come back to the Southern franchise, which I am very pleased to see has had attention. I just look forward to it being extended elsewhere.

The Minister suggested that we should go to see Alison Munroe of HS2 about how the East Coast Main Line should be upgraded and how that would fit in with his proposals for a new railway to Scotland. We showed Alison Munroe that our proposals for south of York fitted in well with what might be done north of York. We have taken soundings in Scotland, which suggest that Edinburgh and Glasgow as two cities have come together in viewing themselves as one with lots of connections. It will probably be necessary to use only one route into Scotland. I would suggest that the east coast must be that way because I would not like to be the person trying to put a line through the Lake District.

Finally, tourists value things such as being able to see out of windows. The Scottish Executive is going through its class 158 fleet and moving the seats back so that people can see out of the windows again. That seems very simple to me. You might squeeze a few more seats in by making everyone very uncomfortable, but if they do not have any room for their luggage, cannot see out of the window and the fares are high, they will not travel. I beg to move.
disgrace that massive amounts of money have been spent on the improvement and updating of the west coast line, yet it is still impossible to operate a good service, in particular because the signalling fails over and over again. I suggest that my noble friend would do well as a priority to hold a searching inquiry into how and why this happened, what we can learn from it and how that can inform our approach to the future administration of the railways.

My views are perhaps coloured by my experiences. I have doubts about the possibility of running a high-tech, 21st-century railway on Victorian infrastructure. For that reason, I am excited by my noble friend speaking so bravely and courageously, and with so much vision, about the need to get on with a dedicated high-speed railway, for environmental, social and economic reasons—a priority that we must all endorse.

However, it is not either/or. As you move to high speed over long distances, there are communities in the space between the main centres. At the moment, because of the effort to speed up the timetable on Virgin West Coast, there are a lot of very disappointed, discouraged people, because fewer fast trains stop at Penrith and Oxenholme. The cost of this is that more people turn to their cars, with all the problems of pollution and all the things that we want to overcome in getting our transport and environment strategy right.

What many people are looking for is not an either/or, but, alongside high speed, an emphasis on reliability, with trains leaving when they are expected to arrive and arriving when they are expected to arrive; cleanliness; lavatories that work and are properly equipped; space for luggage; decent catering; and courteous staff. I find that the staff are frequently courteous, but the other services are sometimes lamentable. Lavatories in particular can be a disgrace. On long distance trains, the difficulties—I was going to say “frustrations”, which there are—are appalling for passengers, particularly the handicapped, who find that lavatories are not working. These are the things that people are looking for—not just 10 minutes off their journey time. They are looking for reliability and standards. I hope that my noble friend will look closely at getting the balance right between high speed and the rest.

Outside this place, I am very much involved in one of the richest assets of this country, the national parks, to which the Government are deeply committed. The national parks have a serious transport issue affecting them. They attract 75 million visitors a year, 90 per cent of whom travel by car. This is hugely damaging in terms of poor air quality, traffic noise, erosion of tranquillity, physical encroachment, kerbside parking spilling on to the fells and visual blight. However, to get people to change their mode of travel will require high-quality, affordable and convenient alternatives—not tokenism, which leads just to more frustration, but regular, affordable and reliable services.

Public transport is not the whole answer, but it is a significant part, together with better provision for walking, cycling, community transport and other innovative initiatives. If people can get to national parks and other protected and rural areas affordably, enjoyably and reliably by public transport, they are more likely to use it. This will not only protect the national park environment from traffic-related harm, but will help relieve congestion and carbon emissions and open up the countryside to more people.

National parks have a hard time securing public transport funding. All fall within more than one administrative transport boundary, and must persuade more than one local transport authority that their share should be prioritised. This results, at best, in small sums to support light services by comparison with their urban counterparts.

We are approaching the 60th anniversary of the 1949 Act that brought the parks into existence. It would be a very good time to see the Minister bring out a thought-through, sustainable transport policy for the parks. It would be a suitable counterpart to the recently announced bid to identify England’s first sustainable travel city. The Government take pride in the national parks. There is an issue here for the Minister; I hope he will address it.

Baroness Valentine: My Lords, I congratulate the noble Lord, Lord Bradshaw, on securing this timely debate. As many noble Lords may recall, I am chief executive of London First, a non-profit-making business organisation whose membership includes both transport providers and users.

When business leaders are asked what is the major driver of London’s future success, the quality and quantity of transport infrastructure is their enduring response. Business leaders in other UK cities mirror this response.

So why does transport matter? Recent research by the Centre for Cities, in keeping with the Eddington report, affirms that good transport, particularly in and between major cities, is a necessary condition for economic growth. And the UK simply does not have the world-class transport system that it deserves.

In the capital, we have seen decades of neglect: transport investment that is inadequate to maintain, let alone improve, our networks, outstripped by economic and population growth. While we have welcome commitments to Tube modernisation, Crossrail, Thameslink and a third runway at Heathrow, they are long overdue and, of course, yet to be delivered. We are in a perpetual state of catch-up.

London is the UK’s gateway to the world economy, a true world city. But its millions of commuters would not consider their daily experiences to be world-class—and certainly not at the moment. Many of us who are on the Underground at rush hour, unable to elbow our way into the crush, would use much less parliamentary language to describe our journey. With another 1 million people and at least half a million extra jobs forecast by 2026, London’s constrained transport capacity will once more pose a threat to our national success and global competitiveness, as well as damaging Londoners’ quality of life.

On the other hand, there is clear evidence that investment which builds London’s economic capacity benefits the UK as a whole. Investment in transport infrastructure can cement long-term growth and
prepare us for the upswing when it comes. London is not an island state and its needs resonate with national needs.

I shall focus on quality and cost, but I should like to mention one issue in relation to crime. Initiatives from the Mayor, Transport for London and British Transport Police have seen a significant reduction in crime on public transport in the past year. This is very welcome but, critically, it is not accompanied by similar reductions in criminal behaviour in areas adjacent to the transport nodes. We must be certain that we are not merely displacing the problem. I look forward to British Transport Police working with its colleagues in the Metropolitan and City forces to tackle this issue.

I want to make three principal points. First, improving quality may be reliant on loosening capacity constraints. Secondly, some transport improvements depend less on money and more on customer-focused management and coordination. But, thirdly, good-quality public transport ultimately costs money. Whether it is the taxpayer or the passenger, someone has to foot the bill.

Quality and capacity are intimately linked. Quality improvements are limited where capacity is constrained. Let us consider congested streets, crowded Tubes and stacking in the air. If London is to be the best city in the world to live in, we forget at our peril that people come here to do business. If we are to attract and keep the brightest of the world’s talent, the capital must do more than transport them in glorified cattle trucks. Reliability, comfort, convenience and speed are fundamentals.

A recent London First study of the quality of the passenger experience at Heathrow, our only hub airport, makes the point. It concluded that one of the reasons that travellers are so frustrated is that it operates at 99 per cent of its permitted capacity. It gives us frequent flights to many of the places we want to go, but by scheduling without any slack. This inevitably leads to delays. Whenever something goes wrong, there is no room to recover.

To continue the Heathrow illustration, a third runway will deliver the quality improvements needed only if measures are in place to prevent it from filling up again to bursting point. Regulations and customer-focused management must address delays, noise and air pollution. A mechanism will be required to allow slots to be withdrawn if standards are breached. When bigger comes, best must be the minimum acceptable outcome.

That leads me to my second point. We need to create the conditions for better operational management, be it of air capacity, on the Underground or on London’s roads. Overcoming poor quality is not just a matter of supplying more trains, more buses or more planes. It requires, particularly in the capital, a high and better level of co-ordination. It requires clever modern management of, and investment in, the less glamorous infrastructure of signalling and safety systems.

Spend just a little time looking at the impact of roadworks in London and you will quickly understand the difficulty of assigning responsibility, aligning incentives and ultimately mitigating the effects on quality. Choked streets impact on quality of life, air and noise pollution, as well as the car, taxi bus and van passenger experience, not to mention their efficiency. There needs to be more strategic oversight of journeys involving more than one mode of travel. High-speed rail, enthusiastically and commendably championed by the new Secretary of State, will not fulfil its potential if passengers’ journeys consist of a comfortable hour from Manchester to Kings Cross and an uncomfortable armpit-to-elbow hour from Kings Cross to Hammersmith.

I turn to my third point. Noble Lords are too wise to be taken in by the fool’s gold of bigger, better and cheaper. Yes, we need investment in transport. There is a legitimate debate to be had as to whether public transport should be funded by the state or by the user, but we are in a deep recession with unprecedented peacetime deficits. We need to be realistic about how we weigh increases in fares against the burden of tax, as well as being conscious of the need to maintain socially important concessions.

Let us ensure that there are no scales over our eyes. We cannot have continental levels of public funding at American levels of taxation. Indeed, we may not be able to afford continental levels of investment at historically continental levels of taxation until we have tamed the deficit. Of course we must seek the right public and private structures to optimise efficiency. Crossrail, for instance, is being funded by a combination of taxation, business contributions and the fare box. But whatever the arrangement, good quality public transport costs.

I conclude by congratulating the noble Lord, Lord Adonis on his recent elevation. It is refreshing to have a Secretary of State who is both passionate and knowledgeable about his brief. And all the better, for me at least, for his being in this House. Given the state of forward funding for investment, he must concentrate on maximising bangs for bucks. His aim should be to prioritise investment, which will unshackle growth and support increased economic activity. Transport investment passes that test. Transport investment in London gets an A*, underpinning growth in the most productive region of the UK, and thereby generating billions of tax for the Exchequer.

3.38 pm

Baroness Quin: My Lords, I, too, welcome the opportunity to contribute to a debate on public transport and congratulate the noble Lord, Lord Bradshaw, on initiating it and on the informed way in which he spoke to it and introduced our proceedings. As other noble Lords have done, I also take the opportunity to congratulate the Minister on his promotion to Cabinet. We all used to think of him, rightly, as an expert in education, but it has been clear over the past few months how engrossed he has become in transport. I wish him well in pursuing the policy goals that he has identified.

I welcome many of the improvements that have been achieved in transport policy over the past decade and in transport investment. In particular, I welcome the growth in rail travel. I understand that there are more passengers now than at any time over the past 60 years and the accompanying investment has been welcome, as well as the plans for continued investment into the future. This has been a welcome change from the underinvestment which certainly took place before 1997. I am also glad that a boost has been given to rail freight, and I hope that that process will continue.
In the limited amount of time available to me this afternoon, I shall concentrate my remarks on the transport situation and the transport needs in my own part of the country, the north-east of England. Obviously, there as elsewhere, good public transport is important, not only for the quality of life of the region’s population but also for the contribution that such transport makes to the region’s future economic prosperity.

The first area that I refer to is that of concessionary travel. I had better declare an interest as a concessionary pass holder myself. I am delighted that concessionary bus travel was extended across England. Indeed, I played a part in the campaign, having introduced a Bill on it when I was a Member in the other place and having successfully lobbied the then Chancellor—now Prime Minister—to introduce it. However, there are some issues regarding concessionary travel that still need to be sorted out. A couple of weeks ago in this House, the noble Lord, Lord Roberts of Llandudno, referred to the situation in border areas—particularly in the border areas of England and Wales and those more relevant to the north-east between England and Scotland. The noble Lord said that it was an Offa’s Dyke and a Hadrian’s Wall issue. It is certainly not a Hadrian’s Wall issue, since most of the length of Hadrian’s Wall runs nowhere near the border between England and Scotland. Indeed, as the line of Hadrian’s Wall runs right through the middle of the great city of Newcastle upon Tyne, the thought of having different concessionary travel documents was extremely alarming. I am sure that the Minister will assure me that I do not need to worry on that score. However, I know that people in the north-east would benefit very greatly if there were better reciprocal arrangements across the border between England and Scotland.

There is another important issue about concessionary fares that I would like to raise with the Minister, regarding the Tyne and Wear metro train system. The system was originally designed as an integrated system, of the kind to cheer up my noble friend Lord Judd. Like him, I believe in integrated systems. It was designed so that buses and metro trains would operate in a complementary way to create a proper, unified system for the Tyne and Wear conurbation. Sadly, bus deregulation undermined this very greatly but, despite that, people in the conurbation still use a mixture of train and bus in their regular travelling. However, concessionary bus passes, unlike in London or Greater Manchester, cannot be used by local residents to travel free on the metro system. The system is that a card, costing £12 a year, has to be purchased first to allow residents to benefit from that concessionary travel. I would like Tyne and Wear residents to benefit in exactly the same way as those in the much larger Greater London and Greater Manchester areas. I should be grateful if the Minister could write to me about this to see whether there is a way in which to overcome this particular difficulty.

The regional development agency in the north-east, One North East, has identified in its recent documents a number of transport priorities to which I hope the Government will give sympathetic consideration. Indeed, the regional development agency makes the very interesting point that the north-east, whose economy has diversified greatly from the old days of heavy dependence on steel, shipbuilding and coal, now has a significant export-led economy and a positive balance of trade, which is quite an unusual situation compared to other UK regions. This export-led economy, with a higher proportion of manufacturing than many other regions, means that the region needs good connectivity and transport links, both with other parts of the UK and with European and international destinations.

Through the Northern Way initiative, various ways of improving the transport links between the north-east, Yorkshire and the north-west have been identified and put forward to government. Obviously, I hope that the Government will respond, because that will result in a more balanced economic picture across the whole of the UK.

If links from the north-east to Yorkshire and the north-west are important, so are links northward to Scotland. As we know, there has been considerable transport investment in Scotland, particularly in roads. The north-east certainly does not want to be an area of poor road and rail infrastructure between Yorkshire and Scotland to the north. In this respect, my noble friend will probably not be surprised if I refer once again to the importance of dualling the A1 road north of Newcastle, to benefit both public and private transport.

Dualling the A1 is important for the economy of the north-east region and the safety of the region’s people. At present, the A1 north of Newcastle is an appalling mixture of single and dual carriageways. Some single-carriageway sections look very much like the dualled stretches which, perhaps as a result, might explain why a large proportion of the many accidents on that route have been head-on collisions, where motorists have thought they were on a dualled stretch only to find, in the most tragic of circumstances, that they were not. That issue has been of all-party concern in the north-east of England, and will continue to be so unless it is satisfactorily addressed.

I conclude by referring to future rail investment. Generally, I welcome very much the Government’s approach to that, but I would obviously like assurances that the north-east will not become less competitive for trade and investment, when compared with other regions, in decisions regarding future high-speed links between London and Scotland. I was very grateful for the words of the noble Lord, Lord Bradshaw, on that.

The north-east’s economy has seen much progress during the lifetime of this Government, and I am sure that the region as a whole wants to play its full part in the sustainable transport strategy that the Government have identified. The region needs to be able to build on what has been achieved so that we can play our full part in the sustainable economic prosperity of our country for the long-term future.
two gaps—since 1980, which is quite a long time. I receive £12,000 a year from that, but that does not stop me disagreeing with BALPA from time to time.

I have, of course, had contact with many Secretaries of State, but I put on record my appreciation of my right honourable friend Geoff Hoon and my honourable friend Jim Fitzpatrick, who together have done so much to advance the cause of British aviation. At the same time I want, as many others have done, to welcome my noble friend Lord Adonis, who will certainly bring to air transport his considerable intellectual talents.

There can be no doubt that British aviation is suffering in the economic downturn, and we would neglect it at our peril. Aviation is a form of public transport, just as much as buses or rail. It is no longer a mode of transport for the elite; half of our population took a flight last year, and more than 180 million people use our airports. Aviation is much safer than the car or rail; I pay tribute to them as well, but the UK has the lowest accident rate in Europe, and BALPA plays a full part in achieving that desirable objective.

Aviation pays its own way. It receives no public subsidy. It makes a massive contribution to our economy. It provides £11 billion to that economy and 500,000 jobs are directly or indirectly dependent on a healthy and viable aviation industry. So much for quality and cost, but there is also a downside. Recently, British Airways, which I have long admired, published some dire results. Part of that miserable saga was due to the policy—mistaken I believe—of concentrating too much on first and club class passengers. British Airways formed the false belief that such passengers could be its savours. I believe that it was wrong. The statistics bear eloquent testimony to that fact. Regrettably, all that has little to do with the economic situation and everything to do with miscalculation, however well intentioned the authors may have been.

British Airways is not the only one in trouble. Most if not all our airlines face enormous difficulties, but the leaders must not, in this hour of crisis, lose their heads. There has to be more co-operation than there has been in the past. Trade unions need to do their utmost to understand the problems that airlines confront and airports should recognise that the unions and people living under their flight paths have worthwhile views that airlines must not ignore.

The world over, aviation encounters stormy weather, and here in the United Kingdom the Government have to bolster it rather than make it less competitive than its neighbours. Hence, I have real worries about air passenger duty. Surely, it will have an adverse effect on our tourism and bring to light the considerable talents of my noble friend Lord Adonis, who will certainly bring to air transport his considerable intellectual talents.

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I now come to the environment. At present, the effect on global CO₂ emissions is minimal at about 0.1 per cent. Of course, that will increase, but the next generation of aircraft will be even more environmentally friendly and we should do our best to ensure that the Government and all who care about the environment make certain that aviation is not insulated from the environmental advances that we need. International action is vital in that regard, but effective action takes time. For instance, we now take terminal 5 for granted, but the original planning commission was lodged when Mick Jagger was 40 years old!

My final point is about airports. I am and have always been a supporter of further development at Heathrow. The airport there exists. It can be improved and expanded, but it is essential that proper account is taken of certain elements. People living near the airports should be fully consulted and where necessary appropriate action taken.

Secondly, road and rail access to the airport must not be overlooked. I have seen for myself how already inadequate road access has become much worse over recent years. I fear it could become even more difficult in times ahead. I hope that those who are responsible will take appropriate action over that single factor. Imaginative action must be taken, but I see little sign of that at the moment.

I am an avid supporter of an expanded Heathrow and of British aviation. The alternatives which have been broached are simply not viable. Yet the airlines need to be fully responsive to the anxieties that British people seek to express.

To conclude, I wish my noble friend every possible success. I have long been an admirer of his and remain so.

3.56 pm

Baroness Scott of Needham Market: My Lords, I thank my noble friend Lord Bradshaw for tabling this debate and note that, in your Lordships’ House at least, the lure of public transport failed to match up to that of constitutional reform. Nevertheless, the die-hards are here. I am pleased to see one of the usual suspects, the noble Lord, Lord Faulkner of Worcester, on the Front Bench today. It is sad to see that there is a low level of participation in this debate given the role that public transport plays in reducing congestion, improving accessibility, dealing with climate change and, as the noble Baroness, Lady Quin, said, promoting economic development and growth.

I was involved in local government transport in 1997 when the Labour Government came to power. We welcomed then their commitment to public transport. There have been some significant developments and yet it is interesting to note that the cost of public transport, against the cost of motoring, has gone up significantly since 1997. The overall cost of motoring has gone down by 13 per cent in real terms while rail fares have risen by 7 per cent and bus fares by 17 per cent. As the noble Baroness, Lady Valentine, said, it would be naïve to imagine that somehow there is going to be a whole lot of money to throw at the railways, but we have to recognise that if the cost of public transport is to be so high then we have to ensure better quality. At the moment we are asking people to pay more for a service that is declining.

As the noble Baroness, Lady Quin, said, people clearly want to use trains. The numbers are growing. Yet there are times when the service tests even the most dedicated railway fan and public transport user. It comes down to what my noble friend Lord Bradshaw exemplified well as a general lack of consideration for passenger convenience. The Public Accounts Committee in another place recently produced a report which highlighted this in terms of high car-parking charges, overcrowding on trains and complex fare structures.
Its analysis was that the Department for Transport is itself not sufficiently passenger-focused. The culture within that department is something I know the Minister can do something about.

I am a regular rail user and travel up and down the country. I prefer to travel by train but it really tests you at times. The problems start at booking. There is an immensely complicated fare structure now which is extremely difficult to find your way around even for people who understand the system. That also assumes you have access to the internet and are good at using it. If not, it is almost impossible to take advantage of the cheaper, pre-booked fares. Quite often, when you talk to the station or call centre staff they do not know what the best available fares are. If you are travelling at the weekend, you are then almost certain to be faced with the horror of planned engineering works. We would all accept that engineering works have to take place and weekends are probably a good time to do them. However, it is a fact that, compared with many European countries, we do this sort of work much more slowly. Track possessions in this country go on for longer than in other places. There is a serious job of work to be done to benchmark how Network Rail carries out this work compared with how things are done elsewhere.

Certainly, from my dealings with the industry over a number of years, I suspect that a large part of that is due to over-zealous enforcement of health and safety regulations. The irony is that quite often the enforcement of theoretical health and safety regulations ends up causing delays that push people on to the roads which, as the noble Lord, Lord Judd, said, are palpably statistically far more dangerous. We would rather have people on the railways. We need to ensure that health and safety regulations are there to support the safety of the railway and not to deal with some sort of theoretical risk.

Diversionary routes when there are engineering works are often a problem. There is evidence that train operating companies are reluctant to divert on to each others’ parts of the network; they lose income that way. If they put on a bus, then Network Rail picks up the tab. There is a real incentive for train operators to go down the—for them—easy route of putting on buses rather than negotiating diversionary routes. The bus replacements are often poor quality and are usually not well equipped to deal with luggage and buggies. I have to tell the Minister that, as an enthusiast, I have all but given up travelling on the railway at weekends. It is simply becoming too difficult. Some of those issues also apply to redevelopments, such as those around Reading station at the moment, where diversionary routes are needed and the train operating companies are simply not co-operating.

Assuming you get through all that, you get to the railway station and then to the great parking rip-off charges. Birmingham and Manchester are now charging around £55 for four hours’ car parking. That is quite extortionate. Virgin is apparently now making about £1 million a year from the car parks at Birmingham International and Coventry Airport. It now appears to be a parking organisation with a railway attached.

On passenger experience when you get to the station, I had a slightly odd experience in February on Ipswich station. I was in my anorak with my notebook, spotting the trains, and the noble Lord, Lord Adonis, appeared. I found out afterwards that it was part of his great tour around UK stations. I congratulate him on doing that. I read afterwards that he had said, “the quality of stations is extremely variable and at many major stations the service level is often downright poor”.

Well, amen to that! That is indeed the case. A campaigning group called Trailblazers produced a report entitled The End of the Line. It has reported that about half of all stations lack the basic facilities for disabled people. That is disgraceful after so many years of disability access legislation.

I recently saw posters on First Capital Connect warning passengers of the dangers posed by the ticket barriers that First Capital Connect itself had put up. In Sheffield, a trial scheme barred the bridge which was the pedestrian access for the tram passengers. Negotiating turnstiles that get you into the public loo—which you have to use because the loo does not work on the trains—when you have a piece of luggage or child in tow, or if someone has a stick and so on, is nigh on impossible. All of these things add to the difficulties for people when travelling by rail.

There is evidence that the franchise owners, who are now increasingly strapped for cash, are cutting their costs by raising charges in certain ways, such as parking, but also by reducing the number of staff in what they see as the soft areas: those that are not regulated and in which the Office of Rail Regulation does not take an interest. So there are fewer cleaners, fewer catering staff and fewer staff on the railway station. That means that the journeys are downright unpleasant. Last year I travelled from Devon to Paddington on a Sunday on the train that had come all the way from Penzance, a journey of around eight and a half hours. There was no catering available due to staff shortages. By the time we got to Taunton, to great cheers the buffet car opened because an off-duty member of staff had heard the announcement and thought it was outrageous that passengers should travel so far without refreshments. She opened it saying she would probably get the sack for this but it seemed like the right thing to do. Good for her.

There is often no space for luggage or seats are not available. National Express East Anglia is now going to charge us to book a seat, and First Great Western is abolishing the weekend upgrade. All of these things make travel into something that is quite often just too much hassle and it is easier to get into the car.

If something does go wrong on the trip, my experience is actually rather different from that of the noble Lord, Lord Judd. I often find that station staff are quite poorly equipped to deal with the problems that arise if something goes wrong unexpectedly. On Peterborough station recently we rescued the noble Baroness, Lady McIntosh, who had been given some bizarre advice by the staff which would have put several hours onto her journey. Luckily my husband, who is also known as the human travel planner, was able to help her by giving better advice. I think it is
extraordinary that often staff who understand what the best diversionary route might be are simply not available.

There is something about quality which is very difficult to measure but which has a real impact on people’s willingness to travel and their satisfaction with the journey. I urge the noble Lord to take that forward and find ways in which we can make the passenger journey much more interesting and pleasant. I know one has to be careful about drawing exact parallels with buses, but it interests me that the places where the buses are operating best are where we have an entirely integrated system, where the buses are being run by a bus company working with a local authority which also manages the roads and the parking. When everyone is working together the outcome is significantly better. I think there are lessons to learn, because at the moment the problem is that this whole question about passenger experience is everyone’s job and therefore no one’s. It simply gets lost in the miasma. I hope that the noble Lord can use his undoubted intellectual powers to think about how this situation might be improved for passengers.

4.07 pm

Earl Attlee: My Lords, I, too, am grateful to the noble Lord, Lord Bradshaw, for initiating this wide-ranging debate. Using public transport is a fairly universal experience, especially for those who live or work in a city. There is no realistic alternative other than a pedal cycle or going by foot. I use the train from south London to attend your Lordships’ House. I see the chronic overcrowding every day at peak times. Luckily, most of the time I can avoid standing for the 20-minute train journey. Noble Lords will be painfully aware that we have problems in London today, but these are down to the dinosaur of a trade union leader whom I will not waste my breath by naming.

I also regularly travel to an Army camp in Hampshire, but it is a very finely balanced decision as to whether to go by train and then bus, or by car all the way. Each mode has its own advantages and disadvantages; I will not go into detail, but it is important to understand how difficult it is to persuade motorists to leave the car at home and how easy it is to deter them from using public transport. The noble Baroness, Lady Scott, talked about the relative costs of a private car and public transport.

An important duty for me must be to join all noble Lords in congratulating the noble Lord the Secretary of State. His appointment is seriously good news. My only regret is that I doubt that he will be given enough time to really make a difference.

I listened with interest to the noble Lord, Lord Bradshaw. As he made his speech from the Liberal Democrat Front Bench, I take it that he was articulating official Liberal Democrat policy.

Lord Bradshaw: My Lords, I prefaced my comments by saying that they were personal remarks.

Earl Attlee: My Lords, I thank the noble Lord for his intervention. I agree with his views about Network Rail, a subject that I shall turn to later.

As for the DfT, I do not understand why the department is so heavily involved in the specification of new rolling stock. What can the department do that the industry itself cannot do? The noble Baroness, Lady Valentine, made the very good point that you cannot have continental levels of transport investment with United States levels of tax. That point is relevant to all modes of transport.

The largest increase in bus travel has been in London, followed by the West Midlands. In London, the combination of a significantly increased number of buses—to the point where they are almost creating their own congestion—and the Oyster card has been very effective. The picture for rural bus services is not so good. In fact, last year’s transport statistics showed a reduction of 34 million journeys outside of London. I cannot avoid the feeling that the customer base for rural bus services consists of people without access to a car—of course there are two cars for every household on average. These people are frequently not well off at all, but often time is not too much of a problem. They do not think that bus fares are good value for money but, as a regular motorist, I think that the bus is good value for money. I sometimes share a double-decker bus with two or three others, going from Alton to Bordon for about £3.

However, what deters and concerns me is that I have a 10-minute walk to the bus stop, possibly in the wet. Nothing can be done about that, of course, but I have to arrive at the bus stop about eight minutes before departure time and then wait until the bus comes. I have to wait standing up, which makes reading inconvenient. Most importantly, I have no idea when the bus will come or even if I have missed it. When will all bus users know when the next bus will arrive by means of an electronic message board, or will this never happen?

My question for the Secretary of State is: what research has been done to identify the factors that deter motorists from using public transport? It is certainly no use relying on my prejudices or my hunches. If he does not know, perhaps he will write to me.

In a previous debate, I spoke about the success of the rail industry. Last year alone, there was an increase in passenger kilometres of nearly 5 per cent. However, in many areas we are running out of capacity; our population is growing and that growth is concentrated in the cities, for the reasons that noble Lords will understand and the noble Baroness, Lady Valentine, explained so well.

The noble Baroness, Lady Quin, referred to the transport needs of the north-east. In some ways we have an overheated south-east and we need to be careful to ensure that investment does not exacerbate the problem there and neglect other regions. What is the Secretary of State doing to avoid that pitfall and to allay the concerns of the noble Baroness?

The noble Baroness also talked about ticketing problems, which, as the Secretary of State will know, is a subject dear to my heart and to many other noble Lords. Some improvement in ticketing systems is being made. London commuter stations are having ticket barriers installed in order to facilitate the use of Oyster cards and to protect revenue. The Oyster card system...
is good but I am a little concerned that the industry does not seem to be very ambitious for the wider system in the long term. It seems that we will be stuck with the stress and inconvenience of buying tickets for each ad hoc journey for some time to come. The noble Baroness, Lady Scott, made some good points about the current situation.

The railway system is inherently inflexible. Trains can go only at predetermined times over a fixed route. This can be balanced by reliability. Unfortunately, this is largely in the hands of Network Rail, about whose performance I am becoming increasingly concerned. I am being briefed that possessions for railway works are unnecessarily long, but the work does not start immediately and efficiently. There are also regular signal failures causing severe disruption. The noble Lord, Lord Judd, ably described the problems of reliability. Unfortunately for the noble Lord, despite all the delays, the alternative of a private car is not realistic for him. He talked about a commission or a study. I for one would certainly like to understand why signalling is so unreliable, both on the overground and on the Underground.

Because of the way in which Network Rail is set up, the imposition of a penalty by the ORR has no effect. It is a not-for-profit organisation with members but no shareholders with a financial interest. Any penalties simply go round in a circle, but the directors—those responsible—feel no pain. There are about 100 members of Network Rail, which is too many to be effective in holding the directors to account. At Question Time recently, I asked the Minister why he has not exercised the department’s right as a special member to nominate a director for Network Rail. Can the Secretary of State now answer that question and tell the House how he proposes to improve Network Rail’s performance?

The noble Lord, Lord Clinton-Davis, talked about the importance of the aviation industry, which employs so many people in the UK and around the world. He will understand that we in the Conservative Party do not believe that a third runway at Heathrow is desirable. We would like to know the view of the Secretary of State and his boss, the noble Lord, Lord Mandelson. Are we still going to have a third runway or can any need be met by high-speed rail?

The Motion tabled by the noble Lord, Lord Bradshaw, talks about crime on public transport. The problem is not just the actual crime but the fear of crime and, importantly, inconsiderate behaviour by other travellers. One of the first acts of the mayor, Boris Johnson, was to ban the drinking of alcohol on London Transport. I have paid tribute to Ian Johnston, the former chief constable of the British Transport Police. The BTP has done well, but there are major and obvious challenges ahead, particularly with the Olympics and the effect of recession on certain types of crime. The theft of cycles from stations needs particular attention. The negative impact is obvious. One noble Baroness rightly talked about the problem of displacement of crime.

I have looked forward to and enjoyed our debate. I now look forward to the response of our Secretary of State.

4.18 pm

The Secretary of State for Transport (Lord Adonis): My Lords, I thank the noble Lord, Lord Bradshaw, and all other noble Lords for their generous remarks about my appointment. This is my dream job. When I was 15, I wanted to be chairman of British Rail and I saw Sir Peter Parker as a prince among men. Alas, that post has now been fragmented into about 20 pieces. However, being Secretary of State for Transport in a Government committed to public transport is as good as it gets for a transport moderniser. I am privileged to be entrusted with these important duties.

I have never seen transport as just about the means of getting from A to B, however exciting the new or old planes, trains and automobiles that make that possible. Mobility is as important as education and health to a successful modern society. You can tell as much about the values of a society by its public transport as by its schools and hospitals. Transport is just as important to promoting genuine equality of opportunity.

I also want to pay tribute to my predecessor, Geoff Hoon. As the son and grandson of railwaymen, he is a hereditary Peer among transport enthusiasts. I greatly enjoyed serving under him and I note also the tribute paid by my noble friend Lord Clinton-Davis to my right honourable friend. I also thank the officials of my department and all those who work across the transport sector without whose dedication we would not have made the improvements in the quality of public transport which it is generally accepted have taken place in recent years.

Having paid tribute to the industry at large, I obviously must mention the Underground strike in London today, which is so seriously inconveniencing millions of passengers. I deplore the strike, and I urge the RMT to engage constructively with Transport for London to ensure that there is no repetition. I also thank all those who have helped to keep London moving over the past 48 hours.

The best testament I can pay to the general improvement in public transport in recent years is to cite four compelling facts. Buses now account for 5.2 billion passenger journeys a year in Britain. In 1996, that figure was 4.5 billion. Trains now account for 1.2 billion passenger journeys a year. In 1996, the figure was 801 million. However, numbers are not enough. Robert Louis Stevenson may have believed it better to travel hopefully than to arrive, but today’s passengers actually expect to arrive. As my noble friend Lord Judd and the noble Baroness, Lady Scott, noted, too often their arrival is delayed in unacceptable ways. The public want a transport system that is reliable, modern, affordable and safe. Those priorities are all involved in the Motion and are key elements of government policy. Let me take them in turn.
First, I shall talk about quality and reliability. The bus fleet has been substantially modernised in recent years. The average age of the bus fleet is now 8.3 years, nearly meeting the target of eight years for bus modernisation agreed with the Confederation of Passenger Transport in 2002. Some 62 per cent of buses are now low-floor design, making them accessible to wheelchair users, parents with buggies and the mobility-impaired. That compares to only 8 per cent in 1998. It is hard to overstate the difference that this is making to the lives of millions of our fellow citizens for whom public transport was previously a nightmare experience, if indeed they were able to take advantage of it at all.

As for the bus network, the number of services has radically increased in recent years. As the noble Earl, Lord Attlee, noted, London is the greatest success story, thanks to the lead taken by Ken Livingstone. Bus patronage in London has increased by a remarkable 63 per cent in the last 10 years, but many other parts of the country have also seen improvements, and we have seen the development or extension of successful tram and light-rail systems in Manchester, Nottingham, Coventry, Tyne and Wear, Docklands and the West Midlands. We want further sustained improvement in bus services, accepting the noble Earl’s points about the variability of many services outside London, especially in rural areas. That is why we promoted last year’s Local Transport Act, which is now being implemented. The Act gives local authorities a wider range of powers to promote bus services through voluntary or statutory partnerships of the kind praised by the noble Baroness, Lady Scott. That includes provision for statutory quality partnership schemes so that local authorities can become more involved in setting standards for the frequency and timing of bus services, as well as maximum fares. I hope that with those powers more local authorities, in partnership with bus operators, can replicate the successes we have seen in places such as London, Brighton, Oxford, Cambridge and Telford.

Modernisation has also been the hallmark of the rail industry in recent years. Since the completion of the £8.9 billion west coast upgrade, there is now the most regular and fast service ever between London and Birmingham, Liverpool, Manchester, north Wales and Glasgow, with a train every 20 minutes to Birmingham and Manchester, and a standard journey time reduced to 82 minutes from London to Birmingham and two hours and seven minutes from London to Manchester.

I know that the £16 billion east-west Crossrail scheme in London is particularly dear to the heart of the noble Baroness, Lady Valentine. I pay tribute to her personally, and to London First and the London business community, not only for prosecuting the cause of Crossrail over many years, but for promoting the highly innovative funding partnership between the Government and London’s businesses to which she referred. It involves businesses bearing part of the cost of the new line, from which they stand to gain significant benefit. Without that, Crossrail would not have proceeded. The Prime Minister, the Mayor of London and I officially launched Crossrail at Canary Wharf last month. The work is now well under way and I am confident that the project is beyond the point of no return.

Alongside Crossrail, we are investing £5.5 billion to double the capacity of the north-south Thameslink line in London as one of a large number of capacity enhancements taking place over the next five years. The franchising system is also generating better services. This week we announced the re-letting of the South Central franchise, which includes the busiest commuter lines in south London, Sussex and Surrey and, I think, the line used by the noble Earl, Lord Attlee. I am not sure whether he uses South West Trains.

Earl Attlee: My Lords, I enjoy the Southern railway.

Lord Adonis: My Lords, in that case, the noble Earl will benefit substantially. Under the new franchise, thanks to more and longer trains, there will be an increase in the capacity of trains into London on the Southern railway in the morning peak, and leaving in the evening peak, of 14 per cent and 16 per cent, respectively.

The noble Lord, Lord Bradshaw, asked who represents the consumer in the franchising process. It is the duty of my department to do so, but I stress that our recent specification of the South Central franchise followed extensive public consultation carried out by Passenger Focus, the passenger watchdog, which played a significant role in how we specified the franchise. This was specifically in response to the view that the department was not sufficiently customer-focused, as mentioned by the noble Baroness, Lady Scott. We intend to repeat this extensive public consultation, engaging Passenger Focus, when it comes to the specification of future franchises. Alongside this expansion of capacity, reliability has also been improving. Rail punctuality has improved by 12 percentage points in the last eight years. It now stands at nearly 91 per cent, which is the highest level since robust reliability measures were introduced. However, there is no complacency on my watch. Reliability needs to improve further still and on some lines—notably the west coast main line, mentioned by my noble friend Lord Judd—it is far below the level that passengers have a right to expect. I will consider carefully what my noble friend said on that matter.

I am also concerned to reduce the disruption caused to rail passengers by engineering work. The points of the noble Baroness, Lady Scott, were well made and I agree with them entirely. I want engineering work on the railway to be more efficiently planned and executed and for more use to be made of rail diversionary routes, rather than the bus substitution services that are the bane of rail travellers’ lives at weekends and on bank holidays. The Office of Rail Regulation and the Government are on Network Rail’s case on this issue. I will happily speak more fully to the noble Baroness, Lady Scott, outside the Chamber to explain what we have in hand. I know that this is also an issue of great concern to the noble Earl and I will also be glad to speak to him.

The noble Earl asked specifically about the appointment of a special member to Network Rail. I am sorry if I did not answer this question when he first raised it with me. We do not think that this is an appropriate course to pursue because we do not believe that the performance of Network Rail will be improved by micromanagement by the Government. Improvement
depends on more effective management by Network Rail. That is what we and the Office of Rail Regulation seek to promote. I also want to see improvements to stations. On my recent rail tour of Britain, which the noble Baroness kindly mentioned, I found the variable and often downright poor quality of services at stations—including such basic services as toilets and catering, car parking and bike storage—most concerning. I have appointed Sir Peter Hall and Chris Green to prepare a strategy for improving service quality at stations and I encourage noble Lords with an interest to speak directly to Sir Peter and Mr Green, to whom I will make available the Hansard report of this debate.

Turning to aviation, I agree very much with my noble friend Lord Clinton-Davis about its importance as a form of public transport. Many of my noble friend’s remarks were directed more to British Airways and other carriers than the Government, but I assure my noble friend that we will not neglect the aviation sector in our plans for the future. I note what he said about passenger duty.

I also very much agree with the point made by my noble friend and by the noble Baroness, Lady Valentine, about the need to join up different forms of public transport much more effectively. This is a particular government priority in respect of Heathrow, where we are anxious to improve public transport access significantly. This will be a major benefit of Crossrail, and the House will note that the Government have asked the new High Speed 2 company to make recommendations to the Government about how a north-south high-speed line could include an interchange for Heathrow. I also note my noble friend’s remarks about green aviation.

Moving on to the second theme raised by the noble Lord, Lord Bradshaw—cost and fares—I think it is fair to say that never have so many bus passengers had it so good thanks to the new nationwide concessionary fares scheme which since last April has given all over-60s and many disabled people free bus travel nationwide. Eleven million people are eligible for this free travel in England, including 82 per cent of Members of your Lordships’ House, although, alas, not me. I pay tribute to my noble friend Lady Quin for her role in persuading the Government to adopt this policy, and I note her points about how it could be extended further, including to my noble friend Lord Clinton-Davis about its importance as a form of public transport. Many of my noble friend’s remarks were directed more to British Airways and other carriers than the Government, but I assure my noble friend that we will not neglect the aviation sector in our plans for the future. I note what he said about passenger duty.

In respect of other fares, the Local Transport Act provides as a means of getting a lot more money out of the public. As policy adviser to Peter Parker, maybe I got nearer the job than the Minister did. I beg leave to withdraw the Motion.

Motion withdrawn.

**Broads Authority Bill**

**Third Reading**

4.34 pm

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Broads Authority Bill, has consented to place her prerogative and interest, so far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

Motion

*Moved by Baroness Hollis of Heigham*

That the Bill do now pass.

Baroness Hollis of Heigham: My Lords, I declare a non-financial interest as a past boat owner for 30 years. Noble Lords who were here for Second Reading may be surprised to see that the right reverend Prelate the
Bishop of Norwich, who so eloquently moved the Motion at Second Reading, is not here today. I am sorry, but he is tied up with other episcopal duties. I am sure that he would want to say that he wishes the Bill godspeed.

The Bill’s main purpose is to obtain new powers for the authority to improve safety for those boating on the Broads. The need for additional powers has been highlighted by the requirements of the port marine safety code and specific incidents, including a tragic drowning in the Broads. The Broads are safe but, even so, two or sometimes three deaths occur on average a year on its 120 miles of waterway, compared with six or so on the 2,200 miles of canals. The Bill therefore includes licensing pleasure boats, compulsory third-party insurance and inspections to avoid fire and explosions.

The responsibility for Breydon Water, the closed inland estuary of Great Yarmouth and the most dangerous stretch of water, with 50 or so groundings a year, will transfer with mutual agreement from the Great Yarmouth Port Company to the Broads Authority, which currently patrols it. The Bill contains sensible provisions that regulate waterskiing and wakeboarding. It also contains some constitutional and administrative provisions that are intended to enhance the authority’s effective operation.

The Bill has been subject to detailed scrutiny in both Houses, most recently in Select Committee proceedings so ably chaired by my noble friend Lord Berkeley. I am sorry that he cannot be here today—he sends his apologies to me and to the House—but I am pleased to see the noble Lord, Lord Trimble, in his place, and I understand that both he and the noble Lord, Lord Walpole, may speak in the gap.

The petitions of 12 members of the public and one organisation, the Norfolk Association of Local Councils, were closely examined by the committee. Having heard all the evidence, the committee concluded that the Bill should proceed, subject to the insertion of the words “reasonable” or “reasonably” at appropriate places, mainly with reference to fees.

The committee made a few additional comments. It suggested that the authority might look at introducing an equivalent to SORN—the statutory off-road notification for cars—for boats, so that boats under repair on application would not be liable to pay a toll. Officers of the authority support this idea in principle, and a report examining appropriate criteria will be presented to the authority for its members in the near future.

The committee asked the authority to consider the relationship between the Broads Authority, as duty holder under the port marine safety code, and the head of waterways, strategy and safety as the designated person. This should clarify lines of responsibility. The authority’s safety management system has been modified to make the relationship clearer, and the authority’s navigation committee has been consulted on the revised document. The same report will go before the next meeting of the Broads Authority at the end of this month.

Finally, the committee welcomed the statement on behalf of the authority that the information about the depth of water on the Broads will be published on its website. Work is under way to achieve this. This is highly desirable, given the silt that pours into the Broads and the constant dredging that is needed to ensure navigation.

The Broads Authority has garnered wide support for the Bill, including from the Government. No local authority and no boating, angling or amenity bodies have petitioned against it. The authority reached agreement with the Norfolk Broads Yacht Club, the one boating organisation to petition about Wroxham Broad, such that the club withdrew its petition before the Lords committee started.

The petitioners who came to the committee were for the most part—the noble Lord, Lord Trimble, can speak on this better than I can—experienced sailors who felt that the safety provisions in the Bill, particularly general directions, had the potential to hamper their sailing. The Bill provides checks and balances, including a thorough consultation process prior to the implementation of a general direction, which have satisfied the national boating organisations. Compulsory third-party insurance and better management of activities such as waterskiing are a benefit even for the experienced sailor. But the Bill will help to improve the safety above all for the thousands of inexperienced visitors enjoying the Broads for the first time and, importantly, introduces the licensing of hired craft across the whole of the Broads. My noble friend Lord Davies will doubtless confirm this.

The authority’s local accountability has been extensively debated during the Bill’s progress through both Houses. Whatever the merits of introducing institutional reform, this is not a matter for the Bill, but I should like to say a word or two on the subject. There are two strands to the debate. Some people are arguing for direct elections to the authority. It is worth noting that at the moment four of the authority’s 21 members are elected to the eight constituent county and district local authorities, so there is that degree of local accountability, although that is indirect.

The vice-chair of the Broads Authority and its chair of planning are also elected local councillors. The Government have consulted on the principle of direct elections to the national park authorities and the Broads Authority. Their response is expected before the Summer Recess, but I understand from a Written Answer to Norman Lamb MP—my noble friend may be in a better position to confirm this—that there is no immediate intention to proceed with direct elections.

The Government have also consulted on whether the Broads Authority’s membership should include parish councillors. Some respondents have argued that parish councils should send directly elected members to the Broads Authority. Others have argued that they should be two of the Secretary of State’s 10 nominees. The noble Baroness, Lady Shephard of Northwold, eloquently argued for the need to address the issues associated with the perceived democratic deficit. Two difficulties present themselves: first, the other interests would clearly be unhappy to see their representation reduced; and, secondly, of the 93 parishes that have part of their territory within the Broads, not one parish, I understand, is wholly contained within the Broads. There might therefore be a perfectly proper
debate about who would represent whom, given the very localness, which is their virtue, of parish councils. Several respondents suggested that local government reorganisation may enable parish members to be incorporated without increasing the size of the authority. However, there is another option. Behind the Broads Authority stands the Broads Forum. It has 25 members and, much more than the authority, it embodies local Norfolk interests, such as the Broads Reed and Sedge Cutters Association, the How Hill Trust, the Norfolk Windmills Trust and the Norfolk Wherry Trust. Its chairman attends the Broads Authority and reports on the forum’s views on key issues. Among its 25 members, the forum includes two members who represent the northern and the southern local councils; that is, the parish councils from Norfolk and Suffolk.

I sympathise with some of the concerns expressed by the noble Baroness, Lady Shephard, at Second Reading, about the democratic deficit at its most local level. I suggest—I gather that this might be acceptable—that the two members on the Broads Forum should be beefed up to four members, so that they would become the largest group on the forum, along with the boating groups. The chair of the forum is independent, is appointed by the Broads Authority and sits on that authority. I see no reason why a future chair should not be appointed with this consideration also in mind. However, that would be a matter for future discussion with the Broads Authority and with the forum.

If the minutes of the forum, along with the views of members of the strengthened parish councils, were both received by the Broads Authority and, if necessary, spoken to by the forum’s chair, this might be an appropriate way forward. It may not go as far as the noble Baroness would like, but she might regard it as a useful compromise between differing views.

The Boundary Committee is due in July to make its next announcements on the recommendations on the future shape of local government in Norfolk and Suffolk. The authority is of the view that further formal consideration of its membership, apart from the forum, should await the outcome of that process. However, the authority is keen to look at ways of improving engagement with local interests. I am happy to report that, at the beginning of this week, the chief executive of the Broads Authority met the Minister and representatives of the national park authorities to examine what examples of best practice it might adopt in engaging with local authorities. We shall have to see how this progresses.

Finally, I refer to concerns that the Bill is not necessary, that the level of consultation prior to its deposit was inadequate and that the costs of administration will be considerable. These matters were all aired before both the Commons committee and the Lords committee, and the Broads Authority was able to demonstrate that the provisions of the Bill are necessary and are conducive to safety, remembering that most Broads users are inexperienced. It was also able to show that widespread consultation took place before the Bill was deposited—I have looked at that, and there seems to have been heaps of consultation—and that its implementation will not lead to a large increase in administrative overheads. It is also clear that the Bill is necessary, because the powers that it has identified could not be provided wholly by by-laws or by harbour revision orders.

This is an important Bill for all those who use and enjoy the wonderful Broads—and many devotees are in the House this evening—which are one of the most important assets of Norfolk and Suffolk. I commend the Bill to the House.

4.48 pm

Baroness Shephard of Northwold: My Lords, I congratulate the noble Baroness, Lady Hollis, on the competent, able and persuasive way in which she has introduced the debate. As she says, the Broads mean a great deal to people in Norfolk and Suffolk, and of course are of national and international significance. Parliament, in another place and in this House, has recognised that significance by the care and attention that has been paid on the Floor of both Chambers and by Select Committee scrutiny in both Houses to the detail of the Bill. Useful and helpful changes have been made during that scrutiny and the Broads Authority has worked hard to take account of the objections and concerns that have been raised during the Bill’s legislative journey.

However, from the beginning of the journey, real anxiety has been expressed, not least in another place, where the Bill was twice blocked by objections about the democratic deficit built into its governance arrangements. This has not been put right in the Bill before us today and, while I would not wish to impede the progress of the Bill, I should like again to rehearse those anxieties in the hope that the Minister may be able to give some comfort, in particular to the 93 parish councils, parts of whose territories in Norfolk and Suffolk are touched by the Broads Authority. I declare an interest as President of the Norfolk Association of Local Councils.

Part of the Broads Authority’s argument against, for example, directly elected parish council representatives, or a statutory parish council presence of some sort on the authority, has been that it is somehow impractical to arrange for the representation of 93 councils. Of course, if one took that argument to its logical conclusion, it would preclude parliamentary representation of the UK’s 60 million citizens, which we would not wish to pursue. The simple fact that no fewer than 93 parish councils are affected by the jurisdiction of the Broads Authority makes it more, not less, important somehow to arrange that their voice be meaningfully heard.

The Select Committee in your Lordships’ House considered this point, because one group of petitioners was the National Association of Local Councils. Although others will speak with more authority on this than me, the committee decided that that it was beyond the scope of this Bill for such representation to be required. It was also mindful of the fact that the Government were, while it was deliberating, consulting on whether there should be directly elected local government representation on English national parks authorities. In that way, the democratic deficit on the Broads Authority might have been rectified.
I was under the impression that the Government had now decided that there should not be directly elected local government representation on national parks authorities in England, which I hope the Minister will be able to clear up. But one is driven to wonder whether, if the Select Committee of this House had known that that was to be the outcome of the separate consultation, it would have taken a different view with regard to the Broads Authority.

But we are where we are; that is, at the final stage of the passage of this Bill. I take this last opportunity to remind the Minister of his own Government's commitment, repeated again with great force yesterday in the Prime Minister's Statement, to re-engage with the people. He said:

"Democratic reform … must principally be led by our engagement with the public. It cannot be top-down … The public want to be, and should be, part of the solution, so we must build a process that engages citizens themselves". —[Official Report, 10/6/09; col. 641.]

That is quite so. That principle should most certainly be applied to the way in which the Broads Authority is run.

The membership of the Broads Authority has been set at 21. When the Chief Executive of the Broads Authority was asked in the Select Committee why this figure had been chosen, he said—and I quote from memory—that it was "a nice number". Well, it is; we all wish that it applied to us, no doubt. But will the Minister explain to the House why 21 is that chosen number? Why is it not 23 or 25 as in the guidelines for national parks set out by the Secretary of State? Why should district and county councils be given representation and not the lowest tier of local government? Are there any national parks authorities that have parish council representation? And why, given the emphasis that the Government rightly place on the importance of democratic accountability, reaffirmed, as I said, just yesterday by the Prime Minister, should places be given to interest groups at the expense of the communities affected at grass-roots level by decisions taken by the authority, decisions which cannot be challenged because the authority's very constitution means that it is not accountable?

I have put these points to the Broads Authority. The Chief Executive, Dr Packman, explained in a letter—the noble Baroness has confirmed it today—that there are two parish councillors, one from Norfolk and one from Suffolk, on the Broads Forum, a body that he described as having no powers. The views of the forum on various issues are reported to the authority, but given that there are 25 members with a wide variety of interests, I think that at this stage—I shall come to the noble Baroness's suggestion at the end of my speech—we can assume that the forum and the way that it works at the moment do not represent any kind of democratic process and accountability which we in this House would recognise.

The concern felt by the town and parish councils is particularly keen when it comes to planning decisions. In April this year, a planning decision taken by the Broads Authority was, according to the local press, referred to the Standards Board on the grounds that relevant parish councils had not been notified in accordance with the required procedure and that authority members had not declared relevant interests before participating in the planning decision. A letter I received from a local resident, Mr Gary Simons, on 21 April, on the issue states that, "the bigger question is whether the Broads Authority is fit for its planning functions. A quorum of four of the planning Committee's thirteen members suffices, and all four might be Secretary of State nominees with no electoral mandate or accountability to local people. That with poorly understood and disregarded standards gives no assurance of due process or right outcomes".

I accept that at this stage of the Bill's journey it may not be possible to do much to make the Broads Authority more accountable in the sense that all of us would recognise. Nor would I want the points I have made to detract from the excellent work that has been put into improving the Bill or from the good work of the Broads Authority itself. However, I would be particularly interested to hear the Minister's reaction to the ideas put forward by the noble Baroness, Lady Hollis. Would there be anything to prevent the Broads Authority increasing parish council representation from two to four? If that made the parish councils the biggest block on the Broads Forum, would that mean that it was possible for an elected parish councillor to become the chairman of the Broads Forum? I expect that the Minister will be able to comment on that point, but it would be helpful if he felt able to be positive today.

I should like to emphasise to the Minister that I recognise that the Bill is not the vehicle with which to change the Broads Authority constitution. In any case, it may have to change if there is local government reorganisation later on this year. However, we do not know whether there will be such reorganisation or not. It seems to me that there is no reason to delay considering and putting into practice the ideas suggested by the noble Baroness, Lady Hollis. If that were the case, the Bill, while it cannot be the vehicle with which to change the Broads Authority constitution, it could be the vehicle through which a more accountable management might be achieved.

4.57 pm

Lord Ryder of Wensum: My Lords, I congratulate the noble Baroness, Lady Hollis, on opening this debate with such clarity. I pay tribute to the meticulous work carried out by the committee under the chairmanship of the noble Lord, Lord Berkeley. Ever since my East Anglian childhood more than 50 years ago, I have prized the broads at close quarters. No one who reads Arthur Ransome in their youth could forget his glorious descriptions of the broads in the Coot Club. When later, 25 years ago, I was fortunate enough to represent the broads in the other place, it became clear, partly due to a threat to the existence of the Halvergate marshes, that primary legislation was essential to preserve this special landscape for the future. Consequently, I managed to persuade the Government—it was not a difficult task after the usual shadow boxing—to legislate in their own time. Indeed, the Broads Bill received a specific mention in the 1987 gracious Speech. As a member of the Government I had the privilege not only of being a representative of the broads but of piloting the Bill through the other place.
Broads Authority Bill

[5.02 pm]

Lord Glenarthur: My Lords, I cannot follow my noble friend in his eloquence about the view from anywhere from the Norfolk Broads. As I live in Aberdeenshire, it is far too far away to see. However, I have visited them in the past—and I reflected that when I spoke at Second Reading.

Like my noble friend, I can be fairly brief. I acknowledge the degree of movement and the degree of scrutiny that the movement came from during the Committee on this Bill. It reflected a number of the concerns registered at Second Reading: the Committee process was very thorough and fully debated, and I am grateful to those who played such a full part in it.

One or two issues still remain, which have been touched on this afternoon. The first, as my noble friend Lady Shephard said, is that there remains a very large number of people closely associated with the broads, in Norfolk, Suffolk and no doubt elsewhere, who continue to believe in more democracy in national park authority bodies or, indeed, the Broads Authority body. We cannot escape the fact that, whatever its title, there is a very close similarity between this Bill and legislation on the national parks. In all but name, you could say that the broads will become a national park. I am given to understand that a similar majority is wary of giving further powers to the Broads Authority. The fact is that the Broads Society has made the position of certain objectors plain; there are many in favour of more elected members. Whatever the noble Baroness, Lady Hollis, says about the Broads Forum, which I shall certainly read and try to digest, I am not sure that it goes far enough fully to address the democratic deficit. That was very much the burden of the remarks of my noble friend Lady Shephard. This is at a time when the Government are expected shortly to report on further democratisation of the national park authority boards.

Those who promote the Bill cannot really hide behind the fact that, technically, the Broads will not become a national park. Yet it will in almost every sense—and may not be subject to any changes that might derive from any review of democracy in the national parks authorities. One could well say, at least, that the Bill is premature, however long it has taken to get to this stage. I hope that the Minister will be able to say when that report on the national parks authorities’ democratisation is to be published. Or, indeed, is one tempted to believe from the process of the Bill that what is to be decided is already pre-ordained and understood by those who promote it?

The other matter I must return to is that of safety. The noble Baroness, Lady Hollis, referred to that just now and I, indeed, raised a number of such concerns at Second Reading. The noble Lord, Lord Hunt of Kings Heath, made a number of points about it to me then, suggesting that there had been “two deaths”, for example, “in 2006”, and that he could have read out a list of, “near misses for drowning and other injuries”.—[Official Report, 8/10/08; col. 311.]

He sent me a great deal of information about that, but I have read the Broads Authority’s report from its own website, dated 28 May, headed:

“Broads Authority’s safety record praised”.

It goes on to say:

“For the second year running there were no boat related deaths ... There were only four boat fires, half that of the previous year, and a fifth of the number in 2006. One of the four was caused by arson, and only one of the boats had a Boats Safety Certificate”.

I cannot understand why the noble Baroness so clearly says that this cannot be dealt with by by-laws. The report continues:

“Last year six out of 11 injuries needing hospital treatment on the Broads were caused” by people when “embarking or disembarking”, and goes on to talk about various other elements in a new safety campaign called look before you leap. Do we really need further legislation to enforce common sense? We may do, but we may also have concerns about health and safety legislation. It seems to me that
the Broads Authority is achieving what it needs to without the need for reinforcing it with legislation for common sense.

Even if the sponsors of the Bill are well meaning—and I have every reason to believe that they are—I have great concerns that it is unnecessary. The Broads Authority works as it is; the facts about safety, which I quoted, show that it is already addressing the issues that the Bill is now trying to enforce. At the least, it should wait until the Government’s view on democracy in national parks is published and debated. Frankly, I deplore the need for further legislation at this stage.

5.07 pm

Lord Trimble: My Lords, I declare an interest as a boat owner; one, indeed, whose boat’s safety certificate is due for renewal within the next year. As noble Lords mentioned earlier, I was on the Committee and found it an interesting experience. It is the first time that I had served on an Opposed Private Bill Committee, so it rounds out my parliamentary experience in that respect. It is also the case, as the noble Baroness, Lady Hollis, has said, that the objectors were largely experienced sailors and that the objections from boating interests had been withdrawn, which is a significant fact.

However, listening to the objections from those experienced sailors, I was impressed by their commitment to the Broads and their desire to maintain the special characteristics of that waterway. I also felt that their objections were not so much to the substance of the Bill as reflecting a concern about how the new powers and procedures would operate. That concern came back to how the Broads Authority might operate, and so on. That is why there has been a focus on accountability and on trying to increase the number of elected representatives; particularly, to bring them in from parish council level.

While, as has been mentioned, the Committee did not inquire or take a position on this—the matter was out for consultation and the question of electing parish councillors was outside the scope of the Bill, so that any further comments I make are personal and in no way reflect the Committee as a whole—had this issue come before the Committee, I would have felt very sympathetic to it. That is worth reflecting on further because, if there were greater accountability, particularly of local representatives, that would go a long way to allay any concerns that people might have about how the new regime will operate in practice.

I noted that in the discussion of parish councils, there were the usual arguments about there being 93, none of which was wholly within the area of the authority. I am not inclined to attach much weight to that argument, because the Broads are significant to the wider community, beyond the narrow boundaries of the authority itself. When one looks at that wider community, the geographic area argument does not carry weight.

I noted also the positive proposals made by the noble Baroness, Lady Hollis, with regard to the Broads Forum and increasing the number of parish councillors there. It may be worth pursuing that further, but I hope that it will be possible for the Minister to find ways of increasing the elected representation on the authority itself. Something that goes through the forum and is then reflected on to the authority will not be as effective in building public confidence as an increase of representation, particularly of those who are from the most local level. It is a matter of assuring confidence in a situation where the legal regime is changing significantly.

From my perspective, as one whose boat is moored within the purview of British Waterways, the changes do not seem to be so dramatic because much of the change is bringing the authority into line with the provisions that apply both for British Waterways and the Environment Agency. But it is a significant change for people who are in the Broads area. Looking sympathetically at ways of building public confidence is something that I hope will be pursued.

5.11 pm

Lord Walpole: My Lords, at Second Reading I explained that I was chairman of the planning and transportation committee at Norfolk County Council when there were the first indications that a Broads Authority of some sort ought to exist. When I arrived in this House, some 10 years later, the Bill had just gone through.

I must thank those people who have been so good at bringing this Bill as far as they have, particularly the noble Baroness, Lady Hollis, for introducing the debate this afternoon, the noble Lord, Lord Berkeley, for chairing the committee, and my Bishop, the right reverend Prelate the Bishop of Norwich—who is not here either—for introducing the Bill in the first place.

I still like the Broads enormously. They are still the place where I go when I want to rest. On our last holiday—we had a week off a fortnight ago—my wife and I took a boat on the Broads and it was so nice for a whole day not to have any interference from anyone who wanted to get hold of us. It was wonderful; it was a real Lord’s holiday.

It would be churlish of me not to welcome the completion of the Bill. I welcome it. I realise that there are a few odd ends that must be tied up later, but for heaven’s sake let us get this bit through and do the other bits later. Thank you.

5.13 pm

Lord Addington: My Lords, I do not think that I can be quite as brief as the noble Lord, Lord Walpole, but I do not have much to add because most of the discussion has been with those who have engaged in this very thoroughly. I believe, unlike the noble Lord, Lord Glenarthur, that we need to ensure that there is a regulatory basis to enforce basic safety requirements and to try to get the balance right for those who wish to use these wonderful waterways.

The Broads are not natural; they are dug out of gravel pits. As an East Anglian, I remember somebody saying something about them being a wonderful natural environment. They were accused, if I can use the Norfolk expression, of talking a lot of old squit about them, because they are not. They are something that has become a part of Norfolk and East Anglia. They are felt to belong to the people who live in that part of the world.
[LORD ADDINGTON]

Making sure that the Broads are operated safely so that everyone can have full enjoyment of them is very important. It is also probably necessary because of the different stresses on any amount of open water now. Sailing opposed to motor-powered boating is always going to have a degree of conflict. Something that addresses this in certain ways, as this Bill seems to, is probably necessary and must be kept under review.

For someone who is not great with heights, the idea suggested by the noble Lord, Lord Ryder, of observing anything from a church steeple with a book in one hand filled me with dread. My romantic vision and his will have to differ on this one.

The main area of concern to many local people is that they are not well enough represented. Those who have tangled across the Dispatch Box with the noble Baroness, Lady Hollis, are familiar with her skill in presenting a case. She said that there are ways round this and that you can do this and that. Yet the shortest distance between two points is usually a straight line, or at least as straight as you can make it. I feel that we could have done something better. The Bill should bring in at least some form of more directly elected officials into the committees and things that regulate. Yet I have heard no serious objection to this Bill becoming an Act, so I have no intention of further delaying the House.

5.16 pm

Lord Taylor of Holbeach: My Lords, it is satisfying to see the Bill return from the committee. I thank all the distinguished Members of your Lordships’ House who have spent time evaluating and examining the Bill in a detail that we were unable to provide at Second Reading. Thanks to the Printed Paper Office, I have a record of the proceedings, which, as noble Lords might expect, were thorough and show the diligence with which this House deals with such matters.

As I said at Second Reading, someone from Lincolnshire is wary of intervening in a subject that is Norfolk and Suffolk business. Yet we all have an interest in the effective management of the Broads area. It is a leisure destination for the whole nation and a unique environment that adds greatly to the biodiversity of our country. My noble friend Lord Ryder pointed out the degree to which it is a special place, perhaps unique in the British Isles.

This has been a useful debate and I thank the noble Baroness, Lady Hollis of Heigham, for bringing the Bill to Third Reading in the absence of the right reverend Prelate the Bishop of Norwich. It is a shame not to have the Abbot of St Benet’s here today, but the noble Baroness is a distinguished Member of the House and well qualified, as a Broads boat owner of some 30 years, to move the Motion at Third Reading. She had to disabuse me of my impression that she was from Potter Heigham, the bridge of which is one of the more prominent landmarks on the Broads. That in no way reduces the authority with which she speaks on this and other subjects.

My own experience of the Broads is more limited, if lifelong. My visits on a modest, hired-for-the-day launch dropped off when my mastery of the vessel was challenged by younger but up-and-coming members of the crew. I am a less frequent visitor than I used to be.

This Bill is primarily about the running of the authority, in particular the relationships between navigation and leisure, and other aspects of the running of the Broads. As we have discovered in debate, this is by no means straightforward. The authority’s navigation officer has to reconcile the interests of highly skilled yachtsmen and sailors with protecting the occasional leisure user and keeping them safe. I include myself in that latter category. I expressed concern at Second Reading about possible conflicts, and the noble Lord, Lord Glenarthur, indicated that he still has his concerns about the Bill. Many noble Lords speaking have done so.

It is important that the authority listens to this criticism. I am pleased to have received a briefing from Dr John Packman, the chief executive of the Broads Authority. It is good to know that there is a continuing dialogue with government on how the Broads Authority—and, for that matter, national parks—connect with local authorities and communities. My noble friend Lady Shephard is right to emphasise this and to question the Government’s commitment to it. I hope that the Minister, an astute operator at the Dispatch Box, can respond positively to the cries from all speakers that local accountability and involvement are important.

That must be the key. It is important that the authority is seen as a facilitator by local people and not an imposition. The noble Baroness, Lady Hollis, has today talked of changes to the Broads Forum. It is important that, if this is to address the issues that matter and be a real force in the governance of the Broads and not a talking shop, it should be truly representative of the local community and speak with the authority that comes from the mandate of local and community interests. However, it is no substitute for the direct involvement of the local community in the administration of the authority.

Once again, I thank the noble Baroness for bringing the Bill forward, all other Peers for their contributions and my noble friends for their knowledgeable and wise contributions to the debate.

5.21 pm

Lord Davies of Oldham: My Lords, I congratulate all noble Lords who have contributed to the debate, but particularly my noble friend Lady Hollis on taking on the responsibility of introducing the Bill at this time. I also pay tribute to all those who have contributed to the development of the Bill from its origins. I am all too well aware of the immense amount of work that goes into Private Bills, unheralded and largely unseen, with extensive hours. I recall close parliamentary colleagues of mine being buried for months on end in Bills such as the then Channel Tunnel Bill, which was a Private Bill and seemingly went on for ever. It would withdraw parliamentary colleagues from any other form of parliamentary activity for months, if not years, on end. I am therefore a great respecter of all those who contribute to the development of a Private Bill. There never was a Private Bill that did not generate some degree of controversy and challenge, and this Bill has likewise done so.
If the noble Lord, Lord Taylor, from Lincolnshire, is slightly hesitant in commenting upon the Broads, I am not quite sure, with my geographical background, that I should be standing here at all. However, I recall the House that I cut my political teeth in the dim and distant past by fighting a general election in Norfolk against the late Sir Ian Gilmore, Lord Gilmore of Craigmillar, who was a more than redoubtable opponent. Part of the constituency was North Walsham, so I got the delights of the Broads in January and February 1966. It was a particularly bitter winter and I therefore have a vigorous recollection of the Broads and their beauty at that time, even in sub-Arctic conditions.

I agree with the point of the noble Lord, Lord Ryder. He surely put it in more graphic terms than I could do, but we are all aware that we must watch carefully any changes to our most protected and beautiful landscapes. The Broads are special in these terms, with a particular beauty. I am therefore glad that the Bill has been subject to intensive scrutiny. I remind the House, as the noble Lord, Lord Trimble, did, that the main aim of the Bill is to improve safety on the Broads through a series of measures, including licensing of hired craft, compulsory third-party insurance and improvements to how the Broads Authority operates. The introduction of the boat safety scheme is already ensuring that vessels are properly maintained. The Bill will allow that scheme to be updated effectively and enable the Broads to, in a sense, catch up. As has already been reflected in the debate, the British Waterways Association and the Environment Agency already successfully operate a boat safety scheme, so I am glad that the Broads Authority is taking measures to bring the Broads into line with other major navigation authorities.

I also want to comment on the distinctive points that have been raised regarding the controversies over the Bill, which I think are mainly centred on the comparison between the Broads Authority and park authorities and the desirability of increasing direct elections to authorities. Let me answer the noble Lord, Lord Glenarthur, who asked when the formal response would be made to the Government consultation. We expect to do that in the late summer. The consultation has been extensive.

Of course, it would be surprising if a Bill which had such significance for local authorities, including the 93 parish councils referred to by the noble Baroness, Lady Shephard, did not occasion some considerable interest and a wholly healthy response from those authorities as to what say they would have in future developments. I thoroughly understand the calls for direct elections to be included in the Bill.

The demands may be there, but that is different from saying that the Bill is a proper vehicle for considering whether these proposals should be included. We consider in government terms that this particular issue is somewhat outside the scope of the Bill because we are looking at the whole question of representation and this Bill has got a narrower remit than that. We are also mindful of the point which my noble friend Lady Hollis made about the question of how the democratic deficit might be dealt with. She made an interesting point in her opening remarks about a compromise solution on this. I merely say that as far as the forum is concerned, that is a matter for the authority, not for the Government, and it is for the authority to reach its decisions on that point.

On the more general point, it will be noted that at this stage we are not attracted to direct elections. As I have indicated, we are going to respond fairly soon on the ways that we intend to ensure that all national parks continue to be responsive to local and national needs. Of course the fact that the Broads comprise parts of such an extensive number of parish authorities is an important one. We are not in favour of introducing parish council members to the Broads Authority, but of course it is open for them to express their concern for representation by applying for one of the national appointments. My noble friend made the point that in fact democratic expression may come through the forum rather than actual appointments to the boards.

I very much respected the points which the noble Baroness, Lady Shephard, made on these issues. She made them with all the authority of the role that she plays now and has played for a long time in our democratic counsels as a Member of Parliament at the other end before she came to this House, and we all respect her views. I hope that she will appreciate the fact that the Government are in favour of good governance for the national parks and for the Broads Authority. The Broads are a little different from the national parks; that is why they have that crucial extra dimension with regard to navigation and why we are considering today the importance of the authority in relation to safety.

I was questioned, I think by the noble Lord, Lord Glenarthur, about safety. Although from time to time it is contended that the nanny state—a concept which I hope noble Lords opposite realise some of us on this side of the House have a little difficulty in grasping as we are not too sure that we have ever experienced “nannydom”—might overconcern itself with safety, it is the duty of all of us to ensure safety on the waters, and the Broads Authority shares that responsibility. After all, we are all too well aware of the fact that even one tragedy is one tragedy too many.

I am grateful to the noble Lord, Lord Taylor, for indicating that challenges are present whenever one is involved in boating. No one suggests that every conceivable risk should be removed from the joys of boating and sailing; that would be absurd and would completely reduce the enjoyment involved in it. However, we certainly want to ensure proper safety standards. I am glad about the way in which the British Waterways Authority and others have blazed a trail and that the Bill will enable the Broads Authority to participate in that.

The noble Lord, Lord Glenarthur, asked, “Why do we need this legislation? Why can we not have by-laws?” Legislation gives a structure permanence whereas by-laws are fixed and rigid in their terms. If you want flexibility or change, you will have to pass another by-law. The issue here is to ensure that the authority has the necessary flexibility to revise over time the standards required. That element of flexibility is important.
I realise that I have not been able to assuage the anxieties of all those who have contributed to the passage of the Bill and the criticisms of it. The noble Baroness, Lady Shephard, referred to the role of the chairman of the authority. We believe that there should be a degree of independence and we see no reason why the chair should not be a parish councillor; it is for the forum to decide on that. Certainly it would ill behove any statement from the Dispatch Box by the Government on how such issues should be resolved. I would welcome discussions between the Broads Authority and the forum in the future about these factors because when people express, within the framework of a Bill such as this, anxieties about representation and their voice being heard, they need to be taken seriously.

The Bill has now been considered by committees in both Houses and both committees have found the case for the Bill proven. Although I know my noble friend will do an even more thorough job than I have in responding to the debate, I hope that at the end of it she gets a fair wind and that the Bill does duly pass.

5.34 pm

Baroness Hollis of Heigham: My Lords, on behalf of the whole House I thank my noble friend. I was slightly alarmed when the noble Lord, Lord Taylor, teased me about the “Heigham” in the title. I can assure him that if it had been Potter Heigham I would probably have had a non-financial interest to declare, as opposed to the fact that it is the title of a ward that I represented in my city for some 20 or 25 years.

Two points of substance have come out. The first is on the democratic deficit. The second is on the safety issues and therefore whether a Bill as such was necessary. I know that Bill does not go as far on the democratic deficit as many members of Your Lordships’ House would like. However, today we have found a way forward, as possibly an interim measure, to beef up the voice of local interests and to make sure they are adequately, thoroughly and properly heard by the Broads Authority. We now send this back to the Broads Authority with the clear views of the House expressed on that matter.

The noble Lord, Lord Glenarthur, raised the issue of safety. He suggested that this could be done by by-laws and, if so, the Bill would not be necessary and therefore a lot of time and expense had been wasted. I do not believe that to be the case. Compulsory third-party insurance for boats, water skiing management, hire boat licensing, to take just three items which are essential for the safety of inexperienced users of the Broads, cannot be done by by-laws. They have to be done by this Bill. That seems to be an unanswerable argument.

Like my noble friend, I should like to thank all those who have taken part in proceedings on the Bill—the right reverend Prelate the Bishop of Norwich, who is sadly missed today, and the members of the Private Bill Committee, represented here by the noble Lord, Lord Trimble, and whose proceedings I have read with admiration as they patiently interrogated and cross-questioned and made sure they understood with perfect clarity the points being raised. I should like also to thank the speakers today, many of whom—I think at least four of us—were personally involved in developing the Broads Authority in the 1980s. I think we are delighted to see what has happened since then. Finally, I say to the Broads Authority and its members and officers that they know as well as anyone in this House that they have a precious landscape in trust. I am confident that it is not only safe in their hands, but with the strength of this Bill behind it, they will continue to enhance it for the enjoyment of us all.

Bill passed and returned to the Commons with amendments.

Geneva Conventions and United Nations Personnel (Protocols) Bill [HL]

The Bill was returned from the Commons agreed to.

House adjourned at 5.37pm.

CORRECTION

In col. 647 of the Official Report for Wednesday 10 June, in the second paragraph of her contribution on the Statement on Constitutional Renewal, Baroness D’Souza is recorded as having said, “This is not a way of prejudging the outcome of the SSRB review.” This was a misprint. She in fact said, “Is this not a way of prejudging the outcome of the SSRB review?”
Grand Committee

Thursday, 11 June 2009.

Welfare Reform Bill
Committee (2nd Day)

2 pm

The Deputy Chairman of Committees (Baroness Fookes): It seems highly unlikely but I have to remind the Grand Committee that, if there is a Division in the Chamber, we must immediately adjourn for 10 minutes.

Clause 1: Schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.

Amendment 11

Moved by Baroness Turner of Camden

11: Clause 1, page 2, line 24, at end insert—

“( ) Regulations may prescribe that the skills and abilities of participants can be utilised in the schemes to which they may be referred.”

Baroness Turner of Camden: My reason for tabling this amendment is that I have become aware of the increasing level of unemployment in areas where manufacturing industry has, until recently, played a dominant role. I know of towns which I used to visit when I was a union official where one large firm or enterprise was dominant—everyone worked in it. When that enterprise ceased to exist, large levels of unemployment resulted, much of it among people who were highly skilled. This has increasingly become the situation in parts of the country. Often, no alternative employment is readily available and this often has a devastating effect on some of the skilled workers left without work.

It should be appreciated that people with skills, often acquired over many years, are proud of those skills. My father was a skilled engineering worker and, fortunately for my family, he was never out of work. However, nowadays many people like him face unemployment, possibly over a very long period.

I understand that the Bill is an attempt to deal with long-term unemployment, but a skilled worker is unlikely to take kindly to work-related activity involving, for example, stacking shelves in Waitrose or Tesco. Skilled people must feel that their skills and experience count for something and that attempts will be made to ensure that they are utilised. This is important for them psychologically, and it is also important for the future of our economy because such people can be used to train others. That people’s skills are utilised wherever they possibly can be is important for all sorts of reasons, including the future economy of our country, as we cannot afford to waste skills that have been acquired over a period of time. For that reason, I have tabled this amendment and I await with interest what the Minister has to say about it. I beg to move.

Baroness Thomas of Winchester: I do not know whether the kind of amendment that the noble Baroness, Lady Turner, has just spoken to so movingly would help but we certainly support the spirit behind it. As she said, it is easy to envisage a situation where, say, a skilled engineer who had been working for 30 years but has been unemployed for two years is placed in a completely unsuitable “work for your benefit” scheme. Many younger unemployed people may not have useful skills but nowadays huge numbers will be skilled workers and it must be right for those skills to be used.

We need to know how much flexibility there will be in the “work for your benefit” schemes. As we know, they are not to be personally tailored, but does that mean that all participants will have to do the same level of job or will a skilled person—say, an electrician—be able to use those skills? I do not know what the position would be, although I am sure that it will be very easy for the Minister to answer. Furthermore, I do not know what the insurance situation would be. If, for example, an electrician worked alongside another trained electrician on some rewiring, what would happen if the man on the scheme short-circuited the whole house? For that matter, I would also be keen to know the position regarding health and safety.

Lord Rix: I support the amendment for two reasons: first, the noble Baroness, Lady Turner, is sitting next to me with a very large stick in front of her and, secondly, because the amendment just seems to be common sense.

The Countess of Mar: I, too, support the amendment, because it particularly brings in the over-50s, many of whom will have worked for many years in the motor industry, for example, and, as in my neck of the woods, in the carpet industry—and they have special skills. It would be a good idea if they could be mentors to younger people and pass on their skills, which take a long time to acquire. Once those are lost, they are lost for ever. I have said this about farming. You cannot learn farming overnight.

Baroness Afshar: Does the word “skills” include the skills of motherhood, domestic work and caring for and management of the household?

Lord Skelmersdale: It is not surprising that the amendment has received support around the Committee, but is there not a slight misconception here? The “work for your benefit” schemes will not very often entail work per se, will they? They are aids to obtain work eventually; for example, they might involve a confidence course, a language course or even, in particular circumstances, a caring course.

However, the noble Baroness, Lady Turner, quite rightly opened up the issue of what exactly will be expected of jobseekers who are offered work. What will they be expected to agree to and on what terms and on what conditions? How much will they be paid? The noble Baroness has raised concerns that people may be compelled to undertake activities or take up employment that may be entirely inappropriate for them. This is obviously the purport of the amendment, and I agree with her that that should not happen.
I know from my time in Northern Ireland, where I toured job centres, how this can end up. I met there a man with a first-class degree in computer programming who was staffing a desk. That was a mismatch of that person’s skills and the function required by the position he held. As it happened, he held the position totally voluntarily because he wanted to be close to and look after his elderly and incapacitated mother.

However, there is a difference between being offered a job that is wholly unsuitable and being offered one that is merely not ideal. All sides would prefer ideal jobs to be matched with jobseekers, but that may not always be possible. On Tuesday, I referred to an element of retraining and reskilling which might be appropriate in the sort of areas that the noble Baroness, Lady Turner, spoke about. It is sad but true—especially when there is a recession, as there is now, with the number of jobseekers swelling and the number of jobs available shrinking—that it may be too idealistic to expect ideal match-ups. Some mismatch may be inevitable.

However, I should say to the noble Baroness that this situation need not be permanent. A job where a participant’s skills and abilities are not being fully utilised could be seen as a stepping stone. After all, we are discussing a process of helping people back into work, and edging them closer to being work-ready and, ultimately, employed. If no ideal job is immediately available, a related occupation may be the best stepping stone. I presume, however, that a personal adviser would in any event take into account the skills and abilities of the participant. I am sure that the Minister can confirm that.

The motor industry was given as an example. It may well be that, three or five years down the line, we will have no motor industry in this country at all, so that those who are skilled in assembling cars cannot find an ideal job that matches exactly the sort of job they are being asked to undertake. My nephew, for example, recently lost his job. He was a laser cutter for car panels in Leicester, but unfortunately the business immediately retrained and got a job as a care assistant. That was a mismatch of that man with a first-class degree in computer programming from that for someone with no skills. It goes without saying that the advantages of work experience with regard to work habits and routines are invaluable regardless of the skill level of the claimant.

There is no current impediment to a claimant using their existing skills or abilities in their work placement; in fact, we encourage it. We also encourage the development of new skills if necessary. There is therefore no need for the amendment, because what my noble friend is seeking is already possible within the system. With regard to professionals, we accept that the recession could result in more highly skilled people being unemployed, particularly those in the financial sectors. We believe that the support we have in place generally provides will not be one-size-fits-all; the noble Baroness, Lady Thomas, was probing on that point. Rather, it will be based on the specific needs of each individual. Providers will need to source individual work experience placements for each participant, based on their needs and aspirations. That will mean that work experience may be very different for a highly skilled participant from that for someone with no skills. It goes without saying that the advantages of work experience with regard to work habits and routines are invaluable regardless of the skill level of the claimant.

The amendment, however, raises the important issue that what is the right support for one person may not be right for another. That is the basis for the whole design of the “work for your benefit” programme. The work experience and the employment support that it provides will not be one-size-fits-all; the noble Lord, Lord Skelmersdale, was pressing this point—is on those who have been through the Flexible New Deal and have spent two years unemployed; that is when these proposals kick in. If a jobseeker has indeed been unemployed for two years or more, it may not be reasonable for them to expect to walk into a director’s job, even though that may be what they were doing before. It is entirely reasonable that we expect long-term unemployed people to consider occupations other than their usual one, in order to get off benefits and into the more productive and healthy environment of the open labour market.

I emphasise that there is a range of support other than the “work for your benefit” route in Clause 1. The current package available under jobseeker’s allowance will help jobseekers who find themselves out of work for six months or more. The longer a person is out of work, the harder we will work for them. Everyone reaching six months unemployed from 6 April 2009 onwards will receive significant extra support from Jobcentre Plus employment advisers. That support will involve extended meetings every four weeks or so
to discuss the best strategies for work and an enhanced range of work and training options, including a job supported by recruitment subsidies, support to start a business and self-employment, work-related training and voluntary work. So along the way, before we get to “work for your benefit”, we seek to offer a range of support to help everyone who finds themselves without a job, including those for whom my noble friend is particularly concerned in the amendment. I hope that she will be reassured by that.

2.15 pm

**Lord Skelmersdale:** Before the noble Baroness decides what to do with the amendment—I have no doubt what that decision will be and I do not think any other Member of the Committee has—perhaps I may ask the Minister a question. Clause 1 is predicated on the fact that the longer someone is unemployed, the longer it is likely they will continue to be unemployed. Clause 1 starts, as the Minister said, at the two-year point. Why was two years chosen? Would not one year or 18 months have just as—I would have thought more—appropriate?

**Lord McKenzie of Luton:** It is not only at two years, but the two-year timescale was proposed because that fits in with the Flexible New Deal, the first phase of which starts this year. The first 12 months are through the Jobcentre Plus three-stage process, then there are 12 months of Flexible New Deal. This is aimed at those individuals who, having been through that process—two years of support through those various mechanisms—are still without a connection with the labour market. That is why we chose two years: it fits in with and runs on from the Flexible New Deal.

**Baroness Turner of Camden:** First, I thank all noble Lords who have participated in this short debate, including the noble Lord, Lord Rix, who mentioned my stick, which remains well in view on the table. I indeed thank my noble friend the Minister for his detailed response to the concerns that several of us have voiced about the problem of long-term unemployed people who nevertheless have skills, but who have become separated from the world of work. I quite understand that one of the aims of the Bill is to ensure that people do not become separated from the world of work for good—or for bad—but are engaged in a work-related environment that brings them back into the world of work. Of course, everyone has to agree with that. I was concerned about the feeling that many skilled people will be turned off from the whole scheme if they are put into a work-related environment that is well below their skills and does not utilise what they feel that they have to offer. It is important to try to ensure that people in that position are put into a work-related environment where their skills are utilised. Of course, they could be used in training in many instances. It would be very good if that was so.

I am grateful for the Minister’s detailed response. I understand that the Bill’s objectives are entirely benevolent and aimed at ensuring that people do not fall out of the work environment, which most of them have been used to all their lives until suddenly they become unemployed. If they have been unemployed for two years or more, they are likely to become alienated from work altogether. That is not a good idea at all. I am grateful for the assurances that I have been given and I shall read with interest what the Minister said. In the mean time, I beg leave to withdraw the amendment.

*Amendment 11 withdrawn.*

### Amendment 12

**Moved by Baroness Meacher**

12: Clause 1, page 2, line 24, at end insert—

“(c) Without prejudice to any regulations made under subsection (5)(e) or (f) above, a person is to be regarded as having good cause for any act or omission for those purposes if, and to the extent that, the act or omission is attributable to any of the following circumstances—

(a) the claimant in question was suffering from some disease or bodily or mental disablement on account of which—

(i) he was not able to participate in the scheme or work related activity in question;

(ii) his attendance would have put at risk his health; or

(iii) his attendance would have put at risk the health of other persons;

(b) the claimant’s failure to participate in the scheme or activity resulted from a religious or conscientious objection sincerely held;

(c) the time it took, or would normally have taken, for the claimant to travel from his home to the scheme or activity and back to his home by a route and means appropriate to his circumstances and to the scheme or activity exceeded, or would have exceeded, one hour in either direction or, where no appropriate scheme or activity is available within one hour of his home, such greater time as is necessary in the particular circumstances of the nearest appropriate scheme or activity;

(d) the claimant had caring responsibilities and—

(i) no close relative of the person he cared for and no other member of that person’s household was available to care for him; and

(ii) in the circumstances of the case it was not practical for the claimant to make other arrangements for the care of that person;

(e) the claimant was attending court as a party to any proceedings, or as a witness or as a juror;

(f) the claimant was arranging or attending the funeral of a close relative or close friend;

(g) the claimant was engaged in—

(i) the manning or launching of a lifeboat; or

(ii) the performance of duty as a part-time member of a fire brigade;

(h) the claimant was required to deal with some domestic emergency; or

(i) the claimant was engaged during an emergency in duties for the benefit of others.”

**Baroness Meacher:** In moving Amendment 12, I shall speak also to Amendments 38, 76 and 87, all of which provide a definition of the concept of “good cause” in the Bill. These are probing amendments and we would do well to work on the detail of the definition of good cause between now and Report stage. The main purpose of the amendments is to argue the principle that this definition should be on the face of the Bill.
If a claimant fails to participate in a scheme or activity directed under the “work for your benefits” scheme under the new income support rules or in relation to the conditionality conditions for employment and support allowance, he may be subject to benefit sanctions. The amendments apply the same definition of good cause in each of the benefit systems covered by the Welfare Reform Bill. The definition is taken from the definition of good cause used in the Jobseeker’s Allowance Regulations 1996, Statutory Instrument No 207, and I am aware that the matters listed in our amendment differ from those listed in the draft regulations sent to us by the Minister on 4 June. I shall return to the point in a moment.

The importance of the amendments lies in the fact that one of the fundamental safeguards in the Bill against people being punished for things outside their control is the defence of good cause. This safeguard is crucial in upholding Articles 3 and 8 of the European Convention on Human Rights and ensuring that the balance between rights and responsibilities in the welfare system is fair and effective. In fact, it is not just because of Articles 3 and 8 that I am arguing this case, but it happens that it is a key point which needs to be made.

Despite the importance of the concept of safeguarding claimants, the Welfare Reform Bill itself does not contain a definition of good cause; instead it will come in regulations. We believe that it is essential that Parliament has a full opportunity to consider permissible grounds for a person’s failure to attend the relevant schemes or activity. This ensures a fair balance in the legislation between the coercive powers and the appropriate safeguards. This view was given by the Joint Committee on Human Rights in its 14th report, Legislative Scrutiny: Welfare Reform Bill, which I shall quote for the record:

“While the detailed delegated powers memorandum provided by the Government aids scrutiny of the proposals of the Bill, it is difficult to scrutinise proposed safeguards for their impact on individual human rights on this basis. We reiterate our previous recommendation that where safeguards are relevant to the Government’s view on human rights compatibility, those safeguards should be provided on the face of the Bill”. The committee goes on to say that where the Government’s view on compatibility relies on safeguards to be provided in secondary legislation, “we recommend that draft regulations are published together with the Bill”.

We are to have draft regulations during the course of the Bill. The committee goes on:

“At the very least, the Government should describe in the explanatory material accompanying the Bill the safeguards it proposes to provide”.

I must acknowledge that the Government have met the lower-level recommendation of the Joint Committee, but I am sure that I am not the only Member of the Committee who does not find that acceptable. To have subsection (a) in the Bill is particularly important for people with mental health and other fluctuating conditions. I tend to raise the issue of these people, but they are incredibly vulnerable in the face of the benefits system and all these conditionality clauses. As we have debated on many occasions, some people experience periods of varying length of being well interspersed with episodes of illness. For others, a medication regime or other forms of treatment may produce temporary difficulties. Others may have particular anxieties associated with their illness which affect their ability to perform particular tasks. It does not help that they may be able to do all sorts of other things because if they cannot do what is required of them, they will have problems.

I am grateful to the Minister for sending us a copy of the draft regulations entitled the Employment and Support Allowance (Work-Related Activity, Action Plans and Directions) (Pilot Scheme) Regulations 2010. These regulations provide an alternative wording to that in our amendment. Can the Minister inform us whether these regulations were also available to Members of the other place when the Bill was debated there? If not, then the Government have not satisfied even the backstop demand of the Joint Committee on Human Rights.

My general concern about the regulations that the Minister sent is that there is no obligation on the Secretary of State to take account of the matters listed under paragraph (5) of the regulations. The regulations are very clear that the Secretary of State may take those matters into account. Presumably that also means that he may decide not to take them into account. I would be grateful if the Minister could comment on that point. From my point of view, the principle of having them on the face of the Bill is the main thrust of these amendments.

I also want to pick up two matters listed in the new government regulations. The first concerns transport difficulties. That issue was raised in response to an amendment in the name of the noble Countess, Lady Mar, in an earlier debate on rural areas and the time involved in travelling to and from work-related activities. Our amendment makes explicit what time would be reasonable. It makes it clear that travel taking more than one hour in either direction would not be reasonable and should be accepted as good cause if the claimant turned down an activity on those grounds. Does the Minister agree? If he does, perhaps he will ensure that, whatever regulations are devised in the future, that point is made clear.

The second point concerns childcare. In view of our detailed debate on those issues on our first day in Committee, I will not be moving Amendment 57. However, we will return to childcare in relation to Amendment 75, as it raises different issues from those discussed on Tuesday. In this context, I draw noble Lords’ attention to Regulation 11(5)(m) of the draft regulations. In my view, the wording of the sub-paragraph is very general. It says only that childcare must be “reasonably available”—or does it mean that reasonable childcare must be available? What does “childcare must be reasonably available” mean? It is not very helpful. The sub-paragraph also says that childcare must not be “unsuitable due to the particular needs of the claimant or the child”.

It says nothing about the quality of the childcare available or the training of the staff. I would be grateful if the Minister could give further thought to that in the light of the discussion on our first day in Committee.
I was thinking of ending with a particular example but I have probably said enough. I know that the Minister is well aware of the issues behind these amendments and I know he is sympathetic to the particular difficulties of claimants with mental health problems and other fluctuating disorders. Perhaps I may take this opportunity to congratulate the new Secretary of State at the DWP on her appointment and make the point that she, too, is very sensitive to claimants with fluctuating disorders. That gives me hope that we have achieved some progress.

On behalf of those with fluctuating disorders but also on behalf of all claimants, I hope that the Minister will agree to the principle that the definition of “good cause” should be included in the Bill and that the detail of the regulations needs to be revisited before Report in order to find a better wording. I beg to move.

Baroness Thomas of Winchester: As the noble Baroness, Lady Meacher, said, the wording of this amendment to Clause 1—with its definition of “good cause” for a failure to comply with mandatory activities and provision for a sanction—is taken directly from the Jobseeker’s Allowance Regulations 1996. All the different circumstances in the original definition must have been enumerated for a reason and are not simply an arbitrary list of excuses. However, as the phrase good cause is not defined in the Bill, I, too, would like to know whether it will follow the earlier regulations. On Monday we received a draft of the good cause regulations for ESA. These regulations appear to be pretty comprehensive though I see that we have lost the manning of lifeboats and the fire fighters. However, we have not received any regulations for Clause 1.

On page 87 of the Peers’ information pack it states:

“The Government intends that the good cause for not participating in a Work for Your Benefit pilot scheme will be consistent with the good cause provisions currently contained in regulations relating to other employment programmes.”

Good cause considerations are set out on page 90 of the same document. At the beginning of the paragraph it states:

“It is envisaged that regulations will provide”, but the factors that are then listed are given as examples. We do not want to be unduly suspicious but I do not think that it is asking too much for us to know exactly what “good cause” will mean in the context of this clause. This is such an important amendment because it would cover, among others, those who have a fluctuating mental health condition but who are nevertheless on JSA rather than in the employment group of ESA and therefore subject to the conditionality regime of Clause 1. It is still Clause 1 that we are talking about.

I note that one of the examples of good cause considerations given in the pack is if the physical or mental condition of the claimant makes it impossible for him or her to undertake the activity. That should cover fluctuating mental health conditions. However, I would like the Minister to reassure the Committee that that will be explicit in the regulations.

Baroness Murphy: I have added my name to three of these amendments. I think that it is important to add them to the Bill because of what will happen when this law is implemented. Regulations are one thing, the law is another; it will be seen as something that you cannot avoid. I have every confidence in the Minister’s good intentions and if I thought that his clones would be running the employment advice service in jobcentres I would be quite happy. Unfortunately, I know that he will not be running it and that not everyone is as well-meaning and well-intentioned as he. We have to get real about what really happens to people with mental health issues, especially serious mental disorders, and about how and why they are treated as they are. People with serious disorders do not just have fluctuating conditions that mean that sometimes they can work and sometimes they cannot; they often also have difficulties in establishing good social relationships with the people they come into contact with on a daily basis. That includes, among others, the employment advisers and others at the centre. Barriers and anxieties quickly arise and the employment adviser will find it darned difficult to get people through these systems.

We have to take account of the relatively chaotic lives and fearsomely obsessional behaviour of some of the people with serious mental health problems. They can get into habits that are extremely difficult to break. They can have a pattern of daily life that makes it difficult for them to stop and do something else and to establish a new pattern. They do not have conditions like the one that Sarah-Jane has. Sarah Jane, aged 35, is mentioned in the wonderful pack that the Minister provided. I am not sure whether noble Lords have read this pack yet as it arrived only today, but it contains some good descriptions. Sarah-Jane has “a mental health condition”—but it sounds a bit like a broken leg and is getting better now. It is just not like that. Noble Lords may ask why this matter is so important as regards this clause and clauses like it. It is because we must establish a specific responsibility in the law to help people who lead chaotic and difficult lives as a result of mental health problems, and to take this matter very seriously. I know that the Minister does; I just want to make sure that everybody else out there does too.

The Countess of Mar: I, too, support the amendment. The Minister will recognise that it is one after my own heart. I am very concerned about people not being able to participate—their trying and then failing, and that failure being a real setback to them. If people with ME/CFS overstretch themselves that can sometimes set them back for years. If they feel compelled to undertake the activity that they are told to undertake, who is responsible if they become seriously ill? What happens as regards insurance for them?

Baroness Afshar: It is important to include mothers of children who are sick and unwell but are not disabled, and children with fluctuating illnesses. Those mothers will always end up being very unpunctual, unsatisfactory workers who cannot take on most jobs. It is important also to include cultural specificities. Muslims need prayer rooms and washing rooms and...
Lady Murphy; that is, the problems faced by those with mental health problems trying to cope with some of the demands that may be implicit in the Bill. I am thinking not just about people with mental health problems in the community but those held in institutions. This is where the slightly indirect implication arises. For the past three years I have been involved with the Independent Asylum Commission, looking at the treatment of asylum seekers and immigrants, including those suffering from extreme mental health problems. We described in our report a disturbing factor that came out of all this as a culture of disbelief. This permeated officialdom and meant that it was not geared to understand, and therefore cater for, the problems which existed. One of the reasons why I am all for spelling out as much as one possibly can of what one means by “good cause”, is to help overcome that culture of disbelief, which we simply cannot afford to have spreading through a system involving people who suffer from the problems that we are discussing.

Lord Rix: I notice that my noble friends Lord Ramsbotham and Lady Murphy referred to mental health conditions. However, the amendment refers to “mental disablement”. I therefore presume that that includes people with a learning disability.

Lord Northbourne: I do not want to spoil the frisson of anticipation that no doubt exists regarding what I shall say with regard to Amendments 22A and 22C, but I strongly support this amendment. My only comment is that I doubt whether its terms are strong enough.

Lord Skelmersdale: I admire the lengths to which the noble Baroness, Lady Meacher, has gone in her amendments to suggest what might be considered good cause for not fulfilling an obligation or duty imposed by the Bill. As has already been pointed out, she has even thought about someone being unable to fulfil their duty because they were helping to launch a lifeboat, which is not a task that I would have thought about had she not so diligently included it.

I agree with the noble Baroness, Lady Murphy, that the devil is in the detail in all of this, although I would not be as specific as that. None the less, to be fair to the Minister—as, I hope he will agree, I sometimes am—we are beginning to pin him down on “just cause”. This amendment adds to that pressure. The noble Baroness, Lady Meacher, specified a number of different scenarios, including risk to health and well-being, excessive travel time, participating in a scheme or activity, or serving as a juror. I am not sure that I can find anything to criticise in those ideas, because each provides a valid excuse for someone obliged to participate in the schemes under this Bill not to do so. Indeed, suitable childcare and transport were mentioned by the Minister on Tuesday. There will be circumstances which justify an act or omission which puts the participant in breach of his obligations. I agree with the noble Lord, Lord Ramsbotham, that we do not want to build a culture of suspicion—I slightly paraphrase what he said.

The Bill recognises that common-sense position by allowing for regulations to be made which will describe those circumstances in greater detail. I wonder whether we really need this level of prescription in the Bill, if only for the reason that it takes a long time to change an Act of Parliament. The Minister has pointed out several times that he requires flexibility in negative resolution orders. There is a good use for regulations, because, during the pilots, it will be found that various things need to be changed—probably quite quickly. The noble Baroness, Lady Meacher, is shaking her head. Does she want me to give way?

Baroness Meacher: No, I did not particularly want the noble Lord to give way. However, it seems to me that in something as important as the definition of “good cause”, which is the primary safeguard in the Bill, it should be possible for people to sit down and work out the absolutely essential elements of something that should last for a number of years. I cannot believe that we cannot do that. It is so important that we should.

Lord Skelmersdale: I am afraid that we shall have to beg to differ, because I am on record many times over the years as saying that I hate shopping lists in Acts of Parliament. That is what we have in the Bill.

I was saying that there is a use for regulations, after all, and if they are sparingly used, they have a place when we are crafting legislation. However, the place for regulations might very well be in a readable document that your Lordships have had the chance to read before debating the enabling provision in Grand Committee, where, of course, most regulations are now discussed in your Lordships’ House. If the Minister is unable to elucidate further on what exactly we are expecting to see in these masses of regulation, then at the very least the need for the clarity provided by the noble Baroness’s amendment begins to seem rather a good idea, despite the fact that I dislike shopping lists—because you are bound to miss something and to include something that you do not ultimately want. Then, of course, the regulations will have to include it. I hope that we will hear an explanation from the Minister in his reply.

Amendment 75 would prevent the sanction of stopping JSA payments in cases where there was inadequate childcare. I refer to the debates we have had on childcare. It is clear to me, and I hope to the Minister, that this is one of the great sticking points. I am the first to admit that. The noble Baroness’s amendment does something slightly unusual: it places a duty on the Secretary of State to prove a negative. In this case, the lack of childcare was not responsible for the claimant behaving in a manner that would otherwise—

Baroness Meacher: I am sorry, but Amendment 75 comes up later. I have not spoken to it at this stage.
Lord Skelmersdale: I am sorry; I thought it was grouped with this amendment.

Baroness Meacher: I was trying to clarify. Amendment 76 is in this group.

Lord Skelmersdale: I am sorry; I thought it was grouped with this amendment. I have lost my list of groupings.

The Countess of Mar: To help the noble Lord, it is Amendment 76 that is grouped with these amendments. Amendment 75 is not in the group.

Lord Skelmersdale: In that case, perhaps it is better if I stop at this point.

2.45 pm

Lord McKenzie of Luton: I thank my noble friend Lady Meacher for moving this amendment, which again has given us an opportunity to discuss an important issue. I take note of the strength of feeling on this issue, particularly about mental health, that has been expressed. I thank the noble Baroness, Lady Murphy, for her kind words, but I believe that my position on this is genuinely shared across government; it is certainly shared by the new Secretary of State, and indeed by her predecessor.

This group of amendments is aimed at good cause and applies across the various benefits and conditionality regimes in the Bill. On the surface the amendments address a common theme: getting more detail about what will and will not be automatically accepted as good cause.

To pick up on the point made by the noble Lord, Lord Skelmersdale, I shall address why this level of detail is not already in the Bill. I assure the Committee that there are no hidden agendas here; it is merely a practical consideration. As I have already outlined in earlier discussions, the detail of social security legislation changes frequently to take into account changes in operational need, learning from pilots—something that is certainly relevant to the consideration of the clauses before us—and indeed changing economic situations. We use more flexible secondary legislation as a result; that is not a deliberate attempt to frustrate scrutiny but an attempt at practicality. I should point out that this approach has been accepted by the Delegated Powers Committee and has been used successfully in social security legislation many times before.

I accept that there needs to be scrutiny and transparency about these matters, which is why the department routinely consults, as it has to, with the Social Security Advisory Committee about our regulations. Given that, the Committee might find it useful if I set out exactly how we intend to use good cause. In terms of the “work for your benefit” programme, I can confirm that we will use the same good cause provisions as already exist and have been applied in the jobseeker’s allowance. The Committee will already have seen the draft regulations for good cause provisions in the employment and support allowance—my noble friend Lady Meacher referred to these—which takes a similar tack, and we will mirror that in the regulations for parents with regard to the progression-to-work group.

One or two specific points were pressed. I confirm that these draft regulations were not available for colleagues in the other place. With regard to some of the wording in them, specifically the question of “must” or “may”, they are of course drafts; they are meant to be illustrative, and do not necessarily represent our finally agreed position. I hope, however, that they provide a helpful basis for discussion on these issues, such as indeed they have engendered today.

The draft regulations on good cause mirror those already in place for good cause in relation to work-focused interviews. The rationale behind the use of the word “may” is to give the decision-maker the maximum flexibility to take into account the individual circumstances of the customer. However, I accept the arguments in favour of replacing “may” with “must” or “shall”, as this would still allow the decision-maker the flexibility to take into account matters other than those set out in the regulations. I am willing to undertake that “must” or “shall” will be in the final version.

With regard to travelling time, we see that “reasonable” travelling time should be the test. Obviously that will depend on the circumstances of the case, and therefore we would need some convincing for a more specific provision in the regulations. This approach provides both a fixed framework for decision-making and flexibility for the decision-maker to take into account all the circumstances of any given individual.

The process for the employment and support allowance will be very similar to the existing ESA process if a claimant fails to attend or engage in a work-focused interview. In addition, the personal adviser will, before starting the initial work-focused interview, explain the progression-to-work model and what will be expected of the customer. This will of course include the work-related activity requirement and the power that the adviser has to direct a claimant to a specific work-related activity in limited circumstances.

If the personal adviser establishes that the customer has a mental health condition, learning disability or other condition affecting cognition, such as stroke or autistic spectrum disorder, they will make an additional explanation of the conditionality to ensure that the customer understands the requirements.

If a customer fails to carry out the required work-related activity, the adviser will discuss this non-compliance with the customer at the work-focused interview. This will provide the first opportunity for the customer to show the adviser that he had good cause for not complying with the work-related activity requirement. If the customer fails to show good cause at the interview, the personal adviser will hand him a letter explaining that he now has five days to show good cause for non-compliance. If a customer does not turn up to a work-focused interview, he will be posted a letter outlining the consequence of his non-compliance, and he will then have seven days to show good cause.

If the customer has a mental health condition or learning difficulties, the personal adviser will arrange for a home visit to take place. The adviser will always...
[Lord McKenzie of Luton] attempt to meet the customer before any reduction in benefit is proposed. If the customer is indeed sanctioned, he will always be able to appeal the decision. I believe that, taken together, these steps represent significant safeguards to protect vulnerable claimants.

In terms of lone parents, whom we discussed on Tuesday at length, jobseekers’ regulations already state that account must be taken of any caring responsibilities that a parent has, whether childcare is available and whether the childcare is suitable for the needs of the parent and the child. The lone parent regulations have been in place for some time, and we were not particularly proposing to change them because they seem to be effective in meeting our requirements. Nevertheless, before I seek to expand on some of the other points, I am happy to say that we will reflect on the potential benefits of being more specific in the Bill. I do not undertake that we will do so, but that point has been pressed and I think that we are, rightly, obligated to take the matter away and deal with it seriously.

The noble Baroness, Lady Murphy, referred to the case studies, and the noble Countess, Lady Mar, said that none of them includes someone aged 50 or over. I should just explain that we agreed to share the case studies that we had developed but they do not necessarily reflect our final thoughts on the design of the programme. The development of our programmes will be affected by the deliberations that we have in this House and by ongoing discussions with stakeholders and providers. However, I hope that they are useful illustrations of how the proposals might work, and they were circulated with that in mind.

Perhaps I may return briefly to the issue of childcare, which I acknowledge is a matter of continuing concern for noble Lords. We are quite clear that it is the parent and the parent alone who can decide whether the services offered by a childcare provider are suitable for their child. Jobcentre Plus advisers will not be able to direct parents to a particular provider, even if that provider has vacancies that appear to meet the person’s requirements. However, if a parent claims that he or she is unable to source suitable childcare, then the adviser will need to ensure that these representations are reasonable. Therefore, if, for example, the parent simply makes an assumption that he or she will be unable to source suitable childcare, that will not pass the reasonableness test. To ensure that parents make reasonable efforts to identify options, parents who consider that they cannot comply with the conditions imposed on them because suitable childcare is not available will need to demonstrate to Jobcentre Plus that they have taken reasonable steps to secure such care. That could include contacting the children’s information services, visiting local extended schools or Ofsted-registered childcare providers and identifying whether other informal care options are available to them. Jobcentre Plus advisers have good knowledge of childcare availability.

Lord Northbourne: I am so sorry to interrupt the noble Lord, but I did not entirely understand where all the things that he is saying come from. In what regulations or Act of Parliament are they to be found?

Lord McKenzie of Luton: We are talking partly about administrative processes. We are talking about regulations, some of which already exist in jobseekers’ employment and support allowance. We are talking about the development of new regulations and guidance for the new provisions in the Bill. That is where they will be addressed. I see the noble Lord, Lord Kirkwood, ready to spring to his feet.

Lord Kirkwood of Kirkhope: I am grateful to the Minister because he is addressing some of the real difficulties we were struggling with on day one in the Committee, and I appreciate his attempt. I, too, would like reassurance about where exactly that guidance will go. Of course it can go in guidance to staff in the contractors and in Jobcentre Plus who are dealing with it, but it needs to go to advisers as well. It would be better if that language was reflected in the regulations.

Lord McKenzie of Luton: To clarify with a helpful note from behind me, the regulations are currently provided, and will be provided for new regulations, under the Jobseekers Act 1995 and the Welfare Reform Act. That is the basis on which the regulations will be developed. Of course, the guidance that will flow from that will be available to Jobcentre Plus advisers. I shall come on to training of Jobcentre Plus advisers, because I know that that is another issue that people feel strongly about. I hope that I have put the provisions on childcare in context, with who has the right to do what and the reasonableness test.

Baroness Afshar: I am very grateful to the Minister for the assurances given on childcare provisions. In the second case given of Becky Jones, who finally found a provision that suited her, were she to object to the third possibility, would she still be considered to have reasonable rights? What would happen to her at that stage? I ask that especially as we are coming across nurseries such as the one in Plymouth, which has had to be closed because of the character of the carer. Where does reasonableness stop and unreasonableness start?

Lord McKenzie of Luton: The noble Baroness presses me on a point on which it is difficult to be specific. I am sure that she would acknowledge that it will inevitably depend on the individual circumstances of the case. If a parent took up available provision—perhaps they had been alerted to it by Jobcentre Plus—but it was found not to be satisfactory and the parent wanted to withdraw from the provision, if there was good cause for that and the parent could demonstrate that that was a reasonable decision in the circumstances, that could be persuasive with the decision-maker. If it were not, there is still a second right of appeal if a sanction were to be applied.

The Countess of Mar: I am sorry to interrupt the noble Lord, but I am in some difficulty. He said over and over again that the final decision on childcare rests with the mother. He has not made any qualification to that. He has not said “after three or four choices”; he has said it bluntly: “childcare rests with the mother”. Please can he tell us: what is the position?
Lord McKenzie of Luton: I had hoped that I had been as clear as it was possible to be. Let me try again. It is for the parent, and the parent alone, to decide whether the services offered by any particular childcare provider are suitable for their child. It is the parent’s choice. Jobcentre Plus or an external provider cannot force a parent to send their child to any particular provision, but if there is a good provision in an area that is available to a parent, if a parent seeks to argue the lack of appropriate childcare as a reason for not carrying out a direction, there has to be a process for Jobcentre Plus or the decision-maker asking, “Was that reasonable in all circumstances?”.

But neither the decision-maker nor the Jobcentre Plus adviser can say, “You must send your child to this particular provision”. We know that lone parents in particular are keen to access the labour market and want to use the good provision that is available. As we discussed on Tuesday, there may be some who are adamant that they will not use any form of provision as a means of not complying with the Bill and existing welfare legislation. But in the end this is about not only rights but responsibilities as well. That is the thrust of the legislation.

Baroness Hollis of Heigham: I apologise to my noble friend because we are all interrupting his speech, but this is a really vital point. Most of the other considerations with which sanctions are quite properly being aligned are things that are relatively objective to measure and judge. They concern reasonable and unreasonable distances to travel, the level of physical health, questions such as whether the interview will be cut across by a hospital appointment or a caring responsibility for an elderly person. It is clear that decisions cannot simply be voluntary because if that is the case, some of the hardest-to-reach people who could most benefit from being progressed to work would never be exposed to it. But the problem with childcare, as all who have had to juggle with our professional lives will know, is that it is often a subjective judgment: will my child be happy and thrive in these circumstances? Will they relate to this person or not? Is my child particularly clingy at the moment because, say, Daddy’s work has altered or another baby has arrived? I can say from my own experience that my childcare arrangements had to be changed numerous times. Had I been under this sort of regime, I would have worried whether someone who had not had children would appreciate the essential need to match the mother’s judgment of where the children will thrive and encouraging that mother back to work. I find that hard to work out. Clearly, the lone parent cannot say, “None of this works; I’m determined to stay at home; frankly, sod off”, as that is not a way in which we can make the legislation work.

In this measure more than in anything I am aware of, there is a grey area of good faith, of subjective judgment in which there may be no meeting of minds between the personal adviser and the mother. I want to know how we can take this forward. I find it very difficult indeed. I hope it will be a tiny problem. I daresay that many parents may be unreasonable and, time and again, I have met parents who say, “I’m not going to leave my child with strangers; I will feel guilty about going back to work; I will not hold the job down; I will leave at the first possible opportunity”. If we are in that type of culture, we are in for problems. Perhaps my noble friend can help further about how we can square the circle, as it is difficult. I do not think that any of us has the right answer.

Lord Northbourne: Let me follow up this issue because it is tremendously important. The parent says, “I cannot find any childcare”. The Jobcentre says, “Oh yes you can. So and so and so and so provide it”. The parent says, “I don’t like them and I will not go to those places”. What happens next? Does the jobcentre issue a direction that the child has to be sent to one of them or will the parent be fined for not using them? This is an important point.

Lord McKenzie of Luton: It depends on which benefit we are talking about, but the process would be engagement at the start of the claim and an action plan that is agreed, if we are considering jobseeker’s allowance, between the Jobcentre Plus adviser and the individual. What might flow from that at some point in the course of the programme would be a direction by Jobcentre Plus if an individual has failed to attend a work-focused interview or has not taken up an activity which they were mandated to do. The individual would be given an opportunity to say that they had good cause for not complying with the direction. The information is then passed to a decision-maker within Jobcentre Plus and that decision-maker would decide whether a sanction is to be applied to the individual. If the sanction is applied, the individual has an opportunity to appeal against it.

That is the process, but along the way there are opportunities for the individual if the original action plan and the direction that flowed from it was inappropriate because of changes in circumstances, perhaps to do with childcare, travel arrangements or perhaps health issues. Opportunities are provided to revisit the issues along the way. But if someone goes through the whole process, ultimately a decision-maker would apply a sanction subject to hardship provisions which we will come on to in due course.
Lord McKenzie of Luton: Perhaps I may deal with the amendments in reverse order. I say to the noble Lords, Lord Rix and Lord Skelmersdale, and the noble Countess, Lady Mar, that training issues are of course important. They have to be addressed, and we will shortly be having a full debate on them. That applies particularly to advisers recognising people with mental health conditions, learning disabilities and fluctuating conditions. I know that that is a longstanding and challenging issue.

In response to the inquiry from the noble Lord, Lord Kirkwood, it is intended that these pilots or pathfinders will be fully evaluated. I certainly see part of the evaluation covering the extent to which sanctions may flow from them and the circumstances in which that will happen. In response to the noble Countess, Lady Mar, and the issue of lone parents of younger children being able to choose to stay at home, let me be clear again—they can. Nothing in the Bill requires lone parents to look for work if their youngest child is younger than seven. The “work for your benefit” provisions are for those subject to the full JSA conditionality, which eventually will involve lone parents where the youngest child is as young as seven. We have not reached that yet. People in the progression-to-work group cannot be directed to work under those processes. If my memory serves me right, I think that good cause would certainly cover issues around religious objections to requirements.

We have spent some time on this amendment but it is a very important one. Perhaps I may pick up on issues around mental health. I think it was the noble Lord, Lord Ramsbotham, who said he thought that there was official denial of these issues. There has been huge effort across government to examine mental health issues, and I would assert that some progress has been made. There is certainly more to be done. As the noble Lord is probably aware, a cross-government strategy is being drawn up, headed by Dame Carol Black, to look at employment and mental health. There has been progress in Jobcentre Plus, with mental health co-ordinators being embedded in the Jobcentre Plus districts. There have also been developments in IAPT—improved access to psychological therapies—with employment advisers being embedded in that approach as well. There was a recent announcement by the former Secretary of State, James Purnell, about the programmes that are known to work for those with serious mental health conditions. The employment of people in that category has not proved good and that will be evaluated, focusing particularly on some of the Sainsbury centre proposals and experience around placing people and training them, rather than training them and then seeking to place them. I recall that there are also issues about engaging with people who come through the Prison Service as well, though I do not have the detail at my fingertips.

The Government are serious about and focused on this issue. It is certainly an important issue, and certainly more progress needs to be made. Much rests on the training that Jobcentre Plus staff receive. We will have an opportunity fully to debate that in due course.

Lord Ramsbotham: I am very grateful to the Minister for that explanation. My reference to the culture of disbelief was focused not so much on mental health as
on good cause and the points surrounding reasons for not doing something. I am conscious of the work on a lot of mental health issues. I am very grateful for that and am taking part in some of it.

3.15 pm

Lord McKenzie of Luton: I am grateful for that intervention. I would like to stress one other point. In this process, it is not the adviser who makes decisions on sanctions but the decision-maker. Therefore, there are training issues relating to advisers and the approach that they take, but there are also training issues for decision-makers.

I hope that with that rather extensive consideration of a very important matter, the noble Baroness will feel able to withdraw her amendment, at least on this occasion. I take seriously the thrust of the comments about the potential benefits of having something more specific in the Bill.

Baroness Meacher: I thank all noble Lords for their contributions to the debate. It has been incredibly lively and helpful. In that regard, I thank the Minister for the number of undertakings that he gave during his response. In particular, I was very grateful for his assurance about the wording of regulations—that is, that the Secretary of State must or shall take account of the definition of good cause. That is a tremendous concession, if I can call it that.

I was also very grateful for the Minister’s assurance to the Committee—perhaps it is a reality anyway—that people with mental health problems will receive a home visit before any sanction is applied. That is incredibly important and valuable for an awful lot of people. I am also pleased that the Minister has undertaken to look at the possibility of being more specific in the Bill on the definition of “good cause”. Of course, that is the whole point of the amendment, so it is a tremendous step forward and I am very grateful for that. I hope that, as well as trying to achieve it, he will be able to follow it through and actually achieve it.

Finally, the Minister’s assurance concerning a parent’s right to make a decision about specific childcare provision was also very good and helpful, and it will reassure parents up and down the country. That was a remarkably positive response to the debate and I thank him very much. I beg leave to withdraw the amendment.

Amendment 12 withdrawn.

Amendment 13

Moved by Lord Skelmersdale

13: Clause 1, page 2, line 28, leave out “26” and insert “13”

Lord Skelmersdale: The two amendments in this group constitute what I hope will be a fairly quick probe. First, I seek information on sanctions. Subsection (6) seems to be a repetition of the order that I mentioned in the debate on the previous amendment. Six months for a renegade participant to be without any means of support to live is a very long time. I accept two things. The first is that hardship payments are available, although they will, I believe, be the bare minimum payment and certainly less than the £64.30 JSA, which is the current weekly amount, as otherwise there would be no sanction at all. I do not know whether the Minister can tell us what the current weekly hardship payments are.

I also accept that the 26-week period is the ultimate sanction and that the participant would have to have ignored the personal adviser’s requests on several occasions for it to operate, but how many occasions constitute “several”? Does the Minister envisage that anyone will get to this point of having very little to live on for 26 weeks? Indeed, as this penalty is already on the statute book, can he tell me whether, and when, the full 26-week sanction has ever been invoked? Does he have any case studies, or was the original objective to make the sanction so severe that it was expected never to be needed? I hope that the latter is the case.

Amendment 14 seeks to leave out lines 34 to 40 of subsection (8). The notes on Clauses say that the purpose of subsections (8) and (9) is to allow participants who are subject to a sanction to receive hardship payments. However, subsection (8) is unclear on this. It says that JSA may be payable. That is not exactly clear. The Grand Committee will note, however, that subsection (9) is much less specific. It says in paragraph (b) that the payment will be, “payable at a prescribed rate”.

However, it may not be paid at all, so I am getting more and more confused about this. I cannot see that these two subsections of new Section 17A gel in the least. I would be grateful, therefore, if the Minister would be more explicit than the somewhat inexplicit Explanatory Notes. I beg to move.

Lord McKenzie of Luton: I acknowledge that this is a probing amendment. I am grateful for the opportunity of developing the issues around sanctions and hardship. However, the amendments as they stand would dilute the powers that we have to sanction individual claimants in “work for your benefit”, and to provide hardship payments for them if we do so.

By applying a maximum of a 13-week sanction we would be applying a potentially weaker sanction to “work for your benefit” than we would to the Flexible New Deal. This would significantly undermine the programme. Part of the rationale for the new jobseekers regime, of which the Flexible New Deal and “work for your benefit” are part, is that conditionality increases over time, as does the support underpinning that conditionality. This is absolutely the right approach. Mandatory programmes are far more effective in engaging claimants than voluntary ones, and engagement becomes even more vital as claimants remain on benefit for long periods.

Sanctions are an essential part of any mandatory system. A mandatory programme without a sanction to back it up is not a mandatory scheme at all. Sanctions should be seen in this light, as an aid to engaging those who need support most, not punishing them. Of course there is a very easy way to avoid being sanctioned in the first place, which is to engage with the programme. That brings us to the nature of the sanction. We intend in “work for your benefit” to replicate existing sanctions provision for employment
programmes, including Flexible New Deal. There is no reason why this should not be the case. In fact, by watering down the sanction for “work for your benefit” through this sanction we would be sending the message that somehow it was less important than earlier stages of the support programme, which is far from the case.

I know that there have been concerns that a 26-week sanction is too long and that the fixed nature of the sanction means that there is no incentive for a claimant to re-engage with the support on offer. This is a genuine concern that in some respects we share, and we will look at ways that we can lift a 26-week sanction part-way through if the claimant re-engages with the “work for your benefit” programme. However, we cannot and should not shy away from the principle that claimants have a responsibility to take steps to get back to work, and that as the length of the claim progresses they should be doing more to achieve that aim.

It may also be helpful for me to confirm that all provisions relating to good cause and appeals will still apply in “work for your benefit” in the same way that they do now, as we have just discussed. This is also the case with hardship provision, which we will carry forward into the new programme. The rationale for hardship payments is to ensure that where a vulnerable jobseeker is sanctioned, they, and in some cases their dependants, are not made destitute. Hardship payments provide protection for claimants with children who rely on benefit income to support them. It would, after all, be wrong to penalise children for the failures of their parents.

Hardship payments are paid at various rates depending on circumstances, typically around 60 per cent of the normal personal allowance rate. The only way for a claimant to get the full benefit rate is to avoid a benefit sanction in the first place and to take up the support on offer. That is the right thing to do. We would not accept a system where parents or those with mental health conditions were not subject to any form of sanction; that is the essence of a passive welfare state that every major economy has now rejected. These amendments would create real doubt about our ability to run a hardship system. I hope that this gives the noble Lord the reassurance he is seeking.

I shall deal specifically with the amounts that will be involved. The hardship payment is paid not at the full rate of income-based JSA but at a reduced rate of the applicant’s personal allowance, which is currently £64.30 for an individual aged over 25. The reduction is either by 20 per cent or 40 per cent, depending on certain characteristics. Where the claimant, a member of the family or a member of a joint-claim couple is pregnant or seriously ill, the reduction is 20 per cent, and a 40 per cent reduction is applied if the claimant belongs to a vulnerable group. For a weekly JSA personal allowance for someone aged 25 or over, the hardship payment at the 80 per cent rate would amount to £48.40. Income-based JSA would be paid at the same rate. If it were a payment rate of 60 per cent, it would be £36.30 per week. For lone parents aged 18 or over, a similar 80 per cent rate would be £48.40 and £36.30 for the 60 per cent rate. My understanding is that only the basic rate applies and would not impact on entitlement to, for example, council tax benefit and housing benefit. I hope that that is the information the noble Lord is seeking.

**Lord Skelmersdale:** I asked if the ultimate sanction had ever been used, to which I do not think I had a reply.

**Lord McKenzie of Luton:** I am looking for some help on that question. I am told that it has been used, but perhaps I can gather some data on this and write to the noble Lord.

**Lord Skelmersdale:** I would be extremely grateful for that. It certainly is not the point of this probing amendment to make these sanctions weaker than the New Deal and I am grateful to the Minister for his comment that the system will lift sanctions for re-engagement. Whether that is an absolute guarantee or whether it depends on the individual circumstances of the case, I am not entirely sure. Nonetheless, whichever way it is, it is helpful as far as it goes.

Of course it is wrong to penalise children for the actions of their parents, but we are not necessarily talking about parents with children in this clause. Indeed, if there are children, the income will be more than the £64.30 quoted by the Minister because of the family premium payment of £17.30 and £56.11 for each dependent child. Moreover, there may well be housing benefit, council tax benefit, family credit and so on. I am sorry, family credit would not apply in this case. However, other benefits are involved. Unless the Minister wants to come back to me, I am happy to withdraw the amendment.

**Lord McKenzie of Luton:** Perhaps I may respond briefly on the specific point about lifting sanctions. We are looking at ways of lifting them part-way through. This is something we want to do in the flexible New Deal and carry forward into the “work for your benefit” provision. It is something which is on the radar and we are trying to see how we might best achieve it.

**Lord Skelmersdale:** So it is work in progress, but it has not actually happened yet. That is useful and helpful additional information. I beg leave to withdraw the amendment.

**Amendment 13 withdrawn.**

**Amendment 14 not moved.**

3.30 pm

**Amendment 15**

Moved by Lord Rix

15: Clause 1, page 2, line 40, at end insert—

“( ) Regulations under this section must make provision to ensure providers of the schemes—

(a) submit to the Secretary of State data showing the number of participants with a disability at every stage of the scheme by impairment category;

(b) are required to show how they will meet the needs of participants with particular disabilities.”
Lord Rix: I shall speak also to Amendment 21. I thank noble Lords who have added their names—unbidden by me, I hasten to add—to these amendments. To their support I can add that of 27 other organisations from outside this Committee, including Leonard Cheshire Disability, Age Concern, the National AIDS Trust, RNID, Macmillan Cancer Support, Mind and, of course, the charity of which I am president, Mencap. I hope that at the end of this short debate, the Minister will add his name to that list as well.

In a nutshell, the effect of these amendments would be to monitor the impact of these reforms by category of disability. “Category of disability” is a rather clumsy phrase, but it is what I have been told to say. The provision of these data will allow the Government to track and evaluate how well the reforms will assist the different categories of people with disability into work. The amendments will ensure that this new benefits system works for everyone, no matter what their type of disability. It will guard against any group being left behind on the equality agenda.

Support for the aim of these amendments is not limited to the charity sector. A report from the Work and Pensions Committee, published in April this year, recommended that,

“the Government monitors progress [in employment] by physical impairment, mental illness and learning disability … to ascertain whether more progress is being made in some groups of disabled people than in others”.

This monitoring and evaluating is essential in order to assess whether the reforms are working accurately and appropriately for all different types of disability, including those furthest from the labour market, such as those with a learning disability.

The Minister’s department’s report on the disability equality duty, published in December last year, acknowledges that,

“Although there has been an overall improvement in the employment rate of disabled people, there remains a wide variation in employment rates for different impairment types. In particular, the employment rate of people with learning difficulties remains low”.

As I said at Second Reading, Mencap estimates that this employment rate for people with a learning disability is as low as 17 per cent. That compares to 49 per cent for all disabled people and 74 per cent for the population as a whole. The last decade has seen no improvement in these figures. This is despite the fact that 65 per cent of people with a learning disability want to work. With the inclusion of these amendments I have put forward today, the Bill gives the Government power truly to tackle this injustice.

Those opposed to these amendments—I cannot believe that that relates to anyone present—say that we are asking the Government to micromanage providers. They are mistaken; we are simply asking that their payment and contracts model recognises the fact that people with different impairments experience particular types of barriers to equal participation. There has been very effective progress in other fields of equality, such as race, on identifying priorities for action by focusing on sub-group categorisations. The same approach must be taken for disability.

Lord Northbourne: I very much in sympathy with the research project that is envisaged, but will the noble Lord, Lord Rix, explain the concept of “equality” in this context? It seems to me that certain types of disability might mean that there are not enough jobs available for that category of person. How then can you have equality?

Lord Rix: Of course there will always, regrettably, be a shortage of jobs for people with a learning disability; it is a sine qua non that they have far greater trouble obtaining employment than perhaps those in any other category of impairment. However, if the Government do not monitor the response to the Bill for disabled people, and it turns out that everyone who is an amputee is being given work but people with mental health problems or learning disabilities are right at the back of the queue, it will be clear that the advisers are not doing their work properly. It is therefore essential that these numbers are judged.

Lord Northbourne: The noble Lord said that they are not doing their work properly. They may work like anything, but if they cannot find jobs that they can fill, what are they to do?

Lord Rix: I tried to explain this at Second Reading. Mencap started the pathway employment service in 1976 in Cardiff and it spread around the country. The pathway employment officer, who was the equivalent of the adviser, made sure that the person with the learning disability would fit into the job that the employer wished to offer, that they were trained specifically for that job and that when they entered that job they had a foster worker who was with them for at least six weeks to ensure that they went through all the processes correctly, including clocking on and off. I am afraid that it will probably have to work like that with this larger enterprise. It is a matter of support for individuals.

Lord Northbourne: Thank you.
Lord Skelmersdale: I put my name to the amendment because I agree with it in principle. I am delighted to hear from the noble Lord, Lord Rix, that the Minister is at least in sympathy. However, I hope that he does not go quite as far as the amendment has gone. None the less, I congratulate the noble Lord on his ability to bring the problems of people with mental illnesses to our attention so early in the Bill.

Lord Rix: Not “mental illnesses”, please, but “learning disability”.

Lord Skelmersdale: I apologise. The problems are in identification. If they are self-confessed, all well and good, but if not, it depends again on someone in the jobcentre having the right sort of training. I clearly misread this amendment; I had anticipated that it referred particularly to mental illness, as opposed—

Baroness Thomas of Winchester: The noble Lord, Lord Rix, will be moving an amendment later about learning disabilities. This one is not about that.

Lord Rix: To clarify, this amendment is about all disabled people and all categories of disability. That includes learning disability and mental illness, but they are not exclusive to this amendment. The amendment covers all forms of disability: loss of sight, loss of hearing, loss of limbs and so on.

Lord Skelmersdale: In that case, I will continue in the way that I started and intended.

As I was saying, the first problem is identification. It is easy enough when the illness is confessed—being on drugs to ameliorate that illness, and so on—but when the illness is not self-confessed, problems can occur. An example of this might be a physical illness such as some types of ME or, following surgery, depression, which might spiral down to deep depression. We have been told that personal advisers are already trained to detect mental illness, but I understand that this training amounts to a three-day course. Here I invite the Minister to correct me if I am wrong.

I thought not. My point is that only psychiatrists and psychiatric triage nurses, whose training is long and arduous, have a hope of detecting difficult cases. Therefore, it is unlikely that personal advisors will arrive at the right conclusion and that will happen, if it happens at all, even before the scheme in Clause 1 comes into operation.

If—and it is a big—if the participant is correctly diagnosed for the Secretary of State’s purposes for moving him closer to, or ideally into, the job market, the next thing is to choose the scheme that is right for him. This may involve him going to a doctor for the appropriate drugs, a confidence-building course, part-time voluntary work, or possibly, if a suitable employer can be found, part-time work—all the things that we have heard about as we have progressed through the early stages of the Bill. It is hoped that all that will progress him into paid work. As the Government have acknowledged, the right support and assistance is vital in helping participants to get back into work. I agree with Rethink and its fellow travellers that it is necessary to learn from the mistakes that are inevitable in the early stages of the operation of this Bill. I will have more to say about that when we come to the issue of piloting.

For now, however, I support the idea behind this grouping introduced by the noble Lord, Lord Rix. The Minister will, I suspect, say that the amendments go too far, but I hope that the Secretary of State will monitor what is going on. That monitoring should start in the jobcentre and continue through the scheme’s progress. The problem with the amendments as they stand—unless I have misread them—is that there must be a report on every impairment category. Is that wise? How does the noble Lord, Lord Rix, intend to break down these categories? I doubt from what he has said that he means there to be only two categories: namely, physical and mental. How would he categorise those with a physical disability, but with a mild or serious mental consequence, which I mentioned earlier? Is being in a wheelchair a category or would he break down the categories of wheelchair users into the reasons why people are in a wheelchair? I could go on but I hope I have made my point.

On the second part of the first amendment, I have a small problem regarding the issue of where monitoring is required on the contractors, who presumably will report on their subcontractors. Surely there is no point in monitoring what is going to happen. The Government need to know what has happened, so that when the piloting stage ends and the schemes are evaluated before being rolled out nationwide, the Government will have the data needed to evaluate the pilots, based on what has happened, rather than on what will, might or even could happen.

In summary, while I support the principle of these amendments, I am afraid that I cannot support them as they stand. I suspect that the Minister is in the same position.

Lord Rix: Before the Minister responds, perhaps I may say that internationally recognised means of measurement already exist, such as those used by the World Health Organisation, including the International Classification of Functioning, Disability and Health, and the ICD-10—the International Classification of Diseases. Furthermore, my later amendments refer to the training of personal advisers. If they are properly trained, it is their duty to recognise the various forms of disability. You do not have to carry an enormous sign saying, “I have a learning disability”. Most people with a learning disability—of whom about 600,000 of the 1.5 million in this country would like to work—with a learning disability—of whom about 600,000 of the 1.5 million in this country would like to work—probably carry identification of one form or another which shows that they are in receipt of disability allowances. That would make it clear that they have a learning disability.

Baroness Turner of Camden: I, too, support the amendments, particularly Amendment 15, because it covers the needs of participants with particular disabilities—in other words, all disabilities. I speak with the benefit, if I can call it that, of some experience, because recently I have become partially disabled due to a mobility problem. When you have a mobility problem, you sometimes feel that the whole world has
been designed entirely for able-bodied people, because the resources for coping with it are poor. If you cannot move very easily, there is an enormous range of activities that you simply cannot do. This amendment of the noble Lord, Lord Rix, seeks to cover all classes of disability. I thoroughly support it.

Baroness Thomas of Winchester: The outsourcing of government services to companies, charities and voluntary organisations is now commonplace, but many of us are concerned, as the noble Lord, Lord Rix, said, about how these non-government bodies will be monitored in the particularly sensitive area of “work for your benefit” schemes. We are still talking about Clause 1. We are not talking about people on ESA at the moment, because that is not this part of the Bill. As the noble Lord, Lord Rix, said, there are a huge number of people with different disabilities—I am one—and we need to know how these outside bodies are performing in providing the right support for the different groups under this part of the Bill. One of the problems is that many people fall into more than one impairment category, and this would make the whole monitoring exercise difficult, not to say expensive. But without this evidence, how will we know whether these outside bodies are fulfilling their remit and not cherry-picking those easiest to place in employment? We do not know how the contracts are being drawn up, but by putting this requirement on the face of the Bill we will be reassured that progress on the employment of jobseekers with disabilities is being monitored. It will also be very helpful to know whether the doubling of the budget of Access to Work, for example, is working. This would provide some evidence. So we strongly support the amendment. We believe that it is not beyond the wit of man to devise a good scheme for monitoring people with disabilities by impairment category.

Baroness Murphy: I support the amendment. I think we have to get real about what happens in practice. What normally happens—it happens in all departments of state—is that they implement a law; they do not know how it works in practice; and then they go and engage a social research unit from an important university to set about a huge research project to find out whether it worked. I have been involved in several of those projects myself. The researchers then go back to the department to get the data but the data do not exist. With the Mental Health Act legislation, for example, no information at all about its implementation in certain groups was collected for about 15 years after 1980. They had no idea about the categories of people subject to it. We know from research literature from the United States that there are certain categories of people who have not done very well with these schemes. They will probably be in the minority and will be hidden in the generality of the results produced about how many people are moving into work and work-related activity. You will not see them because they will be totally lost in the data and the statistics will not show them.

We should therefore ensure that we are collecting sufficient data which can at least be translated into information. As the noble Lord, Lord Rix, said, that is not that difficult. Practically all the categories of people we are talking about always carry with them evidence concerning which category they fall into. It can be a very private thing but you will not be breaching medically confidential information. People will need to give this information to their employment advisers regardless. There could be some very simple categories. One might suspect from existing research that some broad categories do not do very well whereas others may do very well indeed. Losing that information in the generality would be a great shame. So I should resist the amendment from the point of view of my colleague researchers in universities who will be lumbered with trying to fathom it in 15 years’ time.

Lord McKenzie of Luton: Like everyone who has spoken in this debate I fully support the sentiment behind it. I acknowledge the long experience of the noble Lord, Lord Rix, in campaigning, in dealing with these issues, and particularly in focusing on learning disabilities, although I acknowledge that this amendment is focused more widely. However, I do not necessarily agree that primary legislation is the way to achieve this aim. The amendments would require providers to monitor and report—we should focus on the fact that we are talking about “work for your benefit”, which concerns providers and not Jobcentre Plus provision—by impairment category, the number of participants with a disability at every stage of the “work for your benefit” scheme, and the amendments would require the Secretary of State to evaluate those data.

Placing a statutory duty on providers by asking for such detailed information, particularly in a programme designed for jobseekers, is, I suggest, a step too far. It would place a considerable reporting burden on providers and could divert resources away from support and into administration. A balance must be struck between seeking information that helps to inform policy-making, ensuring that the information gathered is appropriate and that it represents a responsible use of resources.

However, I reassure noble Lords that we will put in place a comprehensive evaluation of the “work for your benefit” scheme and will publish the findings. I very much take on board the point that the noble Baroness, Lady Murphy, has just made. We must seek to avoid such an evaluation 15 years after the event, when there are no data. Our approach will include looking at the experiences of jobseekers with health conditions or disabilities without placing undue burdens on organisations which are trying to deliver employment support. I certainly undertake to engage further with the noble Lord, Lord Rix, and with other noble Lords who wish to participate, when we focus on how this evaluation might proceed. We would certainly benefit from the experience of the noble Baroness, Lady Murphy.

The amendment also requires providers to specify what support they will put in place for those with specific impairments. This change is more problematic. The entire direction of welfare reform is, quite rightly, to treat jobseekers as individuals and to determine, in partnership with them, what support they need, and not to make broad assumptions about their capabilities or barriers to work based only on what disability they have. The best people to determine exactly what support is needed are the advisers and suppliers who work with
the jobseekers, after discussion with the jobseekers themselves. I believe that the amendment could seriously undermine that approach. It would also introduce a risk that providers would concentrate support on those who fell under the ambit of the amendment, possibly to the detriment of others with different barriers to employment. It is more effective to ensure that we have sufficient contractual arrangements in place whereby all jobseekers receive the support that they need, whether or not they have a disability.

I assure noble Lords that “work for your benefit” contracts will require suppliers to support the Secretary of State in her duty to promote equality of opportunity for disabled people, as well as being exemplars in meeting their duties under the Disability Discrimination Act. Not only will the DWP’s contract-management arrangements monitor delivery in this regard, but customers will have the opportunity to discuss any problems or concerns with Jobcentre Plus. Indeed, we intend that Jobcentre Plus personal advisers will review with customers their needs before they are referred to “work for your benefit”. This will ensure that providers have a clear idea of the barriers and circumstances in individual cases.

I welcome the noble Lord’s contribution to this debate, and I think that that is probably where the noble Lord, Lord Skelmersdale, is in his approach to this issue. I am willing to speak to him further about how we can ensure that those with learning disabilities are not disadvantaged, but I do not believe that these amendments are the right way to go. The noble Lord, Lord Rix, quoted data relating to those with learning disabilities and how far away they are from the labour market in comparison with others. I am very clear that that cannot be allowed to continue. We need to understand what is getting in the way of making further improvements for such people, and I believe that, by working together through an evaluation process, we can make such improvements.

**Lord Kirkwood of Kirkhope:** I am not an expert; I defer to colleagues who know more about this than me, but I refer to my declared interest on day one as a non-executive member of the Wise Group. We undertake contracts such as these and hope to continue to be engaged in that in future. It would be impossible to generate the data which the amendment, which I support, requires unless it was an item in the contract between Jobcentre Plus and the Wise Group, or whoever. If that contract term is missing, there is no way that we can get the data that the academics are all waiting to work on. I would like an assurance. There is an argument about money and resources, but it is essential that the contracts for providers contain a requirement to deliver, or in some way capture, the data that the amendment covers.

**Lord McKenzie of Luton:** It is certainly important and will be part of the contractual arrangements to which providers have to have regard that they make sure that they cater for all customers referred to them under the provisions, as well as fulfilling their ongoing obligations under the DDA. Part of the approach to evaluation—there are noble Lords here who are more able and understand the issues better than me—will be to undertake qualitative research to seek to understand the journey that people have or have not made. We should recognise that we are talking initially about pilots or pathfinders, not national rollout. We envisage that evaluation will not wait for long. When we have developed the “work for your benefit” specification, we will certainly look again at what monitoring requirements ought to be in the contracts.

Perhaps I can conclude by giving assurances about the planned evaluation of our contractual arrangements as the right approach, rather than the detailed prescription of what record keeping providers have to undertake. I hang on to the point that although we have made really good progress in supporting people in moving closer to and into the labour market, for some that journey is still a long way off. That is unacceptable and we cannot allow it to continue.

**Lord Rix:** I am obviously disappointed that the Minister cannot agree with me completely at the outset. I look forward to meeting him before Report, when we may consider the question of evaluation, and so on, to see whether we can come up with a different amendment that the Government can agree to at Report. It could quite simply be included in the Bill to ensure that contracts say what they mean. I thank all noble Lords, even the noble Lord, Lord Skelmersdale, for their support for the amendments.

As I said at the outset, many major charitable organisations representing all manner of disabilities are keen to have some form of evaluation in the Bill. I will be seeking their thoughts when they have had a chance to read the Minister’s response. I, too, will enjoy reading the Minister’s response, because I have a rather hidden disability: I suffer from tinnitus. Therefore, on these occasions, I have two boiling kettles in each ear, so it is rather difficult to hear what everyone is saying, but thank you all the same. I beg leave to withdraw the amendment.

Amendment 15 withdrawn.

3.58 pm

Sitting suspended.

4.10 pm

Amendment 16

Moved by Lord Skelmersdale

16: Clause 1, page 2, leave out lines 44 and 45

**Lord Skelmersdale:** For the avoidance of doubt, I am at it again—probing, that is. New Section 17A(9)(a) speaks of hardship payments being payable only if, “prescribed requirements as to the provision of information are complied with”.

Hardship payments should be paid only to people who, for whatever reason, lose their income-based jobseeker’s allowance and have little or no other money to live on. This, we believe, is the right approach in a civilized society. However, the question arises of how
detailed these prescribed requirements are to be. How, in other words, will the responsible Jobcentre Plus officer establish that hardship payments are warranted? Knowledge of the state of bank accounts and credit card statements spring to mind, but what else?

My other question is: since hardship payments already exist in legislation, as we discussed a few moments ago, why does provision have to be made for them in the Bill? I am also confused by the juxtaposition of subsection (9)(b) and subsection (6), which is why I have tabled Amendment 17. In what circumstances may the prescribed period be different in each case? I beg to move.

Lord Kirkwood of Kirkhope: I endorse the line of inquiry that the noble Lord, Lord Skelmersdale, is pursuing. It would be remiss of us if we did not spend some time looking at hardship as it applies to welfare-to-work and the “work for your benefit” provisions in Clause 1.

In any case, I am worried about statutory deductions. A lot of the client group that we are talking about who may be faced with the provisions of Clause 1 are families who are already subject to such deductions. I have always been concerned about the interface between the hardship regime, which seeks to protect members of the family, and statutory deductions—for example, for repayments of loans that have come from the social fund.

Professor Gregg, who is my guru for the purposes of this Grand Committee, says that there is a risk of disengagement and dispossessory in families who go completely out of the system altogether. That drags them in the direction of addiction, crime and the grey economy. That can all be foreseen, and we must try to make provision for it. Careful attention to how the hardship provisions interface with statutory deductions, disconnection from a law-abiding life and a timely return to work are proper concerns, and if the Minister can say anything to reassure us about these issues then the Grand Committee will be the better for it. I am happy to support the amendments on that basis.

4.15 pm

Lord McKenzie of Luton: These amendments, like Amendment 14, relate to hardship. Before I begin to address these specific amendments, I should repeat that we intend to replicate in “work for your benefit” the hardship provisions that currently apply in jobseeker’s allowance. These amendments would damage our ability to do that but I accept that they are probing amendments.

Amendment 16 focuses specifically on the requirement for claimants to provide information allowing decisions on hardship to be made. I think it is self-evident that the information provided by claimants about their personal circumstances is vital in determining whether they receive a hardship payment. No reasonable decision could be made without such information. I also believe it is reasonable that the onus is on the customers to demonstrate why they feel that they would suffer hardship without the payments. We are talking here about a group of jobseekers who are capable of work and will have been found, by a decision-maker, to be failing in their responsibility to engage with employment support. It should not be an onerous task to provide basic details of their own personal circumstances to facilitate a decision on hardship payment. When that is provided, the information, backed up where necessary by further verification, will be used to determine whether they qualify for a payment.

Amendment 17 would remove some clarity from the Bill surrounding the ways in which we could use the hardship regime. The wording, as it stands, makes it clear that a hardship payment would not necessarily have to last for the entire length of a sanction. We would not, for example, want a claimant to continue to get hardship payments for the length of their sanction if they were no longer in hardship due to their circumstances having changed. That would make a nonsense of the hardship regime. Although the amendment would not necessarily prevent us achieving this aim, it would introduce potential doubt about the scope of the powers. It would also make the drafting inconsistent with previous and similar powers elsewhere in social security legislation and would risk introducing unnecessary complexity and confusion into the legislation. Specific information which might be needed could include birth certificates, child benefit books, a note from a doctor, a repeat prescription, or details of someone for whom the claimant has caring responsibilities, such as award notices or bank or building society statements.

The noble Lord asked why we are taking hardship provisions in the Bill if they already exist elsewhere. Although provisions exist elsewhere, we need provision here to enable payments to be made to participants in this scheme. One reason for including these provisions is to ensure that our policy on “work for your benefit” is transparent rather than simply constructing it through regulations under existing powers. The level of information required will depend on the circumstances but decision-makers must be satisfied on the balance of probabilities.

The noble Lord, Lord Kirkwood, pressed me on a wider matter. He asked: if statutory deductions are applicable, how will that inter-relate with the hardship regime? We do not envisage that there will be a change from the existing arrangements, but I shall write to him on that. On that basis, I hope that the noble Lord will feel able to withdraw the amendment.

Amendment 16 withdrawn.

Amendment 17 not moved.
Amendment 18

Moved by Baroness Turner of Camden

18: Clause 1, page 2, line 48, at end insert—

“( ) The prescribed rate shall not be less than that normally paid to workers in the same employment.”

Baroness Turner of Camden: I have been contacted by the TUC on various aspects of the Bill, with particular reference to “work for your benefit” schemes. It is not surprising that the TUC contacted me, because I was for many years a member of the TUC General Council. The issue at stake for the TUC is the undesirability, in its view, of what it sees as unfree and unpaid labour. Obviously, requiring people to do work experience in return for their benefit is not as serious as extreme forms of compulsory work, but it is within the same spectrum. Equally, schemes that produce an hourly rate well below the minimum wage are not in the same class as unpaid work, but, in the view of the TUC, they are still a form of exploitation.

A separate requirement of justice to other workers requires that no compulsory or unpaid work scheme should ever cover economic work—that is, work that would otherwise be undertaken by workers with employment rights paid the rate for the job. It is felt that that is unfair to workers in employment when they face competition from workers who are paid much less than them and have inferior rights. Workers whose pay and conditions are most likely to be undermined in such a situation are often the lowest paid and most vulnerable.

In addition to being unfair, according to abstract principles of justice, mandatory unpaid work experience is, in the view of the TUC, not an effective active labour market policy. The failure to pay a proper wage in a work experience programme can undermine its effectiveness. The TUC believes that employers are often not impressed when a job applicant’s CV includes a period spent in such activity. The TUC says that the impact on a participant’s morale and motivation is unlikely to be very good.

I place these amendments before the Committee. I should be very interested to hear the response of the Minister, because this view is apparently strongly held by the TUC, and it is important that, if the scheme is to be effective, unions should at least be benevolently inclined towards it. I beg to move.

Baroness Thomas of Winchester: There is a lot of concern among a lot of people, not just the TUC, that it would be invidious if benefit claimants were working full time, for more than a week or two, alongside a person who was doing exactly the same job but receiving a proper wage. Under the Bill, the claimant could potentially be working alongside that fully waged person for up to six months. It is worth saying that in the other place, the honourable Member who is the successor to my noble friend as chairman of the Work and Pensions Select Committee thought that these people could be working for six weeks. That was what was said during the Report stage in the Commons—but it is up to six months. I should be very interested to hear what the Minister says.

Lord Skelmersdale: I must say, especially after what we have just heard from the noble Baroness, Lady Thomas, that I am curious to hear what the Minister has to say in response to the amendment. The noble Baroness, Lady Turner, is concerned that workers under the scheme will, by being paid less than the going rate, either end up on less than the minimum wage or undercut existing workers by working essentially for free.

However, they are not working for free, are they? They are still on benefit, and that is the whole point of the exercise. There may be an argument that they are taking work away from other potential employees. I could understand that, but surely it is in the interests of the unions to obtain more members—union membership has been declining for many years—and the way they are going to get new members is by having members in employment.

The Child Poverty Action Group has described the provisions in the Bill as “workfare”, with which I disagree, but it has come up with a figure of £1.73 per hour by combining current JSA rates with a 35-hour week as the amount that some participants may get. I think the noble Baroness is also getting at this. I do not think that this is an accurate way of regarding back-to-work schemes where people are being moved into the labour market. However, I expect that the Minister will enjoy the opportunity to put the record straight by saying that the Government do not intend to undermine their own minimum-wage rules.

In that connection, in fairly recent times we have had anecdotal reports of workers being paid less than the minimum wage. Has the Minister any information on this point? If so, what are the Government doing about employers that are breaking the law in this respect? This is all part of the noble Baroness’s argument.

Lord McKenzie of Luton: The amendment would entitle participants in a “work for your benefit” programme to payment of jobseeker’s allowance at a rate, fixed in regulations, at the same level as for employees doing similar work. I acknowledge the concerns that have come from the TUC and, at the same time, the sterling work that my noble friend has done over many years with the TUC and trade unions.

The noble Lord, Lord Skelmersdale, asked about compliance with the national minimum wage generally. That is outwith my briefing.

Lord Skelmersdale: It is not outwith the amendment, though.

Lord McKenzie of Luton: In any event, I am delighted that the noble Lord is keen to ensure that the national minimum wage is fully enforced, as are we all. If there are any breaches, we will ensure that the systems in place to investigate and monitor come into operation. That is a key part of tackling poverty in this country, and it has made a significant contribution to it.

The amendment would fundamentally alter the nature of the programme. “Work for your benefit” is not subsidised employment; that is available in other parts of the jobseekers’ regime and at an earlier time. “Work for
your benefit” is an employment programme designed to help long-term unemployed people to develop work experience and work habits, but also to provide substantial support to them to capitalise on that experience.

Regulation 12 of the National Minimum Wage Regulations 1999 specifies that a worker who is participating in a scheme, “designed to provide him with training, work experience or temporary work, or to assist him in seeking or obtaining work ... does not qualify for the national minimum wage in respect of work done ... as part of that scheme”.

There are other qualifying criteria that have to be met for that exemption to operate, particularly when work trials last for longer than six weeks, but there is recognition under those regulations at the moment that there is a difference between a work experience operation and work to which the national minimum wage should apply.

The ultimate aim of the programme is to get people into the open labour market and into work. By paying benefit at wage rates, incentives to do that are diluted, particularly for those who may be experiencing a work environment for the first time in a long while. “Work for your benefit” could be seen as an alternative to work, and that is not why the scheme is designed as it is. However, I assure the Committee that “work for your benefit” will not replace existing jobs. We will make it clear to providers that any work experience placements must be in addition to existing or planned vacancies and cannot be used to replace existing workers. That will be written into contract specifications.

4.30 pm

Lord Kirkwood of Kirkhope: The Minister is talking about employment displacement, which is an important parallel concern. Will the evaluations of this employment scheme specifically ensure that no significant job displacement occurs as a result of its implementation?

Lord McKenzie of Luton: I believe that it is entirely reasonable for the criteria to be counted as part of the evaluation and I am reassured by the nods of assent from the Box. We are keen to work with the TUC and others as we develop plans for the pilots to ensure that proper controls are in place. We will not allow “work for your benefit” participants to take the place of fairly recruited and paid workers. I hope that that is an assurance for my noble friend and the noble Lord. The thrust of this is really to help people to get back into the labour market, particularly those who have been away from it for a long time. It will give them a chance. We all want to be in employment and to be able to look forward to a prosperous and fulfilled future.

Baroness Turner of Camden: First, I thank all noble Lords who have participated in this debate, particularly the noble Lord, Lord Skelmersdale. I am glad to hear that he is fully in support of the minimum wage. I also thank the Minister for his assurances about the kind of jobs that will be included in these schemes and the undertaking that there will be consultation with the TUC and other interested parties in regard to the introduction of the pilot schemes. They will be received with some gratification by the TUC. I understand also that job evaluation is to take place to ensure that the pilots do not consist of the same sort of employment. I thank the Minister and I beg leave to withdraw the amendment.

Amendment 18 withdrawn.

Amendment 19

Moved by Lord Skelmersdale

19: Clause 1, page 3, line 14, leave out “(by whatever means)”

Lord Skelmersdale: I was tempted to table an amendment to leave out subsection (1) of new Section 17B in its entirety, but I doubt whether the Clerks in the Public Bill Office would have let me get away with it since paragraphs (c), (d) and (e) are money provisions and thus the province of another place, not your Lordships’ House. My next thought was to add yet another probing amendment to leave out paragraphs (a) and (b), which may have made it easier for the Minister to see what I was getting at. As it is, I chose just to leave out the words “by whatever means” in paragraph (b) to discover exactly what the proposal is here.

To my mind, the Secretary of State does not need to make arrangements for anyone in the department, including jobcentre personnel or their workplaces, because he already has adequate powers to do just that, as the Peers’ information pack makes clear. He already has the power to establish new providers, as in the case of the Flexible New Deal. The whole subsection must refer to contractors who are to manage people working for their benefit. The question therefore is what new powers is the Secretary of State seeking with regard to “work for your benefit” programmes that he does not have already?

I also intend to use this amendment to probe the all-important question of how the Flexible New Deal contracts are to be organised. As I said at Second Reading, and the Minister did not contradict me then, they are front-end loaded. As I understand it, the contractor gets 40 per cent originally, 30 per cent after 13 weeks and the last 30 per cent after six months. When this job lasts for only a week or two and the participant loses it, he becomes a new participant in the welfare-to-work provisions. This cannot be the right approach. First, we believe that the contract can be said to have succeeded only when the participant holds down a full-time job for six months, during which time the contractor should be guide and mentor if that is needed. Obviously, he would expect to be paid for this service, which I understand does not exist at the moment. I suggest 25 per cent for taking on the participant, 25 per cent after three months and 50 per cent when the contract can be said to be completed; that is, when the participant has held down a job for six months. Back-end loading of this nature will be a very big incentive to the contractor to concentrate more on individual participants and will remove the temptation to think that any job will do, no matter how long it lasts.

I expect that by the time the welfare-to-work provisions in Clause 1 come into operation, the current very deep recession will have run its course and the economy will be starting to revive. In that scenario, jobcentres will find it relatively easy, as they have in the past, to
promote jobs for people who have been unemployed for six months. However, the problems, as we discussed a little earlier, will continue for those who have been unemployed for longer. The Minister cannot deny the fact that the longer someone is out of a job, the harder it is to get back into work. Indeed, the whole premise of welfare to work is based on that fact, and the phrase “long-term unemployed” means being out of a job for more than one year. It therefore seems logical that the longer a person is out of work, the more expensive it will be to get him back into the workforce. Will the contracts reflect that fact? If not, why should a contractor be interested? I am not asking Ministers to break commercial sensitivities here but it would be helpful if the noble Lord could give us some indicative figures because, in essence, my question is: how do Ministers see the contracts working?

Amendment 20 is also in this group. Given that paragraphs (c), (d) and (e) of new Section 17B(1) relate, as I said just now, to money, I am surprised that the Public Bill Office allowed me to table this amendment. However, given that it has, I am going to speak to it. My question is simple. We can all readily understand why fees should be payable for the purposes of paragraphs (a) and (b)—the reasons for which I have just discussed—but we on this side of the Grand Committee believe that the provision for facilities in paragraph (a) should not include physical entities such as buildings, offices and so on. Therefore, why should grants or loans, to say nothing of the wonderful word “otherwise”, which also appears, be appropriate in this context? After all, the grants or loans are open-ended. They could, for example, cover not only offices but the setting up of a totally new entity. I assume that this would cover either contractors or their third-sector sub-contractors.

It has been a long-held policy of my party that the core funding of charities is a no-no and that this should be sought by other means, such as private fundraising, private legacies and so on. The proper use of taxpayers’ money is to commission the third sector to use their good offices, which by definition already exist, to do something that the Government of the day cannot do either as well or as cheaply themselves. An example in the health service, which I was involved in for many years in the past, would be the Stroke Association, of which I was chairman, being paid—that is, the Stroke Association, not me—by primary care trusts to provide speech therapy services for aphasic sufferers. In the context of this Bill, that might mean drop-in or day-care facilities for drug users, for example. Both are fee-based services. What, then, are grants, loans or otherwise to be used for? Why, in essence, do we find them in new Section 17B(1)(a)?

I was going to leave it at that until my attention was drawn to an article in the Financial Times of about a fortnight ago which said that there was already a preferred list of bidders for these various contracts. However, on investigation in another place, I discovered that this had never been announced through government sources. Therefore, I should very much like to know what is going on. I can show the Minister the article if he wishes. It also raises other questions, such as what is almost the contradiction of the £20 million for the pilot schemes that he talked about on Tuesday and the £2 billion to which the article refers. It may of course be a misprint; I simply do not know. However, I do know that the department is slightly ahead of the news that it has released publicly. I beg to move.

Lord McKenzie of Luton: These amendments would remove some clarity concerning the scope of the powers that the Secretary of State has to support providers of the “work for your benefit” programme or those who supply related facilities. It would be useful perhaps to clarify the purpose of these powers. First, there may be instances where the Secretary of State may wish to provide facilities to contractors or sub-contractors to ensure that the programme works as well as it can. For example, there may be circumstances where a sub-contractor would want to run a workshop in Jobcentre Plus premises to explain “work for your benefit” to prospective participants, or there may be times when host organisations wish to interview prospective participants and the most sensible place to do that would be in government buildings.

The department will certainly wish to give support by way of guidance and advice to suppliers. It is our intention that this programme will be delivered by private and voluntary sector contractors. We will procure this programme through an open competition. As we are encouraging, through the contracting process, creative delivery and innovation, it would be naïve of us to think that we can predict today how the Secretary of State may be asked to support a truly innovative process. It would be sad indeed if we had to stifle that innovation because there was doubt about whether we had the powers to provide such support. That is the reason why the clause is drafted in such a way. Accepting the noble Lord’s amendment would remove legal clarity, and could, I think, result in timidity in helping providers adopt new ways of helping jobseekers.

In terms of how we will pay providers, we expect that funding will be at least partly outcome-based, in line with the department’s commissioning strategy. This means that the payments could consist of a service fee and at least one type of outcome payment. However, there may be times when the Secretary of State wishes to provide alternative forms of financial support to providers delivering “work for your benefit”. This is not something we are planning, but it is not possible to foresee all the circumstances in which we may wish to provide alternative financial support for providers. During the lifetime of a contract, circumstances may change, as we have seen during the current economic downturn. It would be unfortunate for customers if we could not adopt practical solutions because there was doubt about how we were able to remunerate providers. I can assure noble Lords that these sections of the clause are in no way sinister and exist solely to ensure that we provide the best support we can to jobseekers in a range of circumstances, not all of which we can predict.

I should also point out that this section will simply replicate the legislative approach we took with the employment zones in the Welfare Reform and Pensions Act 1999. The intent is entirely benign.
The noble Lord made reference to an article in the Financial Times about a list of preferred bidders and I am advised that that preferred list is on the DWP website. There is nothing secret about it. The noble Lord made reference to the shape of the contractual arrangements for Flexible New Deal. I should stress that it does not necessarily follow that Flexible New Deal providers will be the providers who provide “work for your benefit”—it may not. I do not have before me all the details of how the Flexible New Deal contracts are structured, but they certainly have an outcome focus.

The “work for your benefit” budget is £20 million, as we discussed the other day. We are working with providers to design a funding model, so there should be some outcome funding attached to that.

The noble Lord also made reference to the Flexible New Deal to customer churn. Linking rules exist so that if a customer gets only short-term work—less than 26 weeks—they go back to the Flexible New Deal contractor. I think that that covers the points that the noble Lord was seeking information on, but I am happy to try again if not.

4.45 pm

Lord Skelmersdale: Once again, the Minister has been extremely helpful. I readily understand why it may be appropriate to use a government building—for example, what I used to call a social security office and is now called a jobcentre—for a provider to hold courses in, or perhaps to interview the potential or actual participant. That is straightforward. I am not sure, though, why grants and so on are required. I shall have to read what the Minister said very carefully, not least what he said about the provision replicating the provision in the Welfare Reform and Pensions Act. The fact that it does so does not necessarily mean that the provision is required here, but I shall look into that.

Lord McKenzie of Luton: I was just saying that that formulation of wording to cover these sorts of circumstances has already been used in a different situation. I am not saying that the provisions in the 1999 Act could be used to do what we want to here; it is simply that there is a parallel way of expressing these provisions.

Lord Skelmersdale: I am grateful for that elucidation. Furthermore, the Minister said that the exact details of what I have described as the “loading” of the contracts are still being worked out, presumably with members on the preferred list of bidders—or is it purely an internal exercise?

Lord McKenzie of Luton: I am not confusing them at all. We are dealing with Clause 1, which has nothing to do with the Flexible New Deal. I was trying to discover—the Minister did not answer this in that exchange, but perhaps he will let me know outside this Room—whether the discussions were internal or were held with members of the preferred list of providers. I do not need to know now, unless the Minister wants to reveal that.

Lord McKenzie of Luton: I will be happy to write, to try to satisfy the noble Lord.

Lord Skelmersdale: That would make life much easier for all of us. I beg leave to withdraw the amendment.

Amendment 19 withdrawn.

Amendments 20 and 21 not moved.

Amendment 22

Moved by Baroness Thomas of Winchester

22: Clause 1, page 3, line 47, at end insert—

“17C Procedure for regulations under sections 17A and 17B

(1) Before the Secretary of State makes any regulations under section 17A or 17B, he must consult such persons as appear to him to be likely to be affected by his proposals.

(2) Where those proposals affect any local authorities in Wales, the Secretary of State must also consult the Welsh Ministers.

(3) If, following consultation under the preceding provisions of this section, the Secretary of State proposes to make regulations under section 17A or 17B he must lay before each House of Parliament a document which—

(a) explains his proposals,

(b) sets them out in the form of draft regulations,

(c) gives details of consultation under subsection (1), and

(d) where consultation has taken place under subsection (2), sets out the views of the Welsh Ministers.

(4) Where a document relating to proposals is laid before Parliament under subsection (3), no draft of any regulations under section 17A or 17B to give effect to the proposals (with or without modifications) is to be laid before Parliament in accordance with subsection (8) until after the expiry of the period of sixty days beginning with the day on which the document was laid.

(5) In calculating the period mentioned in subsection (4) no account is to be taken of any time during which—

(a) Parliament is dissolved or prorogued, or

(b) either House is adjourned for more than four days.

(6) In preparing draft regulations the Secretary of State must consider—

(a) any representations made during the period mentioned in subsection (4),

(b) any resolution of either House of Parliament, and

(c) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations.

(7) Draft regulations laid before Parliament in accordance with subsection (8) must be accompanied by a statement of the Secretary of State giving details of—

(a) any representations considered in accordance with subsection (6), and

(b) any changes made to the proposals contained in the document laid before Parliament under subsection (3).

(8) Regulations under section 17A or 17B are not to be made unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.”

Baroness Thomas of Winchester moved Amendment 22.
Baroness Thomas of Winchester: I shall speak also to Amendments 23 and 26. These amendments would apply the super-affirmative procedure to regulations introduced for Clauses 1 and 2. This colourful-sounding procedure is not used very often but it is well preceded in other Acts. At the moment the most obvious example is the Legislative and Regulatory Reform Act 2006, which allows the Government to propose legislative reform orders to amend or repeal a provision in primary legislation considered to impose a burden on business or others, as long as it could be reduced or removed without removing unnecessary protection.

When the draft order is laid before Parliament, the Minister must recommend one of three possible parliamentary procedures for dealing with it, one of which is the super-affirmative procedure, which requires the Minister to have regard to representations, House of Commons and House of Lords resolutions and committee recommendations of either House of Parliament that are made within 60 days of laying, in order to decide whether to proceed with the order and, if so, whether to do so as presented or in an amended form. If the order is to be proceeded with, both Houses debate it in the usual way. In other words, the super-affirmative procedure is really just the affirmative procedure with a few bells and whistles added.

Why am I proposing this very specific procedure for regulations made under these two clauses? After all, the Delegated Powers and Regulatory Reform Committee did not recommend this procedure, but that should not be a bar to anyone else putting forward an opinion. My reasoning is simple. Taking Clause 1 first, “work for your benefit” is a completely new concept which is very controversial. Whether the Minister likes it or not, it is already being compared unfavourably with the American system of workfare, which, as the Peers’ information pack note says, is a “largely punitive programme of work aimed at dissuading claimants from continuing their claim”.

We do not yet know how “work for your benefit” will work because we have not seen the all-important regulations, although the Minister is being helpful in giving us some clues along the way. Surely the Government cannot complain if all we are asking is for Parliament and those in the field to be able to comment on a genuinely draft order setting out how this part of the Bill will work. After all, the then Minister in the other place, Mr Tony McNulty, admitted that regulations under this part of the Bill are important and represent a significant shift in policy. The only way to change the regulations is still for the Government alone to do so. Parliament and others can suggest changes but it would be solely the Government’s decision. However, if the Government did not listen to representations, they would risk a Motion to reject the regulations, which might be passed in either House of Parliament, although that is pretty unlikely.

More transparency and better scrutiny is now being advocated more than ever before in all the dark recesses of government. This call for more transparency has been made since the Bill was debated in the other place. This procedure would make sure that Parliament knew what it was giving its consent to. The Minister may say that the DWP consults stakeholders anyway, but the consultation on many issues appears to be patchy, and impact assessments are not always carried out, even on important DWP statutory instruments, as I know from my service on the Merits of Statutory Instruments Committee. Furthermore, as I have said before in the House, the committee set up specifically to scrutinise statutory instruments for the DWP, the Social Security Advisory Committee, often makes recommendations which the Government then ignore—either that or they take on board only one or two suggestions out of a good many.

I believe that it is high time that this super-affirmative procedure for regulations was used more often in order for Parliament to be at the heart of law-making, rather than just a peripheral player. I beg to move.

Lord Kirkwood of Kirkhope: I support the proposal for bells and whistles so eloquently proposed by my constitutionally expert noble friend. She knows more about procedure in this place than anyone else I know. I want to make a very simple point. There is a lot of scepticism—I guess that that is the best word—outside this place about exactly how the whole Bill is going to work. The Minister has been doing well so far in providing some reassurance by giving us careful statements from the Dispatch Box on behalf of the Government, which is all very useful. However, it would go a long way to increase people’s confidence if they knew that there were no hidden agendas and that this was not workfare by the back door and so on. That is all floating around in the pressure groups and communities that seek to serve the Members of this Committee and generally do so very well. If the Government said, “Yes, we will adopt the 60-day period. We will look carefully at the research work, the resolutions, Select Committee reports and other things”, that would cost the Government next to nothing but it would send a very strong signal to people who are watching the proceedings of this Grand Committee rather closely that the Government have nothing to hide.

Lord Northbourne: I am profoundly unhappy with the Bill and I should like to throw it out. It gives a blank cheque for 387 regulations to be issued by the Minister, in many cases only through the negative procedure. The super-affirmative procedure in itself does not give us much control over the situation, but it would give us some. We are receiving reassurances from the Minister for which I am sure we are all most grateful, but if I give him a cheque for £1 million and then someone steals it from him in a year’s time, there is no telling in what way that money might be disposed of. In the same way, can the Minister give an assurance that any subsequent Government will abide by all the reassurances he has given us about how the regulations will be implemented?

Lord Skelmersdale: The Liberal Democrat party clearly has a fixation on super-affirmative regulations. They have been mentioned on several occasions, which is no surprise to me, although oddly only once in connection with the Bill. I am surprised that they have not been mentioned in relation to Clause 2.

Lord Kirkwood of Kirkhope: Do not provoke us.
Lord Skelmersdale: We might finish Clause 2 within the next hour, but chance would be a fine thing. The noble Baroness, Lady Thomas, described the procedure rather dismissively as only an affirmative process with a few bells and whistles attached. The noble Lord, Lord Kirkwood, agreed with that and indeed repeated it.

While I congratulate the Liberal Democrats on this long and complicated amendment, I have to say that I have difficulty with all sorts of things in it, and it would surprise me very much if the Minister did not agree with me to a great extent. The difficulties start as early as proposed new subsection (1) which begins by saying:

“Before the Secretary of State makes any regulations”—

which subsection (8) says are to be made by affirmative resolution—various things have to happen which I shall come to in a moment. The Minister told us on Tuesday last that the original regulations may need to be changed relatively quickly as experience of the pathfinders develops. I take his point that certainly after the original regulation, it is appropriate to use negative regulations for doing that. I note, however, that he did not go so far as to suggest that the first regulations to be made under new Clauses 17A and 17B should be affirmative. However, that is not the proposal in this amendment, which refers to “any regulations”, and thus means each and every time orders are laid. I really cannot support that proposal.

My second concern is something that I am surprised was not picked up by the noble Lord, Lord Kirkwood. While something must happen before the new sections are introduced in Wales, the rest of the country is ignored. This Bill covers England, Wales and Scotland, but nowhere do we find out what is proposed, in this super-affirmative way of doing things, for Scotland. Next, the amendment calls for draft regulations to be issued after a report has been laid before Parliament giving details of the consultations held under subsection (1) and explaining the proposals. Parliament then has six sitting weeks to report and comment on it. Only then can the Secretary of State lay the final order. I really must ask the noble Baroness how long all this is expected to last; that is, up to the time when Jobcentre Plus staff can actually start to use the provisions in new Sections 17A and 17B, which to my mind are wholly beneficial.

The whole proposal seems to be a delaying tactic, which should not be necessary each time an order is made. Pilots, pathfinders or whatever, are investigations as to exactly what will work when a scheme is rolled out across the country. Of course they may need to be changed as they progress, especially as they are now to be extended to three years—and three years may subsequently become another three years or even another three years after that—according to the Bill. That is before they are introduced across the country as a whole. Incidentally, we have had an answer to the question asked by the noble Lord, Lord Northbourne, about the difference between a pathfinder and a pilot. I would be grateful if the Minister could elucidate that for us. Pilots are defined in Schedule 1, but nowhere can I find reference to a pathfinder.

Lastly, I find this amendment to be rather previous. The objective of all of us in the Grand Committee is to find out exactly what are the concrete proposals hidden in this framework Bill. Although the Minister does not like it, we are trying to pin him down. As our debate on Tuesday and earlier this afternoon show, we are having some success, but only when we have finished will we know whether the long drawn-out procedure envisaged by the amendment will be necessary or appropriate. My guess is that it will not.

5 pm

Lord McKenzie of Luton: This has been an interesting debate. I find myself broadly having common cause with the noble Lord, Lord Skelmersdale, on this matter and must resist the amendments proposed from the Liberal Democrat Benches—forever hereafter the party of bells and whistles. I start with the question that the noble Lord, Lord Skelmersdale, asked again about the difference between pathfinders and pilots. Pilots are meant to be pure tests to decide whether we want to do something; pathfinders are for when we want to do something and evaluate how best we can roll it out. That is the key distinction.

Perhaps I can also deal up front with the point made by the noble Lord, Lord Northbourne: can I give him an assurance that a subsequent Government will not use the Bill in a completely different way to that intended? I am sure that he will forgive me if I do not contemplate the prospect of an alternative Government, but if I had to imagine it, my answer would be that whatever Government is in place will do whatever that Government want to do. They may need primary rather than secondary legislation to do it, but they will have their way if that is what they intend.

I appreciate the importance of the matters before us and understand the interest of noble Lords, but the amendments would provide an unprecedented level of scrutiny for social security legislation and undermine the very reasons that we seek to use secondary legislation in the first place. Drafting of the Bill follows the precedent in social security legislation by setting out the overall legislative framework in the Bill and providing for regulations and orders to set out matters of detail. That approach will not be unfamiliar to noble Lords and is one accepted by the Delegated Powers and Regulatory Reform Committee. The noble Baroness, Lady Thomas, acknowledged that. The committee states:

“Many of the new powers conferred in Part 1 reflect existing powers already in force in relation to other benefits, and many other provisions of Part 1 amplify existing powers slightly or adapt them for modified purposes. This is particularly true of the additional provision for piloting new benefit arrangements (clause 23) and of much of the provision in clauses 1 - 6 and 17 – 26 and Schedule 1. We conclude therefore that the House can regard most of the delegations in Part 1 and their associated scrutiny procedure, as unexceptionable”

Then the committee identifies five areas for comment, and we are seeking to bring forward amendments to address each of those points.

This approach to legislation provides the Secretary of State with the necessary flexibility to make changes in the light of operational experience, new evidence and changing circumstances. This practical approach
Lord McKenzie of Luton: the implementation of the Gregg Review of the progression-to-work pathfinders. We issued a Discussion Paper on Next Steps in Implementing the Gregg Review in January this year and have held two meetings with interested groups on parental employment issues, so that process is already under way. The department also works very constructively with the Social Security Advisory Committee which, if it thinks it is necessary, has the ability to consult on secondary legislation made more than six months after commencement of provisions. This is a significant control. Adding a further statutory duty is additional bureaucracy that risks distracting us from the delivery of these important pilots. A formal consultation could also politicise what has previously been a constructive process designed to ensure that regulations are fit for purpose. While I cannot accept the extra parliamentary scrutiny proposed in Amendments 22 and 66, I am not seeking to remove this scrutiny altogether. That is the reason I cannot agree to Amendment 23.

It is neither our intention, nor the Delegated Powers and Regulatory Reform Committee's recommendation, that “work for your benefit” regulations are all subject to the affirmative procedure. Therefore, I think it is important that Parliament retains the ability to annul regulations made relating to “work for your benefit”. Given these arguments, I believe that these amendments are unnecessary and I urge the noble Baroness to withdraw them.

Baroness Thomas of Winchester: I thank my noble friend Lord Kirkwood and the noble Lord, Lord Northbourne, for supporting this very modest proposal. My noble friend talked about scepticism among people outside regarding how the Bill will work. That is absolutely true. A lot of groups have expressed their unease about the way the Bill will work. How many groups responding negatively to the consultation by saying that they do not like the Bill at all will it take for the Government to think twice about how they are going to put it into practice?

The noble Lord, Lord Northbourne, referred to 387 regulations in the Bill and said that it represented a blank cheque, which is just about right. The noble Lord, Lord Skelmersdale, asked whether the provision would apply to Clause 2. It would indeed. I have tabled another amendment in this group to Clause 2. However, I was not surprised by the Government’s assertions. I was given some draft groupings which were marked up, probably by mistake. By this group is the remark: “reject: controversy, low”. That certainly puts me in my place.

Since the Bill was published, Parliament has undergone an earthquake. Now we are being told that Parliament must be strengthened. The Prime Minister himself has said it. Constitutional renewal has been in the air almost since the Bill's Second Reading. I am not surprised—given the document I have—but I am saddened that I will not get anywhere with this amendment. We shall have to go on trying to tease out what the regulations will say. I hope that before any of them are published, the DWP will give us full impact assessments on all of them. Can I have that assurance? I refer not to the quality impact assessments but to the proper full financial impact assessments, which are quite often left out. If the noble Lord can give me that assurance, I shall be very glad to hear it.

Lord McKenzie of Luton: Yes, I can.

Baroness Thomas of Winchester: In that case, I beg leave to withdraw the amendment.

Amendment 22 withdrawn.

Amendment 22A

Moved by Lord Northbourne

22A: Clause 1, page 3, line 47, at end insert—

"17C Regulations pursuant to sections 17A and 17B: consideration for wellbeing of child

Regulations made pursuant to sections 17A and 17B shall be so drafted to ensure that any job seeking conditions, work-related activities, schemes, plans, sanctions or consequences referred to in those sections are applied with due consideration for the wellbeing of any child whose life may be affected by them."

Lord Northbourne: Since they came to power, this Government have put a lot of effort into addressing social and family problems in our society: school exclusions, poor school outcomes, drug and alcohol abuse, teenage violence and child poverty. Behind this Bill I see an excellent intention to reduce child poverty and, in particular, to reduce the number of children growing up in families that, from generation to generation, have not had any members in work. I congratulate the Government on these ambitions, but I fear that the Bill as drafted lays wide open the possibility, perhaps even the probability, that it may have unintended and undesirable consequences for the children and young people of parents who become subject to the plans and directions that jobcentres are going to persuade them to accept or, if necessary, to impose on them.

So far the debate has focused on children in the 0 to 6 age group, and I defer to none in my support for family and parental care for children in those early years; it is most important. The emotional and social development of this age group depends crucially on secure attachment to caring parents or indeed to surrogate parents when appropriate. Good quality childcare and nursery education have their place, but they can never be a total substitute for the time, love and care given by parents whom the child loves and trusts.
I shall speak to all four amendments in this group. They are relevant to this early-years group only in cases where the jobcentre plan prevents the parent from giving their child the family time it needs. They are particularly relevant to parents with children over the age of six because for that age group the lone or second parent is more liable to be forced by the jobcentre out into full-time work, possibly with substantial travelling time involved as well. It could mean an eight-hour working day plus an hour at either end for travel. Children aged from seven to 10 still need a lot of parental care and a family life for their healthy development. As the child gets to the older end of that age group, more institutional childcare can progressively replace some of the family care, but stress-free time with parents—I emphasise that the time should be stress-free—remains crucially important.

Then comes the transfer to secondary school, which is a particularly stressful time for children. Even teenagers need family support, boundaries and guidance, and time to talk to their parents, although often they would rather die than admit it. Time is the language of relationships, and secure relationships within the family are the key to a child’s self-esteem, confidence and social skills, both in their school career and later. I suggest that the Bill lacks balance. It gives the Secretary of State powers to make some 387 regulations that will either direct parents into full-time work, or threaten to do so, or into work-related activities. Yet nothing in the Bill requires the Secretary of State or the jobcentre to have concern whatever for the effect of these actions on the children of parents who are subject to directions from the jobcentre.

Can this be right from a Government who believe that “every child matters”? The nearest we get to a show of concern about dependent children is in new Clause 2, on page 7, line 3, which states that a direction, “must be reasonable, having regard to the person’s circumstances”. We do not know what is meant by “circumstances” and there is no mention of what the Government mean by that. There is no reference to the effect on that person’s child or children. It is in the national interest that there should be such a mention.

5.15 pm

My Amendment 22A would lay upon the Secretary of State a duty to ensure that all actions taken in relation to a jobseeker are, “applied with due consideration for the wellbeing of any child whose life may be affected by them”. This is an absolute minimum requirement to make the Bill respectable in the context of the Government’s policies for children, as set out in Every Child Matters and in subsequent legislation.

My Amendment 22B goes further. It borrows from the Children Act 1989 and uses the phrase, “the best interests of the child ... shall be the paramount considerations”. Are the Government who have given us Every Child Matters prepared to accept that it is in the long-term interests of the nation as a whole that the best interests of our children should, indeed, be paramount?

Amendment 22C is a long-stop amendment that would put at least some limit on the extent to which the Secretary of State and his jobcentres could damage family life in a labour market where weekend working is often a condition of getting a job. Nearly 50 per cent of jobs involve weekend working as a mandatory condition. That is becoming a serious problem for working parents.

Finally, I regard Amendment 22D as crucial to securing an acceptable balance between the need to get jobseekers out to work and the needs of the nation’s children for parental time, nurture and family life. Unless jobcentre advisers or the person to whom the job of adviser is outsourced, or their decision-makers, understand the dynamics of the client’s family, they will be unable to make an informed judgment about the effect of any work plan on the client’s children; they will be unable to make an acceptable and balanced job plan for the child. I beg to move.

Baroness Meacher: I strongly support these amendments. Our earlier debate on childcare was very helpful, and the Minister understandably focused on the issue of whether the parent or the personal adviser was the person who should make the decision on a childcare facility. We did not address looking through the telescope the other way. The child may be aged three or 10, going to senior school, settling into senior school, perhaps going through a sickness, or perhaps a teenager. They all come under different regulations and systems, which deal, one way or another, with children of different ages. The same principle, wonderfully elucidated by the noble Lord, Lord Northbourne, is precisely right. What, at any point in time, is in the best interest of the child at age three, 10, 11, 12 or 16? We will come back to some of these issues when we debate Amendment 75.

I brought up four children, and I am very conscious that there are all sorts of stages when placing that child in some sort of childcare, even if it is moderately good, might be a disaster for that child.

In addition to the assurances that we had earlier from the Minister, for which, as I said, I was extremely grateful, to have something in the Bill that focused the mind of the personal adviser on the crucial importance in every situation of taking account of the best interests of the child must be something that this House would support. I am not sure that the wording of either Amendment 22A or 22B is exactly right. I would not talk about whether there is a conflict between the interests of the parent and the interests of the child, but it needs to be clear, when considering these matters under any of these schemes, that the first consideration should be that whatever is decided is in the best interests of the child. I simply put that on the table and invite the Minister to consider it most carefully because, ultimately, that is what matters to the nation.

The only other point I want to make has to do with Amendment 22D, on training. The Minister will not be surprised when I again raise my concern that the whole system may well create untold misery and unforeseen consequences if the people making these decisions and giving these directions are not adequately
trained in the many different disabilities and problems that human beings have. Who knows what will happen? The Minister will say that there is an appeal system, but having worked in social security many years ago, I am conscious that appeal systems can take a very long time and, in the mean time, the claimant is in a state of great anxiety and may have lost their benefit. One cannot emphasise the issue of training too strongly—once again, most particularly for people with mental health problems of various kinds. These are complex issues and complex decisions. Even in a mental health trust, where we have highly professional staff, deciding when someone is well enough to do this or that is a professional decision and we do not always get it right. I appeal to the Minister to think about what can be done to ensure that negative decisions are not made where there are questions about the competence of the personal adviser making the decision.

Lord Ramsbotham: The Committee is most grateful to the Minister for the help that he has given us today and beforehand in the form of documents and information. In supporting the amendment, I have a question about Amendment 22D. Hidden here is a group of jobseekers who are not mentioned and are not necessarily under the DWP, but may come more under the Ministry of Justice and possibly also the Minister for Children.

I refer to jobseekers—which is what all prisoners are, if we are to believe that the rehabilitation of offenders is all about helping them, and all the talk about jobseekers’ organisations in prisons is meant to be that. What about the jobseeker in prison who has a child aged under 16? Who will help with that? The way that the present system is currently conducted, often a prisoner is moved miles away from the home area where the children aged under 16 are. The person responsible for dealing with him on jobseeking may have nothing to do with the children. I wonder whether there have been discussions between the Minister’s department, the Ministry of Justice and the department responsible for children about how that can be managed. I also wonder whether those who are responsible for children aged under 16 in care, as carers in the community, will have the same responsibility laid on them as on those who are parents themselves.

Lord Lucas: I have an interest in another subset of jobseekers, home-educating parents. Amendment 74 is in my name and I imagine we shall come to it in several days’ time. Today, DCSF published a long report on home education and it is quite clear that, at last, the Government will take proper cognisance of their duties to ensure that such children are properly home educated, and that parents who are home educators fulfil their duties, which will necessarily entail large amounts of time during the week spent looking after their children and educating them. That will have to be taken into account by the mechanism being set up in this Bill; otherwise the two will crash irreparably.

Many children who are being home educated have become frightened of school and schooling as a result of their experiences. They will not be exactly friendly company in a jobseeker’s interview. It is already the experience of many home educators who are placed in this situation that jobcentre staff do not understand, are unfriendly and try to pressure the parent into putting their children back into school, which, first, is not their right and, secondly, can be extremely upsetting for the child who is usually there at the time. Those matters need to be conducted properly and sensibly with the interests of the child in mind.

Amendment 22D in the name of the noble Lord, Lord Northbourne, very much bears on the need for understanding and knowledge in these matters. Without wishing to go into the particular requirements of home educators, which I shall come on to on Amendment 74, I should very much like to know the Government’s general approach.

Lord Kirkwood of Kirkhope: I am very happy to support the thrust of the amendment so ably moved by the noble Lord, Lord Northbourne. It is a crucial and core element in the successful deployment of this policy. My difficulty is that if you look at the report of Professor Gregg—it is supposed to be all about that—and if you believe that the report is to be translated into operation, some of these concerns may fly off. People may say that that is a naive view, but I remind Members of the Grand Committee that the third sentence of Professor Gregg’s personal statement, which prefaces his report, states:

“In addition, and central to this Review, it should where possible give a voice to the claimant in designing support services”.

Although the report deals with very difficult issues of penalties, conditionality and so on, on page 53 it talks about encouragement, agreement and co-ownership of the policy. I suspect that if the Minister could persuade the noble Lord, Lord Northbourne, that those two conditions were to be fulfilled in the reality of the rollout of these programmes, he might withdraw these amendments with some degree of confidence.

However, the problem is that none of us, at heart, believes that the rest of the Bill will deliver that. I have seen for myself that children can often benefit very much from parents at work in a whole variety of ways if the circumstances are right. I have also experienced in an international context, particularly in Scandinavia and in the Netherlands, a public policy programme which makes the fundamental well-being of the child involved in any decision of this kind paramount. It is a key condition and it is built into the public policy programmes of sister European nations; so it is possible. Professor Gregg seems to be trying to get there but I do not think that this Bill does it. The noble Lord, Lord Northbourne, makes an absolutely valid point which makes the fundamental well-being of the child involved in any decision of this kind paramount. It is a key condition and it is built into the public policy programmes of sister European nations; so it is possible. Professor Gregg seems to be trying to get there but I do not think that this Bill does it. The noble Lord, Lord Northbourne, makes an absolutely valid point that there are no guarantees that we shall get to where we want to be, given the way in which the Bill is drafted. These amendments capture of all that. The only difference, although this is a trite way of putting it, is that sister European nations invest money that we cannot envisage into these systems. We have no way of knowing. There are all sorts of financial difficulties facing this country, going forward; everyone understands that.

David Freud, soon to be Lord Freud of DEL and AME—I hope he chooses his title with care; I am going to suggest that one to him—won the argument.
The Government are to be congratulated on accepting the fact that you can, in certain circumstances, if you are careful, spend to save. The right to bid is already in some of the Flexible New Deal and the welfare-to-work agenda.

If you can demonstrate that by drawing down some public expenditure and investing it wisely, with the children at the heart of the investment decision, everyone benefits. The question is how you contrive the legislation to provide the confidence that the Committee is seeking. I share the concerns of the noble Lord, Lord Northbourne, regarding this area. There is work that we can yet do, in spite of the Minister's helpful approach to proceedings in Committee. He has to think about it seriously, because we are not there yet.

5.30 pm

Lord Skelmersdale: Although my name does not appear on these amendments in the Marshalled List, as I got in touch with the Bill Office too late for it to be printed, I nevertheless confirm my support for the noble Lord, Lord Northbourne. The amendments make the well-being of a child an essential, if not paramount, consideration when implementing new Clauses 17A and 17B. The noble Lord has defended the interests of children resolutely, and this follows on rather naturally from my opening amendment on Tuesday, to which I was pleased that so many noble Lords added their support. In this case, however, we are dealing with a much greater age range.

The issue is simple. We all accept that getting an unemployed person back into work is a priority. It is not, however, an overriding priority; it should not be enforced when to do so would cause some kind of harm to the dependants of that person. Indeed, over the past two days the Minister has made similar points. The harm that can be inflicted on children is not just financial, although the consequences of child poverty are many. A dependant is by definition reliant on the parent for all kinds of support. Many who are parents with children in their 30s, 40s and 50s would agree with me that parenting responsibility never ends. I have a 30-year-old son who at the moment is totally dependent on me, and the reason why I keep my cell phone on a buzzer is so that he can get hold of me in the Chamber, Grand Committee or wherever I am. I do not propose for one moment that we should send out a signal that having a child is a passport to sitting back and doing nothing—quite the opposite. We have heard from many sources, including from a meeting convened by the noble Baroness, Lady Meacher, some weeks ago, to which, unfortunately, I was unable to go. I understand, though, that formerly unemployed people said that being able to pull yourself together and find work is an extremely boosting experience. Work engenders self-reliance, confidence and security. These benefits are as applicable, if not more so, to the families as to the individual. It is my view that a family with adults in employment is the best situation to start from. It should be our aim to help families to secure their own need. However, that must be balanced by an overall consideration for the needs of any children. A work action plan would not be worth its salt if it harmed a participant's children in some way, through unsuitable hours or lack of suitable childcare.

I suspect that the Minister will resist these amendments by saying that of course we would expect any back-to-work plan to take into account the needs of children. If that is so, he should not be afraid to accept these amendments, or ones very similar to them, as a confirmation of that.

The amendments seek to protect the time and quality of care that parents who seek work are able to provide for their children. The justification for that is not a surprise to any of us. This is not the first time that such matters have been debated in your Lordships' House and elsewhere; nor will this be the definitive and final debate on the subject—not, at least, while we still have the noble Lord, Lord Northbourne. However, it is worth looking at some of the costly results of neglecting the well-being of children. I have seen figures from the Department for Children, Schools and Families relating to children who were excluded for a fixed period from school in 2006-07, as has just been mentioned. In total, there were 425,600 fixed-period exclusions, representing 5.7 per cent of the whole school population. Of those exclusions, a rather jaw-dropping 45,730 were children at primary school. I have seen the response from the Government to a Question asked in another place on truancy. Although it seems that precise figures are not recorded, it appears that persistent absences, where a pupil misses 20 per cent or more of schooling, which I am told is the best indicator of problem absence, ran at 3.6 per cent of the school population in 2007-08. In other words, a hard core of pupils are missing at least one day a week of school—quite probably more—and the overall figures for unauthorised absences are much higher, at more than 1.7 million pupils across England, if I am reading the figures correctly.

I do not wish to overload noble Lords with statistics for fear of sounding too prime ministerial, but I have one more set to complete the picture. In 2008, there were 15,819 persistent young offenders—as I am sure the noble Lord, Lord Ramsbotham, will confirm—who, between them, committed 28,834 offences; and those are just the ones whom we know about. I raise these numbers to illustrate, in so far as broad lists of statistics can be illustrative, the dangers of neglecting our youth. One thinks of children carrying knives, which is such a current problem in our inner cities. That surely is caused by neglect of some sort.

I believe, probably like the right reverend Prelate the Bishop of Ripon and Leeds, that these problems have their infancy in children at a very young age, under the age of seven. I do not think for a moment that the noble Lord's amendments, if adopted, would provide a sudden and complete panacea to these ills, but their inclusion in the Bill, or something very like them, would indicate that we are prepared to take a step in the right direction.

Lord McKenzie of Luton: This has been an exceptionally good debate and I thank everyone who has participated for the manner in which they have done so. In particular, I thank the noble Lord, Lord Northbourne, for the way in which he introduced his amendments. I think that he acknowledged the Government’s commitment to tackling and improving the well-being of children generally, and he made specific reference to Every Child Matters.
Lord McKenzie of Luton

Before I move on to the amendments, I stress that, as noble Lords know, the Government have taken the bold step of committing to eradicate child poverty by 2020, and these changes are part of the strategy to achieve that goal. Moving families from worklessness and into work is the best route out of poverty and the disastrous effects that it can have on children's well-being. Living in a household where no adult is working puts a child at a 61 per cent risk of poverty, with all the lifelong disadvantages that that often brings. Therefore, by requiring parents to take up and engage with “work for your benefit”, we will ensure that as many people as possible are able to transform their lives, improve their well-being and increase their families’ incomes.

I turn first to Amendment 22A. When requiring parents to undertake work experience, any decisions concerning their treatment or the activities that they are to undertake will be made with due consideration for the well-being, welfare and education of any child whose life may be affected by them. That must be the case.

In “work for your benefit” pilots, providers and advisers must take into account all the jobseeker’s barriers to work, not just those specified in the amendment. This will be outlined in the contract specification. In addition, before any jobseeker is referred to the “work for your benefit” programme, their case will be reviewed to ensure that it is suitable for them. Any caring responsibilities will be taken into account and any restrictions that parents have placed on their job search to take account of the caring and well-being of their children will be brought forward into “work for your benefit”. For example, if a parent has restricted their job search to part-time work on the grounds that they need to look after their children, we would expect them to be available only for the same hours under “work for your benefit”.

On Amendment 22B, I think we are all agreed that protecting the well-being of children is of fundamental importance in all that a Government do. It underpins the principle of this legislation. Clause 1 is not designed to compel parents to do work experience which is not appropriate for them or their families. Instead, we want to ensure that parents and other unemployed people are given the help and support they need to prepare for and, when appropriate, enter work.

In general, we believe that work-related activity, including the “work for your benefit” scheme, will have a beneficial impact on individual claimants and their children. Indeed, evidence shows that the benefits to children of their parents working are more far-reaching than increased income alone. Children have reported the benefits of parental employment, and parents making the move into paid work have observed positive psychological benefits in their children. For example, a study of newly working households found reduced stigma among children as a result of their parents leaving the benefits system and consequently fitting in more with their peers, and having a less stressful home life due to fewer arguments about money. The noble Lord, Lord Northbourne, referred in particular to the importance of having stress-free time with parents.

In-depth interviews with older children of working lone parents showed that they can be a good role model for their children. The children felt that their lives had improved since their mothers started work, and they were protective and supportive of their mothers participating in the labour market. Increased income also meant increased access to transport, and this opened up access to a wider range of beneficial social networks and opportunities. For these children, the increased status of having a mother in paid work also provided a welcome boost to their self-esteem. Only parents who are subject to full JSA conditionality will be asked to participate in “work for your benefit”, so this will apply only to those lone parents whose youngest child is seven or older, not those with younger children who are transferred to JSA when income support is abolished. In addition, before referring anyone to the “work for your benefit” programme, an adviser will review with the jobseeker their circumstances and barriers to work to ensure that the programme is appropriate for them. This will act as a safeguard to ensure that nobody is inappropriately required to take part in the programme.

We will also incorporate safeguards to ensure that the work experience offered is suitable and relevant to the individual. For example, the restrictions specified in a parent’s jobseeker’s agreement relating to the days and hours they may restrict their availability for work will be carried forward into “work for your benefit”. As I said earlier, this will mean that if a parent has agreed that they will look only for part-time work, then they will be required to undertake only part-time work experience. “Work for your benefit” providers will also have a responsibility to ensure that adequate childcare is in place to enable parents to participate fully in the programme.

I reassure noble Lords that, when making decisions about the type of work-related activity or work experience to be undertaken, Jobcentre Plus will always give paramount consideration to the well-being of any child who may be affected by them. The noble Lord, Lord Northbourne, asked about that in particular. But it remains the case that the surest and most sustainable way to address child poverty is to support more parents into paid work; work that pays and that enables parents to manage the careful balance between employment and family life.

5.45 pm

Amendment 22C would also affect lone parents with older children who have existing obligations to look for work. Under the Bill, parents’ caring responsibilities will be taken into account at the very beginning of a claim for jobseeker’s allowance when the jobseeker’s agreement is set up. It sets out the type and level of work and, by extension, work experience they are required to undertake. It is up to the parent, working with Jobcentre Plus advisers, to decide the amount and the pattern of activity they are available for after considering any caring responsibilities and the availability of childcare. Amendment 22C would prevent parents having the flexibility to tailor their work experience, which in turn could restrict their future job search to their family circumstances if they so chose, and while I acknowledge concerns about...
family life, I believe that it is up to the individuals concerned to decide when they spend time with their children. We would not want to specify in legislation that people in work should spend at least one day at the weekend with their children, so it seems unfair and unreasonable to do so for those receiving benefits.

Amendment 22D specifically mentions a jobseeker who is the parent of a child under the age of 16. As I have already mentioned, parents with older children who are claiming jobseeker’s allowance are required to be available for work for as many hours as their caring responsibilities permit, and can limit this to 16 hours. Jobcentre Plus staff are trained in developing and understanding a claimant’s circumstances and ensuring that jobseekers’ agreements and action plans are appropriate. When making agreements with a parent, advisers will ensure that the claimant’s wishes and family circumstances are considered. They will agree with the parent the appropriateness of activities to ensure that they do not impact adversely on the welfare, well-being or education of their child. This will be detailed in guidance.

As noble Lords will be aware, if there is a failure to carry out the agreement or an activity outlined in the plan, it could lead to further action and sanctions. To consider the imposition of a sanction, an adviser will refer the evidence to an expert decision-maker who will make a decision based on the reasonableness of the activity agreed between the adviser and the parent. The evidence may relate to the welfare or education of any child involved and could include, for example, attendance at school, sickness and the availability of appropriate childcare. Jobcentre Plus advisers and decision-makers are essential to the successful delivery of these programmes. Advisers and decision-makers are already highly skilled and currently deal with complex circumstances in their discussions with parents. We will build on this by enhancing the comprehensive training package that they already undertake. Jobcentre Plus advisers and decision-makers will be suitably trained so that they can judge, in discussion with the parent, the effect which advice or directions may have on the welfare, education or care of the children involved, and will ensure that they are able to deliver the more personalised and family-focused approach we require. The noble Baroness, Lady Meacher, stressed the issue of proper training for our staff. It is essential and runs through the provisions of this Bill and much else. It is especially relevant when dealing with individuals and their families or those with mental health conditions.

Before implementation, staff will also receive appropriate training to ensure that safeguards are in place. We will also ensure that “work for your benefit” providers must have the knowledge and skills to take into account the range of customer circumstances, not just those specified in this agreement. This will be outlined in the contract specification.

A number of particular issues were raised. The noble Lord, Lord Lucas, asked about home educators. We will consider an amendment to this effect in due course, but I should say that while recognising that parents can choose to home educate their children, the funding is not provided by Government to do so. Parents in this situation do not receive their benefit based on their status as home educators. It would therefore be inconsistent with Government principles if regulations which apply to other parents did not apply to home educators. However, I am sure that we will have a chance to develop the issue when we come to the noble Lord’s amendment. One noble Lord asked about carers, and I hope I can be forgiven for forgetting who did so. They will be exempt from benefit conditionality.

The noble Lord, Lord Ramsbotham, raised the issue of where a jobseeker is in prison and has children under the age of 16. If I may, I will reflect a little more and get some advice so that I can give him a considered reply rather than a glib response. Again, it is a very important issue.

The noble Lord, Lord Skelmersdale, in support of the amendments, referred to harm being inflicted on children. Of course I do not believe that there is anything in what we are proposing that should or could lead to harm being inflicted on children. That is dependent on making sure that Jobcentre Plus providers are engaged, properly trained and alert to all the issues that have properly raised this afternoon in relation to the amendments tabled by the noble Lord, Lord Northbourne. He specifically referred to issues arising in infancy—children under the age of seven. Nothing in the provisions would require parents of children under the age of seven to have to take up or seek employment.

Lord Skelmersdale: We are talking about Clause 1, not Clause 2.

Lord McKenzie of Luton: Yes, but Clause 1 applies to those who are subject to the full conditionality of the JSA regime, which does not apply to lone parents until the youngest child reaches the age of seven—in fact, that does not currently apply and will not apply until next year. As the noble Lord will know, we progressively reduce the age of the youngest child at which income support payments move into the JSA system.

Based on the assurances that I have given and the explanations that I have made, I would hope—

Lord Kirkwood of Kirkhope: I am grateful to the Minister—I am aware of the passage of time. The Minister would help me enormously if he could consider using the word “well-being” rather than “welfare”. I know that the regulations are common and go across a lot of benefits, but there is a significant psychological difference between the well-being of a child, which has a psychological content and is more broadly based, and welfare, which is just about whether it is being fed, not starving. The guidance to the professionals taking those decisions should refer specifically to the well-being, not the welfare of the child.

Lord McKenzie of Luton: The noble Lord makes an interesting point. I would need to review the guidance to see quite what terminology is used in all circumstances, but I am happy to do that.
Lord Northbourne: I am most grateful to those who joined the debate for the support that they gave me and to the Minister for his very full reply. Unfortunately—perhaps inevitably—his brief anticipated what I was going to say, and I would like to make two points clear. Under no circumstances did I or would I say that it is bad for a parent to go out to work and under no circumstances would I say that it is necessarily bad for a child to go into childcare. In both cases, it depends on the balance with family life. That is what I tried to say in my introduction. My amendments are not an attempt to make any specific recommendation, they simply throw open the idea that one of the criteria in judging any issue should be the well-being of the child.

My other point is a matter of correction. In Amendment 22C, I did not state that a parent had to take one weekend, I stated that regulations pursuant to Sections 17A and 17B,

“shall be so drafted as to ensure that no jobseeker’s agreement, direction or planned for work or work related activities proposed to a jobseeker who is a parent of a child under the age of 16 are so worded as to deny the jobseeker one whole day per week.”

In other words, he can choose whether to have that day.

Time is running out. I should like to have the opportunity to read carefully what the Minister said but, at this moment, I am much encouraged by what he has said. It seems to me to make perfectly clear that the Government could not possibly have any objection to including my first amendment in the Bill, which is where I want to get it. If I may take the opportunity to visit the Minister between now and the next stage, I shall be happy to withdraw my amendment.

Amendment 22A withdrawn.

Amendments 22B to 23 not moved.

Baroness Crawley: This may be a convenient moment for the Committee to adjourn until 3.30 pm on Monday.

Committee adjourned at 5.55 pm.
Belarus
Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Minister of State for Borders and Immigration (Phil Woolas) has made the following Written Ministerial Statement.

The Government are today announcing the conclusion of an agreement between the United Kingdom and the Government of Belarus in respect of the travel of children affected by the Chernobyl incident to the United Kingdom on charity-sponsored respite visits.

On 13 October 2008 President Lukashenko of Belarus issued a decree which suspended permission for children affected by the Chernobyl incident to travel abroad for respite visits. Since this date the UK Border Agency and the British ambassador in Minsk have been in close contact with the Belarusian Government to negotiate an agreement to see this ban lifted in respect of children travelling to the United Kingdom. The Belarus request that the United Kingdom should enter into such a written agreement was not related to any specific concerns in relation to previous United Kingdom visits.

The agreement, which entered into force on 22 May, allows for the immediate resumption of visits by Belarusian children under the age of 14. It will remain in force for the next five years and will be automatically extended by five-year periods thereafter.

The agreement will enable the highly worthwhile work by UK charities in this area to continue and for many thousands more children to visit the United Kingdom in the years to come and to receive the benefits of a temporary period of rest and recuperation.

Department of Health: Annual Report
Statement

The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham): My right honourable friend the Secretary of State for Health (Andy Burnham) has made the following Written Ministerial Statement.

The department’s annual report for 2009 (Cm 7593) was laid before Parliament today.

Copies are in the Library and are available for honourable Members from the Vote Office.

Disabled People: Equality
Statement

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Lord McKenzie of Luton): My honourable friend the Parliamentary Under-Secretary of State for Work and Pensions (Jonathan Shaw) has made the following Written Ministerial Statement.

In 2005, the Government made public their commitment to work towards equality for disabled people by 2025. Since then we have come a long way but, as many disabled people know, we still have a long way to go. Part of this ongoing commitment is our plan to legislate for a right to control for disabled people. Disabled people have told us that many of them do not have the choice or control over their lives that non disabled people take for granted. This lack of choice and control is a key barrier to participating and contributing as equal citizens. Powers contained in the Welfare Reform Bill, which is currently going through Parliament, recognises that disabled people are the experts in their own lives. We have worked closely with disabled people and their organisations to develop this right, including with our advisory group, chaired by Baroness Jane Campbell.

Today, with the publication of the consultation paper Making Choice and Control a Reality for Disabled People: Consultation on the Right to Control, we are launching our consultation on the right to control. This paper has been co-produced with input from disabled people, independent living experts and other stakeholders. The consultation exercise will ensure that the trailblazers are designed to reflect the challenges of local implementation, while delivering real choice and control for disabled people.

The consultation will end on Wednesday, 30 September 2009.

The consultation documents are available on the Office for Disability Issues website at www.odi.gov.uk/right-to-control. Copies of the document will be placed in the House Library.

Education: Home Schooling
Statement

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): My right honourable friend the Secretary of State for Children, Schools and Families (Ed Balls) has made the following Written Ministerial Statement.

On 19 January 2009 I asked Graham Badman to carry out a review of elective home education in England. The terms of reference for the review emphasised the Government’s recognition of parents’ well established right to educate their children at home. They also set out our commitment to keeping home educated children safe, and ensuring that they receive a suitable education. I am grateful to Graham Badman and the review team for conducting a thorough review which carefully considered extensive evidence provided by home educators; local authorities (LAs); and representatives from a wide range of organisations and individuals working with children and parents involved in home education.

The terms of reference commissioned Graham Badman to investigate the barriers to LAs and other public agencies in carrying out their safeguarding responsibilities; whether LAs were providing effective and appropriate support; and whether there was evidence of home education being used to cover child abuse. From this evidence, he was asked to identify whether any changes were needed to the current regime of monitoring home education.
The review makes a compelling case for substantial changes to the arrangements for supporting and monitoring home education. It recognises the wide range of philosophical and practical reasons that lie behind parents’ decisions to home educate. It acknowledges that in some cases home educated children have been withdrawn from school under a range of difficult circumstances: this is reflected in the relatively high proportion of children with special educational needs who are home educated, and other cases where children have been bullied or had other experiences that leave them unable to attend school. These children and families need support from their local authorities in a way that enables them to access appropriate advice and guidance, receive specialist services, and use extended school provision and facilities such as leisure centres and libraries. The review argues for fresh thinking and further consultation with children, their families, local authorities and others involved in home education to identify ways to commission services for this very diverse sector in order to support the best possible outcomes for the children concerned.

The review also found evidence that there are a small number of cases where home educated children have suffered harm because safeguarding concerns were not picked up, or not treated with sufficient urgency, particularly where parents were unco-operative or obstructed local authority investigations. It sets out specific steps that should be taken to address these risks as well as improving the monitoring of the education provided: a compulsory registration scheme; a discretion to local authorities to prohibit home education where there are safeguarding concerns; and the right for LA representatives to interview home educated children to establish whether they are safe and receiving a suitable education. I am today launching a public consultation on these proposals so that they can be introduced to Parliament at the earliest possible opportunity.

Copies of the review and our initial response have been placed in the House of Libraries.

Equality Duty

Statement

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): My honourable friend the Minister of State, Government Equalities Office (Maria Eagle) has made the following Statement.

The Equality Bill, currently before Parliament, will introduce a new single equality duty which will bring together the three existing race, disability and gender equality duties and extend to cover age, sexual orientation, religion or belief and gender reassignment in full. The equality duty will be supported by a number of specific duties, to be set out in secondary legislation, which will help public authorities in the better performance of the duty.

In June 2008, the Government said we would consult on our policy proposals for specific duties. The document we are publishing today sets out our proposals and asks for comments. The consultation period will run until September 2009.

I am placing copies of this document in the Libraries of the House. Copies will also be available on the Government Equalities Office website at www.equalities.gov.uk.

EU: Competitiveness Council

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): My right honourable friend the Minister of State for Higher Education and Intellectual Property (David Lammy) has made the following Written Ministerial Statement.

The following Statement provides information on the Competitiveness Council which took place in Brussels on 28 and 29 May 2009. The industry session of the council took place on 28 May, and was chaired by Vladimir Tošovský, Czech Industry Minister. The research session of the council was held on 29 May and was chaired by Miroslava Kopícová, Czech Minister of Education, Youth and Sports. The UK was represented by David Lammy, both for the intellectual property items in the afternoon of 28 May, and for several research items on 29 May. The Deputy Permanent Representative to the European Union, Andrew Lebrecht, represented the UK when the Minister was not in attendance.

The first item that David Lammy covered on 28 May was the Community patent and single patent court. The council discussed a progress report on these issues under the Czech presidency and took a decision on whether to refer legal questions concerning the court’s structure to the European Court of Justice. The UK advocated referring these questions to the Court of Justice as soon as possible and urged a rapid reply from the wourt. Doing so would allow us to make progress on creating a more efficient, affordable and responsive European patent system, which would help boost European innovation and competitiveness.

The council agreed to consult the European Court of Justice. This creates a good starting point for Swedish presidency ambitions for strong progress on a Community patent and single patent court.

Under any other business, Germany raised copyright and competition concerns with the Google books search service. The UK recognised these concerns, but noted that new technologies present opportunities as well as risks for copyright owners and society and a measured approach should be taken. The presidency invited the Commission to explore impacts on EU authors and propose action, if required, to protect their rights.

The Competitiveness Council on 29 May was preceded by the Space Council (an informal meeting of EU and ESA Ministers) which discussed the importance of innovation for the space sector as well as how innovation in the space sector could boost European competitiveness. The Space Council agreed a resolution on this (which was subsequently formally adopted by the ESA and Competitiveness Councils). The Commission presented its proposal for a regulation providing community funding and setting up a governance structure for the
initial phase of the global monitoring for environment and security (GMES)—an initiative to provide and pool data relating to environmental monitoring, up to now funded by EU research framework programme and ESA.

The Competitiveness Council reached a political agreement on a regulation providing a legal framework for large-scale research facilities supported by a number of countries (European Research Infrastructure Consortia or ERICs). All member states that had reservations on the tax exemptions point lifted them at council. However, Spain and Portugal said they intended to vote against the draft regulation as they felt an ERIC should initially be allowed to operate with only two member states (rather than needing three at all times as in the Commission’s proposal).

Ministers welcomed the emphasis being placed by the presidency on evaluation and impact assessment and there was consensus on the need to strengthen evaluation and impact assessment for both European and national research funding programmes. The council also adopted conclusions on this subject. In the debate the UK said that a much better understanding of results achieved and impact assessment were needed to allow research funding programmes to be more effectively geared towards supporting the development of the European Research Area, boost European competitiveness and tackle major societal challenges.

The council also adopted conclusions on the first steps towards realising the vision for the European Research Area in 2020 and on the development of the regional dimension of research infrastructures.

Under any other business, the presidency highlighted its recent conference on issues relating to researcher careers and mobility. The Commission announced it planned to launch a feasibility study for a pan-European pension fund for researchers.

The Commission updated Ministers on plans to deepen European research ties with Russia through association to FP7 and provided an update on the ITER fusion research project.

EU: Justice and Home Affairs Council

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): A Justice and Home Affairs Council was held in Luxembourg on 4 and 5 June 2009. My noble friend Admiral Lord West, Parliamentary Under-Secretary for Security and Counter-Terrorism, Kenny MacAskill, Scottish Cabinet Secretary for Justice, and I attended on behalf of the United Kingdom. The following issues were discussed:

The council, starting in mixed committee with Norway, Iceland, Switzerland and Liechtenstein, adopted conclusions on the future direction of the second generation of the Schengen information system. These conclusions propose that the development of SIS II continues on the basis of the current SIS II platform with stronger project management in place and milestones to assess progress. The conclusions propose that a contingency plan based on the current SIS I platform be retained until tests defined in the project milestones are successfully completed. It was also agreed that any future decision on a move to the contingency plan would be taken by a qualified majority in the council.

The UK supported the continued development of SIS II, noting the challenge always posed by such large scale IT projects to Governments and the necessity for clear project management and milestones, as outlined in the conclusions.

The Commission then provided an update on the implementation of the visa information system (VIS), reminding Ministers that VIS could not start until all participating member states were ready to connect (the UK does not participate in VIS). The Commission also provided an update on the geographical deployment of VIS, noting that it would prepare a draft decision, to be presented later in June. Dates for commencement would be established by the Commission, on the basis of member states’ readiness to transmit the relevant data.

Ministers adopted conclusions on a co-ordinated EU approach to the closure of the Guantanamo Bay detention centre. The conclusions put in place a framework for information sharing to facilitate member states’ acceptance of former detainees from Guantanamo Bay. The conclusions also outline that it is for individual member states to decide whether they accept ex-detainees. The council noted that primary responsibility for the closure of Guantanamo rests with the US, but the EU should do its part to assist this process. The UK supported the conclusions, highlighting that closure of Guantanamo was a key issue not only for transatlantic relations but also for the radicalisation and recruitment of potential terrorists. Getting the message right was important in adding to the safety and security of citizens by countering extremism and the conclusions were a step forward in that regard.

After the mixed committee there was a political debate on the package of proposals presented by the Commission this year to take forward development of the common asylum system. The package includes proposals on the Dublin and Eurodac regulations, the asylum reception conditions directive, a European support office and refugee fund. The UK has opted in to all of the proposals except the one on asylum reception conditions. The Commission said that more work and discussion was needed to establish the right direction for this package and this would be taken forward at working group level. The UK outlined its vision on what the EU should be doing in this area, stressing that the key aim had to be the protection of genuine refugees, by deciding their claims as swiftly as possible, and the prevention of abuse of the asylum system by people making false claims to be refugees. External efforts were vital too: to improve protection beyond the EU’s shores and tackle illegal immigration more effectively with source and transit countries.

In council and then continuing over lunch, Ministers held a debate on illegal immigration in the southern Mediterranean. The Commission expressed its view that the EU had to act and member states must be ready to assist each other, including through a pilot internal relocation project. The work of the EU Borders Agency (FRONTEX) work should be enhanced through a local office in the Mediterranean and more involvement on returns. Enhanced dialogue with third countries...
was vital too; co-operation with Libya was already delivering results. The EU needed to ensure protection was improved throughout the world; and a second Tripoli conference on tackling illegal immigration through East Africa should be held.

The presidency presented the achievements to the council on e-justice over the past six months including work on the e-justice portal and video-conferencing. The Government welcome this work and hope to see it feature as one of the priorities in the work programme in justice and home affairs over the next five years.

The presidency informed the council about the First Reading deal on ship source pollution that had been agreed with the European Parliament on 5 May.

The presidency presented the final report on the mutual evaluation of the operation of the European arrest warrant (EAW). On behalf of the UK I congratulated the presidency on the report, and stressed in particular the importance of taking forward work on proportionality. The EAW had been a real success. However, issuing EAWs for low-level offences had significant operational consequences. The UK looked forward to work being taken under the Swedish presidency and UK officials were ready to assist.

The presidency outlined the progress that had been made during the early stages of negotiations on the Commission’s proposals to combat sexual exploitation of children and human trafficking.

The presidency presented work on the implementation of the non-binding resolution on judicial training, aimed at improving the training of judges in EU law and legal systems.

The presidency reported on the recent conference about succession and wills held in Prague in April. It had been successful in gaining a clearer view of all the issues related to succession and wills in a European context. The Commission expects to bring forward a proposal during the Swedish presidency.

Under any other business, the presidency drew the council’s attention to the responses that it had received from member states about justice ministries’ experiences of the financial crisis. It also updated the council on the status of negotiations on the free trade agreement between the EU and Korea. Slovenia presented information about the Beyond Winning project which is being run by the alternative dispute resolution in Rome. The project is intended to facilitate the use of mediation in cross-border cases. Slovenia announced that it had just taken over the chairmanship of the Council of Europe and would be holding a conference on procedural rights in October.

**House of Lords: Financial Support for Members Statement**

The Chairman of Committees (Lord Brabazon of Tara): On 19 May 2009 I informed the House that the House Committee had agreed to commission an independent external review of the financial support available to Members of the House and that detailed proposals relating to the terms of reference and conduct of the review would be discussed at the committee’s next meeting on 23 June.

Many Members responded to this announcement by stressing the need to act urgently. On 9 June, therefore, the House Committee agreed by correspondence...
to seek an external, independent review of financial support for Members conducted by the Senior Salaries Review Body (SSRB) with the following terms of reference:

“To review options for the system of financial support for Members of the House of Lords, given its current role and composition; and to make recommendations.

In conducting the review, SSRB will have regard to:
- clarity and transparency;
- accountability and public acceptability;
- value for money;
- differing attendance patterns of Members;
- the geographical spread of the membership of the House;
- the financial consequences for Members in participating in the work of the House; and
- schemes operated in comparable circumstances by other institutions”.

It is expected that the SSRB will complete this review by the end of October 2009.

The Lord Speaker, as chair of the House Committee, wrote to the Prime Minister on 9 June asking him to refer the House Committee proposal to the SSRB. The Prime Minister announced on 10 June that he had now done so.

The SSRB is eager to ensure that Members contribute to the review and it will be putting forward proposals for consultation as soon as possible.

**Legal Aid**

**Statement**

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): On 4 December I announced that I was asking my officials to lead a short study which would bring together the evidence about the issues facing the advice sector on the ground. I asked them to examine:

- the impact of the recession and the demand for civil legal advice;
- the impact of civil legal advice fixed fees on local providers—financially and in terms of the type of work they are taking on;
- the initial experience of community legal advice centres, including the impact on other providers in the area; and
- trends in funding from sources other than the community legal service, including local authority funding, national lottery funding, charities, central government departments, and others.

Since my announcement, the study team has held meetings with relevant bodies and interested parties and visited advice providers and funders in Bangor, Bristol, Caernarfon, Cardiff, Cornwall, Cumbria, the East Riding of Yorkshire, the London Boroughs of Camden and Wandsworth, Manchester, Norwich, Plymouth, Portsmouth and Tyne and Wear. These meetings provided invaluable information about what is happening on the ground and about the views of those whose day to day task is to help those suffering from legal problems.

We have been assisted in this task by a steering group including members of the bodies representing the not for profit advice sector and solicitors in private practice, as well as a range of other interested parties and government departments. I am very grateful for the help we have received from the steering group, and from the helpful and constructive attitude they have taken throughout the study.

I look forward to working with the steering group to identify the steps we should take to implement the study’s recommendations. It is my intention that a full action plan will be prepared and published in September. I shall keep both Houses informed of developments in this very important area of work.

Copies of the report will be placed in the Libraries of both Houses.
Written Answers

Thursday 11 June 2009

Alcohol

Question

Asked by Lord Roberts of Llandudno

To ask Her Majesty’s Government what was the total revenue received by the Exchequer from the sale of alcoholic drink in 2008. [HL4064]

The Financial Services Secretary to the Treasury (Lord Myners): Total alcohol duty received by the Exchequer in 2008 was £8,689 million and is published in the National Statistics Beer and Cider bulletin available at www.uktradeinfo.com/index.cfm?task=bullbeer. The revenue from other taxes from the sale of alcoholic drink is not available.

Banking: Royal Bank of Scotland

Question

Asked by Lord Oakeshott of Seagrove Bay

To ask Her Majesty’s Government what are the value and duration of the outstanding Royal Bank of Scotland loans to Oleg Deripaska and his companies. [HL3982]

The Financial Services Secretary to the Treasury (Lord Myners): Subject to market disclosure requirements, information about customer exposures is a matter for the management of RBS.

Civil Service: Performance Pay

Question

Asked by Lord Oakeshott of Seagrove Bay

To ask Her Majesty’s Government (a) what the total monetary value of Senior Civil Service non-consolidated performance pay awards was in HM Treasury and its agencies, (b) how many and what proportion of the Senior Civil Service staff in HM Treasury and its agencies received performance pay awards by SCS pay band, and (c) how those awards were distributed by pay band and award category, for each of the past five years for which data are available. [HL3361]

The Financial Services Secretary to the Treasury (Lord Myners): The pay framework for Senior Civil Servants, including the size of SCS bonus pot, is published in the annual reports of the Review Body on Senior Salaries, copies of which are available in the Library of the House.

The table below sets out the information requested for Senior Civil Servants working within the Treasury Group in the years for which it is available. Figures for payments relating to performance during 2007-08, and paid during 2008-09, are not yet available. Information about bonuses paid during 2008-09 will be included in the Treasury’s departmental report later this year.

HM Treasury includes consideration of the Senior Civil Servants at the UK Debt Management Office (DMO) at its pay committee due to small numbers involved.

Table 1: Non-consolidated performance pay awards for Senior Civil Servants in the Treasury Group 2004-05 to 2006-07

<table>
<thead>
<tr>
<th>Performance year</th>
<th>2004-05</th>
<th>2005-06</th>
<th>2006-07</th>
</tr>
</thead>
<tbody>
<tr>
<td>HM Treasury and DMO</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No of SCS Staff receiving award</td>
<td>53</td>
<td>62</td>
<td>62</td>
</tr>
<tr>
<td>Proportion receiving award</td>
<td>54%</td>
<td>55%</td>
<td>61%</td>
</tr>
<tr>
<td>Pay pot* (£000)</td>
<td>353</td>
<td>493</td>
<td>645</td>
</tr>
<tr>
<td>OGC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No of SCS Staff receiving award</td>
<td>11</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>Proportion receiving award</td>
<td>48%</td>
<td>50%</td>
<td></td>
</tr>
<tr>
<td>Pay pot* (£000)</td>
<td>110</td>
<td>199</td>
<td></td>
</tr>
</tbody>
</table>

*Amount of non-consolidated pay pot excluding employer costs

Table 2a: Non-consolidated performance pay awards for Senior Civil Servants by payband and performance category 2004-05 to 2006-07 – HM Treasury and DMO

<table>
<thead>
<tr>
<th>Performance year</th>
<th>Tranche</th>
<th>SCS 1</th>
<th>SCS 2</th>
<th>SCS 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-05</td>
<td>Top</td>
<td>19</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Middle</td>
<td>21</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Bottom</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2005-06</td>
<td>Top</td>
<td>21</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Upper Middle</td>
<td>26</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Lower Middle</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Bottom</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2006-07</td>
<td>Top</td>
<td>21</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Upper Middle</td>
<td>26</td>
<td>9</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Lower Middle</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>
Deen International

Question

Asked by Lord Laird

To ask Her Majesty’s Government further to the Written Answer by Lord Malloch-Brown on 14 May (WA 237–8) concerning a public relations campaign currently supported by the Foreign and Commonwealth Office, what was the process by which Deen International was selected to provide the service. [HL4000]

Lord Davies of Oldham: “I am Muslim. I am British” is a community-led pilot initiative that was proposed to the Foreign and Commonwealth Office (FCO) by Deen International. It is not a campaign initiated by the FCO.

In line with established procedures for such proposals, the FCO’s Counter Terrorism and Radicalisation Programme Board, consisting of cross-Whitehall representation, considered the project carefully. The board was satisfied, after assessment in line with FCO programme and project best practice, that it would contribute to the objectives of the Prevent strands of the Government’s counter-terrorism strategy and agreed to fund a pilot. No decision has yet been taken on whether to fund a further stage.

Doggie Bank

Question

Asked by Lord Taylor of Holbeach

To ask Her Majesty’s Government further to the Written Answer by Lord Hunt of Kings Heath on 20 May (WA 316), whether the discussions with the Netherlands and Germany have considered how the three governments should work together in enforcing the Dogger Bank special area of conservation; and, if so, when the results will be published. [HL4052]

Lord Davies of Oldham: The Government have not designated any part of the Dogger Bank in UK waters as a special area of conservation (SAC) under the EC Habitats Directive. Our statutory nature conservation body, the Joint Nature Conservation Committee (JNCC), has put forward proposals for a SAC at Dogger Bank within UK waters. The proposals are currently being considered by Defra. JNCC plan, subject to approval, to conduct a formal consultation on the proposals before the end of 2009. If, following that consultation, any part of the Dogger Bank requires designation as an SAC, Defra plans to submit the site to the European Commission in 2010.

As no SAC has yet been designated in UK waters, no detailed discussions have taken place with the Netherlands and Germany regarding any enforcement measures that may be required to protect the area. However, as the Dogger Bank is a cross-boundary feature, officials from Defra and the JNCC have met regularly with their Dutch and German counterparts regarding the scientific justification for the designation of the Dogger Bank as an SAC, and the human activities that may affect its conservation status.

Ecological Debt

Question

Asked by Lord Dykes

To ask Her Majesty’s Government whether they support the principle of repaying ecological debt to protect future generations. [HL4028]

Lord Davies of Oldham: The Government are committed to achieving the goal of sustainable development which is to enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations. Living within environmental limits is an essential part of achieving that goal—respecting the limits of the planet’s environment, resources and biodiversity—to improve our environment and ensure that the natural resources needed for life are unimpaired and remain so for future generations.

The Department for Environment, Food and Rural Affairs’ Public Service Agreement (PSA) states that the Government’s vision for the natural environment is to secure a diverse, healthy and resilient natural environment. To increase our understanding of the value of the natural environment to present and future generations, the Government are supporting a range of initiatives, including the economics of ecosystems and biodiversity study, and a national ecosystem assessment for the UK.
Equal Pay: Government Departments

Question

Asked by Baroness Warsi

To ask Her Majesty’s Government what pay gaps there are in respect of gender, race and disability among employees of the Department for Business, Enterprise and Regulatory Reform. [HL3381]

The Minister for Communications, Technology and Broadcasting (Lord Carter of Barnes): The departments’ pay gaps in relation to gender are detailed in table 27 of the 2008 Civil Service Statistics which has been published on the internet and can be found using the following link at www.statistics.gov.uk/downloads/theme_labour/CivilService_tables_2008.xls.

The table below shows the pay gaps identified at May 2009 in relation to staff who have declared a disability to those who have not.

<table>
<thead>
<tr>
<th>Band</th>
<th>Declared Disabled</th>
<th>Not Declared</th>
<th>All Staff</th>
<th>% Declared</th>
<th>Declared Disabled</th>
<th>Not Declared</th>
<th>All Staff</th>
<th>Gap</th>
</tr>
</thead>
<tbody>
<tr>
<td>Band A</td>
<td>38.2</td>
<td>276.3</td>
<td>314.5</td>
<td>12%</td>
<td>£21,285</td>
<td>£20,224</td>
<td>£20,496</td>
<td>-5.25%</td>
</tr>
<tr>
<td>Band B</td>
<td>81.5</td>
<td>895.3</td>
<td>976.9</td>
<td>8%</td>
<td>£26,343</td>
<td>£27,070</td>
<td>£27,070</td>
<td>2.69%</td>
</tr>
<tr>
<td>Band C</td>
<td>58.8</td>
<td>950.2</td>
<td>1,009.0</td>
<td>6%</td>
<td>£47,346</td>
<td>£45,797</td>
<td>£46,082</td>
<td>-3.38%</td>
</tr>
<tr>
<td>SCS</td>
<td>11.0</td>
<td>143.0</td>
<td>154.0</td>
<td>7%</td>
<td>£83,030</td>
<td>£74,650</td>
<td>£74,650</td>
<td>11.23%</td>
</tr>
</tbody>
</table>

* Staff in BERR are able to choose not to declare their disability. These figures include staff who have not declared their disability or are not disabled.

The table below shows the pay gaps identified at May 2009 in relation to the ethnicity of staff.

<table>
<thead>
<tr>
<th>Band</th>
<th>White</th>
<th>Other Ethnicity</th>
<th>Not Declared*</th>
<th>All Staff</th>
<th>% other**</th>
<th>White</th>
<th>Other Ethnicity</th>
<th>Not Declared*</th>
<th>All Staff</th>
<th>Gap**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Band A</td>
<td>155.7</td>
<td>69.2</td>
<td>89.5</td>
<td>314.5</td>
<td>44%</td>
<td>£18,369</td>
<td>£21,285</td>
<td>£21,285</td>
<td>£20,496</td>
<td>15.87%</td>
</tr>
<tr>
<td>Band B</td>
<td>449.9</td>
<td>200.1</td>
<td>326.9</td>
<td>976.9</td>
<td>44%</td>
<td>£27,070</td>
<td>£27,023</td>
<td>£27,352</td>
<td>£27,070</td>
<td>0.17%</td>
</tr>
<tr>
<td>Band C</td>
<td>628.8</td>
<td>91.4</td>
<td>288.7</td>
<td>1,009.0</td>
<td>15%</td>
<td>£47,346</td>
<td>£44,186</td>
<td>£44,353</td>
<td>£46,082</td>
<td>6.67%</td>
</tr>
<tr>
<td>SCS</td>
<td>128.0</td>
<td>6.0</td>
<td>21.0</td>
<td>155.0</td>
<td>5%</td>
<td>£75,047</td>
<td>£76,033</td>
<td>£75,900</td>
<td>£74,650</td>
<td>-1.31%</td>
</tr>
</tbody>
</table>

* Staff in BERR are able to choose not to declare their ethnicity thus these figures include staff who have either not completed the declaration or have preferred not to say what their ethnicity is. Around 30 per cent of staff have not declared their ethnicity.

** These figures compare staff who have declared their ethnicity as white with those who have declared themselves as being from any other ethnic background.

Gambling

Question

Asked by Lord Clement-Jones

To ask Her Majesty’s Government whether they will ask the Gambling Commission to investigate the practice of casinos running promotions offering a free bet and a free drink to new customers. [HL3889]

Lord Davies of Oldham: We do not consider that such an investigation is necessary. Any marketing undertaken by casinos must be socially responsible and licensees must comply with the Gambling Commission’s requirements on marketing as set out in the Commission’s Licence Conditions and Codes of Practice (LCCP).

The LCCP includes specific provisions in respect of free or discounted drinks promotions and free bets in licensed casino premises and can be viewed on the Commission’s website at www.gamblingcommission.gov.uk/UploadDocs/publications/Document/LCCP_08%20final%20pdf.pdf.

Government Departments: Bottled Water

Question

 Asked by Baroness Warsi

To ask Her Majesty’s Government how much the Department for Culture, Media and Sport spent on bottled water in each of the last five years. [HL3564]

Lord Davies of Oldham: The department spent the following on bottled water.

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>£9,893</td>
</tr>
<tr>
<td>2005</td>
<td>£12,502</td>
</tr>
<tr>
<td>2006</td>
<td>£10,738</td>
</tr>
<tr>
<td>2007</td>
<td>£8,351</td>
</tr>
<tr>
<td>2008</td>
<td>£5,242</td>
</tr>
</tbody>
</table>

In September 2008 the department installed a system to filter and bottle tap water on site. The department now no longer purchases bottled water.
Health: Statins
Question

**Asked by Lord Dykes**

To ask Her Majesty’s Government what action they are taking regarding the distribution of statins on prescription. [HL4031]

The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham): Raised cholesterol levels are a significant risk factor for all cardiovascular diseases including coronary heart disease and stroke. An estimated 6-8 million people are currently receiving statin therapy, saving an estimated 10,000 lives every year, as well as reducing the number of heart attacks. The National Institute of Health and Clinical Excellence provide guidelines on prescription of statins both for primary and secondary prevention. However, it is for clinicians to decide in each case where statins should be prescribed for an individual.

Housing Benefit
Question

**Asked by Lord Laird**

To ask Her Majesty’s Government further to the Written Answer by Lord McKenzie of Luton on 21 May (WA 361), whether the appropriate proportion of the £3.72 billion paid in 2005–06 and £4.14 billion paid in 2006–07 as housing benefit in relation to private tenancies in Great Britain is estimated to have been recouped as income tax from private landlords; and what was that amount. [HL4044]

The Financial Services Secretary to the Treasury (Lord Myners): Estimates of the amount of income tax paid by private landlords on income derived from housing benefit paid in relation to private tenancies are not available.

Income
Question

**Asked by Lord Ouseley**

To ask Her Majesty’s Government further to the Written Answer by Lord Myners on 1 June (WA 43), what are the measurable components of the “living standards” for the poorest households and the richest households which determine whether there is a credible trend in the gap between rich and poor people in the United Kingdom. [HL4023]

The Financial Services Secretary to the Treasury (Lord Myners): The term “living standards” is used to refer to household disposable incomes, after adjusting for the household size and composition, as published in the Households Below Average Income (HBAI) publication, available at www.dwp.gov.uk/asd/hbai/hbai2008/chapters.asp.

Israel and Palestine
Question

**Asked by Lord Hylton**

To ask Her Majesty’s Government what is their response to the speech by President Obama in Cairo on 4 June proposing two viable states in Israel and Palestine. [HL4122]

Lord Davies of Oldham: The UK welcomes President Obama’s early engagement and determination to work towards resolving the Israel-Palestinian issue. We support fully President Obama’s emphasis on the need for Israel to end all settlement activity, the need for Palestinians to renounce violence, the importance of a two-state solution, and the importance of stimulating the Palestinian economy.

Marine Conservation
Question

**Asked by Lord Dykes**

To ask Her Majesty’s Government what plans they are considering for signage to explain marine protected areas to visitors. [HL4033]

Lord Davies of Oldham: The Government are not currently considering plans for signage to explain marine protected areas (MPAs) to visitors. For MPAs near to the coast, the Government would expect the relevant public authorities, including Natural England, to identify the need, and make provision, for display boards where appropriate. This is in accordance with their duties under the Natural Environment and Rural Communities Act 2006, and as proposed in the future by the Marine and Coastal Access Bill.

Passports
Question

**Asked by Lord Avebury**

To ask Her Majesty’s Government whether they will ask the Bahraini authorities to cease the unlawful confiscation of British passports of dual Bahraini-British citizens, and to return any confiscated passports to the holders or to the British consulate, in accordance with international law. [HL4024]

Lord Davies of Oldham: Our embassy in Bahrain has received a number of reports in recent days from British citizens that British passports have been held by the Bahraini authorities. The same citizens said that this had been happening for some time. Our ambassador attended the Foreign Ministry on Sunday 7 June 2009 to demand that this practice ceases and that any British passports currently held by the Bahraini authorities be returned immediately to the embassy.
Russia
Question
Asked by Lord Hylton

To ask Her Majesty’s Government whether the trial of 12 Muslims in Kazan, Russia, is being observed by European Union representatives; and whether their prosecution was initiated by the Tatarstan autonomous government or by the Russian Federation authorities. [HL4034]

Lord Davies of Oldham: EU representatives are not formally observing the trial of the 12 defendants in Kazan. Our embassy in Moscow is, however, monitoring developments in the trial. It is important that all judicial processes in this case are carried out fairly and transparently. The UK strongly supports President Medvedev’s rule of law agenda, and we discuss these issues regularly with our Russian counterparts, both bilaterally and through the EU.

From the reports on the trial that the Foreign and Commonwealth Office has seen, it is unclear who initiated the prosecution of the suspects. These reports do however say that the detention of the suspects was a joint operation between the Tatarstan branch of the Russian Federation Security Service (FSB) and the Tatarstan Ministry of the Interior.

Somaliland
Question
Asked by Lord Laird

To ask Her Majesty’s Government further to the Written Answer by Lord Malloch-Brown on 2 June (WA 71), why they do not recognise Somaliland as an independent state. [HL4068]

Lord Davies of Oldham: The UK has signed up to an EU common position and endorsed many UN Security Council resolutions that refer to the territorial integrity and unity of Somalia. We believe that, through dialogue between the Somaliland authorities and the Transitional Federal Government of Somalia, the Somali people themselves should determine the most appropriate future arrangements. Beyond that we believe that any process of international recognition must begin in Africa and countries in the region should take the lead in recognising any new arrangements.

We acknowledge that Somaliland has achieved relative peace and stability. Nevertheless, we continue to apply the recognition criteria specified in the Written Answer of 16 November 1989 (Official Report, col. 494). These criteria are more likely to be met if countries in the region themselves recognise Somaliland.

We remain committed to supporting development in Somaliland and continue to engage with its authorities in a range of areas.

Sport: Personal Data
Question
Asked by Lord Moynihan

To ask Her Majesty’s Government how guidelines recently issued by the European Commission concerning privacy and personal data protection will impact on the “whereabouts tests” for sportsmen and sportswomen covered by the World Anti-Doping Agency’s rules. [HL3822]


Following this, WADA approved a revised ISPPPI which will come into force on 1 June 2009. This will bring the ISPPPI in line with European data protection standards and will provide further assurances that appropriate, sufficient and effective privacy protections are in place for “whereabouts” information. This is available on WADA’s website at http://www.wada-ama.org/en/dynamic.ch2?pageCategory.id=807.

I will place a copy of both these documents in the House Libraries.

The European Commission, the Council of Europe and WADA are now working together to look at other data protection issues identified by the working party, which could not be addressed by making changes to the ISPPPI. This includes issues related to the Code and International Standard for Testing, which set out the requirements on “whereabouts”.

This process will determine whether any other changes are necessary.

Taxation: Income Tax
Question
Asked by Lord Laird

To ask Her Majesty’s Government further to the Written Answer by Lord Myners on 2 June (WA 79) concerning inter-government discussions, why they will not indicate when the policy of not publishing details of such discussions was adopted, and by whom. [HL4073]

The Financial Services Secretary to the Treasury (Lord Myners): I have nothing further to add to the answer I gave on 2 June.

Television Licensing Authority
Question
Asked by Lord Vinson

To ask Her Majesty’s Government what right the Television Licensing Authority has to demand that those people without a television should telephone to tell them so. [HL4008]
The Minister for Communications, Technology and Broadcasting (Lord Carter of Barnes): Under the terms of the BBC’s charter and agreement, it is the responsibility of the BBC Trust to ensure that arrangements for the collection of the licence fee are efficient, appropriate and proportionate. The BBC has informed me that it does not have any legal right to demand that people without a television receiver contact them.

The BBC has informed me that TV Licensing nonetheless asks such people to do so in order that they will not receive regular mailings intended for unlicensed viewers. Furthermore, this helps to ensure greater accuracy with the TV licensing database.

Tourism
Question

Asked by Lord Fearn

To ask Her Majesty’s Government how many tourists visited the United Kingdom in (a) 2006, (b) 2007, and (c) 2008.

[HL3834]

Lord Davies of Oldham: The numbers of tourists who visited the United Kingdom, as recorded by the International Passenger Survey, for the years 2006, 2007 and the provisional numbers for 2008 are set out in the table below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Inbound Visit numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>32.713 million</td>
</tr>
<tr>
<td>2007</td>
<td>32.778 million</td>
</tr>
<tr>
<td>2008</td>
<td>31.928 million</td>
</tr>
</tbody>
</table>

Source
International Passenger Survey.

UK Trade and Investment: Iraq
Questions

Asked by Lord Astor of Hever

To ask Her Majesty’s Government how many UK Trade and Investment posts there are in Iraq; and for how long they have been staffed.

[HL4036]

Lord Davies of Oldham: UK Trade and Investment has not been requested to support any British defence companies in Iraq under the tradeshow access programme.

Asked by Lord Astor of Hever

To ask Her Majesty’s Government how many grants for British trade in Iraq have been given to British defence companies wishing to participate in the UK Trade and Investment Export Marketing Research Scheme; and what was the total amount of the grants.

[HL4038]

Lord Davies of Oldham: UK Trade and Investment supports the Export Marketing Research Scheme (EMRS) through Chambers of Commerce in the UK.

British Chambers of Commerce have checked their records dating back to 1999 and have no records of any request for EMRS from British defence companies and therefore no grant money has been released in this respect.

Asked by Lord Astor of Hever

To ask Her Majesty’s Government how many British-sponsored trade delegations have visited Iraq since the establishment of the new republic in 2005.

[HL4039]

Lord Davies of Oldham: My right honourable friend, the Secretary of State for the Department of Business, Innovation and Skills led a high level business delegation of 23 UK companies and one business support organisation to Basra and Baghdad in April 2009.

The Middle East Association has taken four UK trade missions to the Kurdistan Regional Governate over the period 2006-09.

Water Supply: Surface Drainage
Question

Asked by Lord Pendry

To ask Her Majesty’s Government what measures are available for community and volunteer groups to reduce costs related to surface water draining.

[HL3976]

Lord Davies of Oldham: Guidance issued by the Secretary of State in 2000 stated that customers should only be charged for surface water runoff from their properties that enters the public sewer system, and that the Government support the provision of rebates for customers whose surface water does not flow into public sewers.

All customers can therefore reduce costs related to surface water drainage by implementing sustainable drainage measures such as soakaways or permeable paving, to reduce the amount of surface water runoff into sewers, and applying for a rebate from their water company.
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