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(HANSARD)

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## House of Lords

Tuesday, 16 June 2009.

2.30 pm

Prayers—read by the Lord Bishop of Bradford.

### Migrant Workers: Employment Rights Question

2.37 pm

Asked By **Lord Harries of Pentregarth**

To ask Her Majesty's Government whether, in the light of the report by the Ecumenical Council for Corporate Responsibility, *Vulnerable Migrant Workers: The Responsibility of Business*, the remit of the Gangmasters Licensing Authority will be extended.

**The Minister of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** My Lords, the extension of licensing was considered by the Vulnerable Worker Enforcement Forum, following which the Government concluded that the way forward was to prioritise effective enforcement of the existing law, not to introduce new regulation. They are doing this through a campaign to raise workers' awareness of employment rights, the establishment of a single enforcement helpline and by strengthening the Employment Agency Standards Inspectorate which regulates agencies in sectors not covered by the Gangmasters Licensing Authority.

**Lord Harries of Pentregarth:** My Lords, I thank the Minister for that reply and for the steps which the Government have already taken. But I have a particular concern for those working in the domestic and cleaning industry, who are particularly vulnerable. If we take the European Union accession countries from 2004 and 2007, for example, something like 10 per cent work in waiting or catering and 9 per cent work as maids or cleaners. Does the Minister agree that there are particular vulnerabilities connected with these occupations which the GLA could usefully safeguard if its remit was extended to include them?

**Lord Davies of Oldham:** My Lords, I have no doubt that the GLA could do useful work if its remit was extended, but the noble and right reverend Lord will recognise that the GLA has been in existence for only four years. It has a very important sector to cover—shellfish and food production. It enforces as strongly as it can the requirements in that difficult sector. There are others to which it might direct its efforts in due course, but the noble and right reverend Lord will appreciate that the Employment Agency Standards Inspectorate also has a role to play.

**Lord Morris of Handsworth:** My Lords, will the Minister reassure the House that where labour is supplied through gangmasters the minimum wage applies and is being paid? Will he also give an assurance that where a gangmaster loses the right to supply labour he or she does not reappear in another part of the country pursuing exactly the same activity?

**Lord Davies of Oldham:** My Lords, I can certainly give a degree of reassurance to my noble friend about the work of the Gangmasters Licensing Authority. It very recently brought a prosecution about the failure of a gangmaster to pay minimum wages. I also recognise my noble friend's additional point. I assure the House that the chief executive of the GLA is eager to ensure that it does its work thoroughly. We have every confidence that the GLA will enforce the law in the areas for which it is responsible.

**Lord Burnett:** My Lords, the Gangmasters Licensing Authority must first ensure the safety of workers and their freedom from exploitation. I am informed that more inspectors are needed to speed up the process of compliance. The authority also co-operates with HMRC to staunch the substantial loss of revenue through tax evasion and other tax frauds perpetrated by some gangmasters. How much tax has been recovered through the efforts of the Gangmasters Licensing Authority since its inception some four years ago?

**Lord Davies of Oldham:** My Lords, I cannot give the noble Lord a direct answer to that question, because it is not the major issue for the GLA. The major issue for the GLA is, as the noble and right reverend Lord, Lord Harries, said, effective action and enforcement of the law, remembering, of course, that it was set up after the horror story of Morecambe Bay. The GLA is working with great effectiveness. Its demand for additional inspectors, which involves additional resources, is based on an increasing amount of work. However, I cannot give the noble Lord an answer on his detailed point about tax recovery.

**The Lord Bishop of Bradford:** My Lords, the church, not least in my region of Yorkshire and Humber, has played an essential part in supporting migrant workers, particularly those in rural areas, by providing social support, advice and information on rights, and access to healthcare. Will the GLA ensure that gangmasters and employers have a duty to make migrant workers aware of these services?

**Lord Davies of Oldham:** My Lords, I am grateful to the right reverend Prelate and applaud the work to which he alluded. We do not rely only on gangmasters to inform their workers. We are concerned to use authorities to give workers the chance to exert their rights in circumstances where they might otherwise be grievously exploited. We are setting up a helpline at the end of the summer for migrant workers who have cause for complaint or anxiety, allowing them direct contact with a government representative who can take action on his or her behalf.

**Lord Taylor of Holbeach:** My Lords, I can confirm what the right reverend Prelate said. I have an interest in this matter as a grower and farmer. I use seasonal gang labour for flower cropping purposes. It is the responsibility above all of employers to make sure that people are employed on proper terms. However, the GLA appears to work well. How many successful prosecutions has it brought? Is the Minister satisfied that it is not performing a task which duplicates the

[LORD TAYLOR OF HOLBEACH]  
inspection audits of multiple retailers and supermarkets, as well as of HMRC, which retains its own interest in this area?

**Lord Davies of Oldham:** My Lords, HMRC certainly retains an interest in this area, as do several other government agencies. I can cite a number of recent successful prosecutions sufficient for the GLA to feel that it is able to make demands for additional resources based on the success to which the noble Lord alluded. We are pleased with developments since the GLA was established in the areas for which it has direct responsibility. We are conscious that there are other areas where migrant labour can be exploited and are paying attention to strategies that could be developed there. The noble Lord is right that part of this issue behoves employers also to respond intelligently, responsibly and constructively.

**Lord Boston of Faversham:** My Lords, is the Minister satisfied that the remit is sufficient to prevent, as far as is possible, another tragedy like Morecambe Bay? More generally, is not one problem that the immigrants, particularly those from east and central Europe, are having their expectations raised too high by gangmasters? Should that not be dealt with?

**Lord Davies of Oldham:** My Lords, that may be the case, as it is obviously in the interests of gangmasters to raise those expectations. The noble Lord will also be aware of the Government's position on immigration, which operates as some control over these factors. Expectations can be based on the assumption that the minimum wage will be paid because that is the law of the land, and the GLA, together with other agencies, is responsible for insisting on that.

## Israel and Palestine *Question*

2.46 pm

*Asked By Viscount Waverley*

To ask Her Majesty's Government what is their approach to the Middle East peace process should a two-state solution be unattainable.

**Lord Brett:** My Lords, we continue to consider that a two-state solution is the only realistic way to achieve sustainable peace in the Middle East. Our vision is of two democratic states—Israel and Palestine—living side by side in peace with secure and recognised boundaries. The Foreign Secretary reiterated this in his 21 May speech to the Oxford Centre for Islamic Studies. It is also a vision shared by a majority of Palestinians, Israelis and a number of members of the international community.

**Viscount Waverley:** My Lords, momentum must be maintained before further despair and greater poverty sets in with its inevitable consequences. Are the two states to be made up from the 1967 borders and not just in name and with no substance, or with the River Jordan as Israel's border? Is not the West Bank already de facto an extension of Israel, with a divide and rule strategy through strict border controls, settlement policy

and road layout networks, compounded by the inability of the Palestinians to either administer or deliver effectively?

**Lord Brett:** My Lords, the noble Viscount poses a number of questions. Certainly, the need for an early solution to this intractable problem is to be wished by all. The two-state solution that we envisage provides for a safe and secure Israel and a democratic and viable Palestinian state living in peace and prosperity with their neighbours. The reference to the de facto extension of Israel, I presume, is a reflection on the question of the settlements in the West Bank.

Events have moved on somewhat since the Question was put. We have had the remarkable speech of President Obama and the speech of Prime Minister Netanyahu only a couple of days ago. The Foreign Secretary, in responding to that, has welcomed the clarity from the Prime Minister of Israel that he sees the goal of an independent Palestinian state as an important part of the future of the Middle East. Fulfilment of all obligations includes a complete freeze on settlements as an obligation that needs to be applied to all parties in forming the road map.

**Lord Janner of Braunstone:** My Lords, the noble Lord is surely right that a two-state solution is the only hope. The national aspirations of both Israelis and Palestinians require a two-state solution as the only answer to the conflict. Does my noble friend agree that any proposal that disregards the right to self-determination, which he has referred to, of both peoples is doomed from the outset?

**Lord Brett:** My Lords, as I have said, it is a broadly international belief that the only lasting peace will come with a two-state solution. I believe that many people were disappointed by parts at least of the speech of the Israeli Prime Minister; but it is significant. He said:

“I turn to you, our Palestinian neighbours, led by the Palestinian Authority, and I say: ‘Let's begin negotiations immediately without preconditions. Israel is obligated by its international commitments and expects all parties to keep their commitments’”.

That is a message of some hope—the first time there has been recognition from the current Israeli Government of the need for a two-state solution. That is what we should seek to build on.

**Lord Wallace of Saltaire:** My Lords, does the Minister recognise that Netanyahu's refusal to budge on the question of further expansion of settlements remains a real stumbling block in the creation of a viable Palestinian state as part of a two-state solution; and has he noted the recent reports that a senior member of the Israeli Cabinet has just turned down the master plan for the further development of Jerusalem on the grounds that it “imposes too much Palestinian housing”?

**Lord Brett:** My Lords, although in his speech the Israeli Prime Minister said “no preconditions”, many people have seen preconditions in the remaining parts of the speech. There are serious obstacles on the road to peace; but, having been through the experience that we have in this country, we know that, at the start of a journey, the most important thing is to identify the destination, then get the parties around the table to see how obstacles can be removed or avoided. We should

take the hopeful part of the message. It is clear that settlements remain illegal. They are in violation of international law. Therefore, the UK and international position remains the same—to tell the Israeli authorities, both privately and in public, that they should be dismantled.

**Lord Steinberg:** My Lords, would the Minister agree that Prime Minister Netanyahu has said that he and his Government will agree to a Palestinian state alongside Israel; but that it is also only fair to point out that President Obama, in the wonderful speech that he gave a few weeks ago, said that any democratic government must follow the will of the people, and the will of the people of Israel is for an undivided Jerusalem and no return of so-called refugees? Would the Minister agree with President Obama's statement, and Prime Minister Netanyahu's following it?

**Lord Brett:** My Lords, I certainly agree that the speech of the President of the United States was remarkable. What was also remarkable was his engagement early in his tenure as President. That shows a determination to solve something that will not be solved overnight; it may take a number of years. Therefore I believe that we should spend less time concentrating on the obstacles, and more time concentrating on how to remove the obstacles. What was said by Prime Minister Netanyahu was not the last word on this issue; just the latest word.

**Baroness Symons of Vernham Dean:** My Lords, it is very obvious that there is—

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** My Lords, I am terribly sorry, we are into the 16th minute.

### Sark Question

2.52 pm

Asked By **Lord Wallace of Saltaire**

To ask Her Majesty's Government what is the constitutional and fiscal relationship between the United Kingdom and Sark.

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach):** My Lords, Sark is an island of the Bailiwick of Guernsey—a self-governing Crown dependency. The Crown is responsible for its good governance. The States of Guernsey legislates for Sark in certain matters, but generally not without Sark's consent. Sark has its own legislature with the power to reform its constitutional system. Sark has an independent relationship with the UK through the Lieutenant Governor of Guernsey, and legislation made by Sark must be assented to by Her Majesty on the advice of her Privy Council. Sark does not have a fiscal relationship with the UK.

**Lord Wallace of Saltaire:** Ah. My Lords, I thank the Minister for that interesting Answer. I recall that, in giving evidence to a Commons Committee in December, he said that there was considerable ambiguity in the relationship between the Crown dependencies and the United Kingdom. I understood him to say that Guernsey is an autonomous dependency of the Crown, but not

part of the United Kingdom; that Sark is a highly autonomous dependency of Guernsey; and that the island of Brecqhou is a partly autonomous part of Sark. If that is not ambiguous, I am not sure what is. Am I also correct in understanding that, whereas Guernsey pays for the Alderney breakwater as its contribution to the considerable services that the United Kingdom gives to Guernsey, Sark provides nothing to the United Kingdom? As for the owners of Brecqhou, whose newspapers campaign for British sovereignty, transparency and high taxation—they pay almost nothing to the United Kingdom.

**Lord Bach:** My Lords, I do not agree that Sark provides nothing at all to the United Kingdom. I was fortunate enough to visit Sark in February this year. If you do not happen to like motor cars, it is the most wonderful place to go because there is none. I was taken to my destination by what is described as the "toast rack"—I will explain later to noble Lords who want to know more—and by horse and carriage.

More seriously, Sark had its first democratic elections in December last year. I had the honour of meeting and talking to its legislature in February this year. Sark has a lot to offer.

**Lord Maxton:** My Lords, given the part played by the *Daily Telegraph* in the MPs' expenses affair and the legitimate demand that Parliament and all public bodies should be open and accountable, does my noble friend not find it strange that the Barclay brothers, Sark's most prominent citizens and the owners of the *Daily Telegraph*, were not prepared to appear before a Select Committee of this House to answer legitimate questions on the role that owners play in the working of the media?

**Lord Bach:** My Lords, it is now twice in two days that I must be careful how I answer a question because—and this is a serious point—the appeal of Sir David and Sir Frederick Barclay against the Secretary of State's decision to recommend Royal Assent to the 2008 law is due to be heard by the House of Lords in its judicial capacity in mid-July. It would be much better if I say nothing at all about the subject.

**Lord Dykes:** My Lords, notwithstanding the obviously cautionary words at the end of the Minister's response, I shall rephrase my question in a slightly different and more general way. Since the fourth estate is now so powerful and influential, and since the *Daily Telegraph* has had a very successful campaign highlighting expenses and other details, mainly of MPs, would it not now be logical, rational and fair for the British public and Parliament also to know the full remuneration details of the owners and journalists of the *Daily Telegraph* and of other areas of the media?

The activities of these particular owners on the island of Sark have already been referred to. Apparently certain interesting tax manoeuvres may be taking place there. Also, as the Minister has met the electors of Sark, who recently expressed clear views in an obvious way, will he have further consultation with them about what they think of the future of the island?

**Lord Bach:** My Lords, the noble Lord will realise that I cannot really comment on anything that he has said. Much as I might want to, I cannot.

**Lord Elystan-Morgan:** My Lords, is not the constitutional position of Sark that it is part of Her Majesty's dominions by virtue of her being the Duke of Normandy?

**Lord Bach:** My Lords, it certainly is. Her Majesty the Queen is seen as a direct descendant of the Duke of Normandy.

**Lord Lester of Herne Hill:** My Lords, is the Minister saying that the sub judice rule applies to this topic? I would be surprised if that were so. Can he indicate whether the constitutional renewal Bill will sort out the rather archaic and tangled constitutional relationship we have been discussing?

**Lord Bach:** My Lords, whether it is strictly sub judice or not I do not know, but I have been advised to be extremely cautious. That is the best response.

**Lord Wallace of Saltaire:** My Lords, the *Observer* on 7 June had a report that the Barclay brothers and their companies are planning to sell goods through the internet from a Sark base, thus avoiding the payment of VAT within the United Kingdom. We know that the Treasury has been much concerned about Channel Islands' avoidance of VAT through small packages. Can the Government confirm whether this is the case and, if so, what action the Treasury may take?

**Lord Bach:** My Lords, I cannot comment in detail on what the noble Lord says. I can say that Guernsey has taken a number of steps to restrain the exploitation of the low-value consignment VAT relief by UK companies, including policy statements making it clear that Guernsey is opposed to the growth of so-called third-party facilitators on the island. The noble Lord is right. This has been a problem in Guernsey. As I understand it, the Government of Guernsey are looking at the issue with sympathy.

## Control Orders: House of Lords Judgment *Question*

2.59 pm

*Asked By Lord Lloyd of Berwick*

To ask Her Majesty's Government what is their reaction to the judgment of the House of Lords on 10 June in *Secretary of State for the Home Department v AF* on the use of secret evidence in control order hearings.

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** My Lords, the judgment has only just been received. The Government keep all control orders continually under review and we will consider the impact of this judgment and our options carefully. The Government will continue to take all the steps that we can to manage the threat posed by suspected terrorists.

**Lord Lloyd of Berwick:** My Lords, I thank the noble Lord for that Answer. He will know that this is the second time that a major piece of government anti-terrorist legislation has come unstuck. Will he therefore agree that the Government should now phase out all existing control orders as soon as possible and come up with some other means of meeting the terrorist threat in a way that is consistent with the defendant's right to a fair trial? In particular, the defendant must know, if he is to have a fair trial, the case that he has to meet.

**Lord West of Spithead:** My Lords, I would not accept that this is a major piece of legislation coming unstuck. This is a very serious issue. It is interesting that, in the judicial reviews of past control orders, in every case except one of the 14, the decision to impose the control order was not found to be flawed and the judge agreed in the High Court that the individual was reasonably suspected of involvement. The noble Lord, Lord Carlile, our independent expert on counterterrorism, has confirmed his view that there is a solid intelligence case against all the individuals who are currently subject to a control order. This is a difficult area. Ideally, we would like to take these individuals through the courts properly and put them behind bars, as we have done with almost 200 terrorists since 9/11. Alternatively, if they are foreign nationals, we would like to deport them to their countries, but we can do that only if they are not going to be treated abominably in those countries. That ties our hands, so we must have a way of handling some really dangerous people. There are a small number of them. I have looked at this in great detail, because I was not happy when I came in two years ago. We removed the light-touch control orders and use only the serious ones. If there was an easier and better scheme, I would very much like to use to it. Now, clearly, we must go through each one on a case-by-case basis.

**Lord Thomas of Gresford:** My Lords, the Secretary of State accepted in the proceedings before the House of Lords that control orders could not be imposed unless there were judicial proceedings that were fair to the person against whom the control order was made. Will the noble Lord confirm that that is the position of the Secretary of State? Will he also accept that it is impossible to have a fair hearing if neither the defendant nor his legal representatives know the nature of the case against him, both legally and factually? Will he come forward with proposals to remove control orders altogether and put something in their place?

**Lord West of Spithead:** My Lords, the Secretary of State obviously believes that we should try to apply these things as fairly as possible within the context of UK law, but these are highly complex issues. In the recent judgment, the noble and learned Lord, Lord Hoffman, said:

"I agree that the judgment in *A v United Kingdom* requires these appeals to be allowed. I do so with very considerable regret because I think that the decision ... was wrong and that it may well destroy the system of control orders which is a significant part of this country's defences against terrorism".

If you look at the judgment in detail, you see that five or six of the Law Lords were very concerned about what is happening. These are difficult and intricate

legal issues, into which I tread very warily because I do not have the deep legal knowledge that a number of noble Lords have. As I say, it is a very serious issue. We will have to look at each case individually. Over the last few months, I set up a whole team to look at whether there is some other way of doing this. The only other ways of doing it were hugely expensive and I was concerned about whether we would even get the same coverage. It is a serious issue and we will look at it case by case. I think that that is the way to proceed.

**Baroness Neville-Jones:** My Lords, the Minister has just said that each case will be reviewed. Does this mean that the Government will test each case against the very clear requirement on disclosure that the Law Lords' ruling has laid down? If the Government find that they are not able to meet this disclosure test, will they replace the control orders regime?

**Lord West of Spithead:** My Lords, we will look at each one individually. It is quite clear that not all the orders will be adversely affected by this judgment. For example, in one case the High Court has held that the test of A and Others, if it were applied, would be met. In another case the High Court found that the control order could be upheld on the facts relied on in open evidence alone. So some of them will stay. As regards the other ones, if they do not pass the test, clearly we will follow the direction and those control orders will have to go. We will have to then put in place something to enable us to ensure the safety of the people on this island, which is our greatest priority. That will be very difficult. This has made life difficult but one of the great joys and strengths of our nation is that we apply the law, follow it and go through this sequence. That does not make things easy at times; it makes them extremely difficult. There are some very nasty people out there who, I am afraid, want to kill lots of us. It is quite difficult keeping control of them at times.

**Lord Pannick:** My Lords, I declare an interest as counsel for AF in the proceedings before the Appellate Committee. Will the Government, when deciding on their policy in this very difficult area, reflect on the wise words of the noble and learned Lord, Lord Phillips of Worth Matravers, the senior Law Lord, in paragraph 63 of his speech, that, if the public are to have confidence in the system of control orders, they need to know at least the gist of the allegations against these people and need to know that they have had a fair opportunity to answer the case against them?

**Lord West of Spithead:** My Lords, I am not a lawyer, but I have to say that that is correct. Generally, they should and do know the gist of the case. It is the High Court that determines whether the material that is withheld from individuals is in the public interest or not; it is not the Secretary of State. All the material that we have and rely on is given to the court to inform its decision. We also have a special advocate. We have bent over backwards to try to achieve this. Clearly, we have not achieved it, because we do not ensure that enough of that information is there. Generally, one should see it. Equally, however, it is very important that we protect the sensitive material that, if we gave it away, would tie our hands behind our back. It is very

easy to do that. Such material can give away names of people who will be at risk. It can give away techniques that allow us to gain knowledge of these very unpleasant people. We have to be really careful about that.

**Lord Judd:** My Lords—

**Lord Lester of Herne Hill:** My Lords—

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** My Lords, let us hear from my noble friend.

**Lord Judd:** My Lords, further to the question asked by the noble Lord, Lord Pannick, does my noble friend agree that one of the central tenets of the British system of justice is that justice should not only be done but be seen to be done? Therefore, if we are to hold conviction across as wide a cross-section of the population as possible, which is crucial in security matters, it is essential that we move towards a system in which any action that is taken to control people in this way can be demonstrated in the courts to be essential.

**Lord West of Spithead:** My Lords, I absolutely agree with my noble friend. As I say, this is a very difficult area. We will have to move through it case by case, which is absolutely correct. That is one of the great strengths and joys of this great country of ours. However, I am trying to put across how extremely difficult this is. There is no hard evidence against some of these people, but I can assure your Lordships that, in terms of intelligence, I know that they are not my friends. That is the issue.

## Arrangement of Business

### *Announcement*

3.09 pm

**Lord Bassam of Brighton:** My Lords, with the leave of the House, my noble friend Lord Carter of Barnes will repeat the Statement on the Digital Britain report at a convenient point at around 4 pm.

## National Assembly for Wales (Legislative Competence) (Agriculture and Rural Development) Order 2009

### *Motion to Approve*

*Moved By Lord Davies of Oldham*

That the draft National Assembly for Wales (Legislative Competence) (Agriculture and Rural Development) Order 2009 laid before the House on 1 April be approved.

*Relevant document: 12th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 10 June.*

*Motion agreed.*

**European Communities (Definition of Treaties) (Maritime Labour Convention) Order 2009**

**Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) (Amendment) Order 2009**

**Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) (Amendment) Order 2009**

**Environmental Permitting (England and Wales) (Amendment) Regulations 2009**

*Motions to Approve*

*Moved By Lord Tunnicliffe*

That the draft orders and regulations laid before the House on 29 April and 13 May be approved.

*Relevant documents: 13th and 15th Reports from the Joint Committee on Statutory Instruments, considered in Grand Committee on 10 June.*

*Motions agreed.*

**Business Rate Supplements Bill**

*Third Reading*

3.09 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, having been informed of the purport of the Bill, she has consented to place her prerogative and interest, as far as they are affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

**Clause 4 : Conditions for imposing a BRS**

*Amendment 1*

*Moved by Lord McKenzie of Luton*

**1:** Clause 4, page 3, line 25, leave out paragraph (c) and insert—

“(c) a ballot on the imposition of the BRS has been held and the imposition of the BRS approved,”

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** My Lords, I shall speak to the other amendment in the group as well. These are minor, technical amendments to those approved by this House on Report last week requiring a ballot on all proposed business rate supplements. The amendments to Clauses 4 and 10 inadvertently created contradictions with existing provisions in the Bill, which are resolved by the amendments today. It remains the case that the

Government do not agree with the principle behind the amendments made—we do not think a ballot in all cases is the right approach—but I assure noble Lords that these amendments do not change the intended effect of the amendments approved by the House on Report and simply ensure that there can be no scope for confusion or uncertainty. I beg to move.

**Baroness Hamwee:** My Lords, I am glad that I read the amendments correctly as bringing the Bill into line with the mandatory ballot arrangements that I put to the House last week, supported by the noble Lord, Lord Bates. I am extremely grateful to those responsible for the drafting of the Bill for dealing with parts of it that, honestly, had passed me by and should not have done. I therefore support the amendments. As this is the first occasion on which I have spoken on this stage of the Bill, I should declare an interest as joint president of London Councils and a charity, the Rose Theatre in Kingston, which is a ratepayer.

**Lord Bates:** My Lords, I welcome the noble Lord to his position. It is Third Reading and we are on to our third Minister. It is good to see him in his place and I am grateful for the introduction that he gave. These are obviously consequential amendments. I was a little puzzled as to what was happening here. The original Clause 4(c) was 30 words and the amended wording is 18, and the original wording related to Clause 8, “Approval by ballot”, which sets out that the majority is absolutely necessary. But if this is the advice of officials, certainly we are happy with it. Unlike the noble Lord, we fully support the protection afforded to businesses by giving them a ballot in all cases as a result of the amendment put forward last week on Report. Therefore, we welcome these amendments as far as they go.

**Lord McKenzie of Luton:** My Lords, I thank the noble Lord, Lord Bates, for his kind words. I reassure him and other noble Lords that these are just consequential amendments; they are not intended to change the effect of the amendments moved successfully at our last sitting on the Bill.

*Amendment 1 agreed.*

**Clause 10 : Variations**

*Amendment 2*

*Moved by Lord McKenzie of Luton*

**2:** Clause 10, page 6, line 39, at end insert “in a case within subsection (2)”

*Amendment 2 agreed.*

**Clause 22 : Administrative expenses**

*Amendment 3*

*Moved by Baroness Hamwee*

**3:** Clause 22, page 14, line 13, after “incurs” insert “(including expenses incurred in preparation for collection or recovery)”

**Baroness Hamwee:** My Lords, the amendment provides for expenses incurred in preparation for the collection or recovery of a business rate. The words “collection or recovery”, defined as “administrative expenses”, are those that appear in the Bill. My concern, particularly

on behalf of London boroughs, which will be in the forefront of billing for the new supplement, is whether their set-up costs will be covered. There may be IT costs, for instance. A great deal of expense is certain to be incurred. I am not looking to officer time that will be spent on the matter, although that will be a drain on resources as well. They will be incurring those costs on behalf of all billing authorities, which will profit from the work carried out if and when the BRS is levied outside London.

3.15 pm

I apologise for taking the House's time, as this amendment has been tabled before. I am grateful to the usual channels for considering the matter and agreeing that it was not inappropriate to raise at Third Reading. I appreciate that there will be work on the regulations underpinning the provisions in the legislation. On Report, the noble Lord, Lord Davies of Oldham, repeated the Bill's words, talking—according to *Hansard*—about building authorities rather than billing authorities. I seek certainty that the primary legislation does not preclude the regulations covering those set-up costs. I, too, should have welcomed the noble Lord to this position. With his background in local government he brings particular expertise, interest and sympathy. I hope that he can give me that assurance. That is the extent of what I am seeking through the amendment. I beg to move.

**Lord Bates:** My Lords, it seems that Third Reading is the third time that this issue has been raised. Some Members of the House were privy to an e-mail that came down from the Clerk of the Public Bill and Private Bill offices, which pointed out that the amendment is identical to that moved in Committee by the noble Baroness, Lady Hamwee, and to Amendment 36 moved on Report by the noble Lord, Lord Tope. At that time we indicated that we shared the concern that the funding should be carried out efficiently to allow maximum funds to be diverted to the project for which they were being raised. That has been placed on the record before.

I should have declared earlier my interest as a business-rate taxpayer, if that is relevant in these circumstances. I refer noble Lords to my entry in the register.

**Lord McKenzie of Luton:** My Lords, as the noble Lord, Lord Bates, said, this is a repeat amendment, but I am happy to use the opportunity provided by the noble Baroness to place the matter clearly on the record. The amendment is about the cost of setting up the business rate supplement, with particular reference to London, although it has a wider application.

In developing our proposal for business rate supplements, we have been mindful of the fact that certain costs could initially fall on billing authorities. We fully appreciate that those authorities do not want to be out of pocket as a result. We have addressed the issue in Clause 22, which gives the Secretary of State the power to authorise billing authorities to use a prescribed proportion of BRS revenues to meet its collection and enforcement expenses where the levying authority levies its BRS from the beginning of the financial year. This is what we expect to happen in

most cases where the BRS is levied, but we recognise that that might not always be the case and it is possible that a levying authority may not be ready to levy the BRS from the start of the financial year and it might not want to wait for nearly a whole year to elapse before being able to start collecting the supplement. Therefore, the Bill enables BRS to be levied part way through a financial year. Where that happens, those costs can not be recovered from BRS revenues. Instead, they must be met by the levying authority.

Clause 22 gives the Secretary of State a power to make regulations prescribing the proportion of BRS revenues that may be retained by billing authorities when the supplement is collected as part of the normal billing round. Where costs have to be met by the levying authority, the Secretary of State may cap the amount that the levying authority is required to reimburse the billing authority.

I am conscious that this is a probing amendment seeking clarification on a point that will be of the utmost importance to local billing authorities. The noble Baroness, Lady Hamwee, is seeking clarification that Clause 22 will enable billing authorities to recover the costs that they will incur in preparing for BRS, as distinct from the costs they will incur in collecting BRS when it is up and running. I am happy to put it on record that it is, indeed, our intention that billing authorities should be able to recover their set-up costs.

Let me take a moment to explain how we are addressing this specific issue. Much of the detailed arrangements for BRS will be dealt with in secondary legislation. We recently published a consultation paper with our proposals for secondary legislation. It covers the arrangements for ballots as well as for the collection and enforcement of BRS. The consultation paper also includes a section on the costs of collection and recovery of BRS, referred to in the Bill as “administrative expenses”. The consultation paper acknowledges that these expenses will cover set-up costs.

There are a number of different approaches to calculating costs of collection and the consultation paper discusses three possible options. It invites views from stakeholders on these options, but billing authorities should not be constrained by them. If billing authorities or others with an interest in this issue think that there is a better way of dealing with costs of collection, the consultation gives them the opportunity to let us have their views. Views are invited on whether administrative expenses should be a fixed percentage of the annual total amount of BRS to be collected by the billing authority or whether this should be a fixed amount. A third possible approach is that costs should be agreed locally between the levying authority and the billing authority, subject to an upper limit to provide reassurance for business. We are inviting views on what is an important issue for billing authorities. We will need to decide on the best way forward in the light of the responses to the consultation paper. However, subject to that consultation, it is our intention that billing authorities should be able to recover their reasonable costs incurred in preparing for collecting and enforcing BRS.

I hope that this response clarifies the issue for noble Baroness, Lady Hamwee, and that she will feel able to withdraw her amendment.

**Baroness Hamwee:** My Lords, I am extremely grateful. In answer to the point made by the noble Lord, Lord Bates, this is not the first time I have tabled this amendment because I was hoping to get the clear answer that we have just received. I was certainly not seeking to pre-empt the consultation, but merely to get the assurance that we now have on the record that the primary legislation does not exclude the issue that I have explained. Regulations cannot change what will become an Act quite soon, so it is helpful to have that clarification of interpretation. I beg leave to withdraw the amendment.

*Amendment 3 withdrawn.*

**Clause 32 : Commencement, extent and short title**

*Amendment 4*

*Moved by Lord Jenkin of Roding*

**4:** Clause 32, page 20, line 19, at end insert—

“(3) Before making an order under subsection (2) in relation to section 16(5), the appropriate national authority must—

- (a) consult bodies representing billing authorities; and
- (b) carry out an assessment of the likely costs to billing authorities arising from Schedule 2.”

**Lord Jenkin of Roding:** My Lords, this amendment deals with a wider issue than that which we have just dealt with on the amendment tabled by the noble Baroness, Lady Hamwee. Here, we are concerned with the administration by the billing authorities of the combination of the business rate supplement and the business improvement districts levy, which can be accepted by a local authority as an addition to the BRS that it will raise. This has a long history, and I do not want to detain the House, except to say that the issue raised is the addition of owners of property to occupiers who would be liable for a business improvement district levy. This goes right back to the time when I introduced a Private Member’s Bill in this House to introduce BIDs. We took it right through this House back in the previous century, but it was killed in the end when the Bill reached another place, notwithstanding that it had the support of all sides of this House. That was a matter of great disappointment to me.

The Local Government Bill 2003 was introduced by the Government, and the noble Lord, Lord Rooker, who I am delighted to see in his place this afternoon, introduced Part 4 of that Bill. Lo and behold, what did it include?—my Bill on BIDs, in effect. It was all there. So BIDs are incorporated in that 2003 Act. We are now concerned with those areas when the BRS is or may be levied where there are BID levies. This is a complex matter but it must be dealt with.

At a late stage—between Committee and Report—the Government tabled a substantial new schedule, which is now Schedule 2 in the Bill before us. That was tabled towards the end of the week before Report and the weekend came in between when notably it is quite difficult to get hold of people to brief one. It had to be dealt with on Report on the immediate following Monday. Accordingly, the noble Lord, Lord Tope, then speaking on behalf of the Liberal Democrats, supported by my noble friend Lord Bates and myself, asked the then Minister, the noble Lord, Lord Davies of Oldham, if he might withdraw it so that we could

have a proper briefing and then a discussion. The noble Lord said that he was not prepared to withdraw the amendment. As I warned the House at the time, we had no alternative but to table amendments to bring it back at Third Reading.

I had a little difficulty in persuading the Public Bill Office that my amendment fell within the rules of amendments that could be tabled at Third Reading. However, when the Clerk in the Public Bill Office heard the full story of how we had reached that stage, he had no hesitation in allowing my amendment. All I can say is that the noble Baroness, Lady Hamwee, seems to have had to appeal to the usual channels before she managed to table her amendment. I did not have to do that. The Public Bill Office recognised the case that I was making.

The previous amendment raised the question of the costs of billing authorities in collecting the levy where there was just the BRS. This amendment concerns both BRS and BIDs. The central purpose of the Bill is to provide an industrial and commercial addition to other funds to help to fund the Crossrail project in London. Of course, the powers go beyond London although we have been assured and reassured that there are no immediate intentions of any local authorities outside London to introduce BRS. In effect, we are discussing BRS and its relationship with the BIDs in London, of which there are quite a number.

The question of adding the owners, for which there has been pressure since right back into the previous century, and to which the Government to their credit have now agreed, has been supported by a large number of influential interest groups, including the British Property Federation, the British Retail Consortium, British BIDs—the association of BID authorities—the Greater London Authority, London First and the New West End Company, which is a prominent BID in London. They have had legal advice on that. None of those bodies is a billing authority. In London, the billing authorities will be London Councils. Like the noble Baroness, Lady Hamwee, I am a joint president of London Councils, and I declare that interest.

*3.30 pm*

These bodies are anxious to know—I shall look for reassurance about this from the Government—whether they are going to have the time and have their costs met for dealing with this complex matter of levying bids from owners, as well as occupiers, in parallel to what they will be doing to levy the business rate supplement. They need to know now if there are any burdens, and, if so, whether the boroughs will be repaid for any additional work that they will have to undertake. In a sense, it is the same question that the noble Baroness, Lady Hamwee, asked on the previous amendment in relation to BRS—but this, of course, is in the more complex area of the BRS and BIDs.

The local authorities have some evidence that it is in fact quite difficult for them to levy BID levies from owners. There are two or three authorities where that has been sought; one in Scotland, in Clackmannanshire, and one in London, the Better Bankside BID. It is quite difficult to administer the levy on owners, partly because it is actually quite difficult to trace who are

the owners of properties at any particular time. It is difficult to get up-to-date information on landowners, which will of course be important.

I apologise for taking a little time on this but I should like to look at the implementation issues in rather more detail. The Minister is the third we have dealt with on this Bill. The noble Baroness, Lady Andrews, introduced the Second Reading debate and dealt with the Committee stage; the noble Lord, Lord Davies, handled Report and, as he pointed out to me rather forcefully this morning, he is not handling Third Reading, so the noble Lord, Lord McKenzie of Luton, now finds himself in this slightly difficult position.

The local authorities are faced with a number of issues as billing authorities. The point is that they are the billing and not the levying authorities; in London, the levying authority is the Mayor and the Greater London Authority. The first issue is the time that will be required for borough treasurers to deal with these matters. They need to know that they will have enough time in order to deal with this effectively by April 2010. This is already going to be a busy time for London authorities in relation to the national non-domestic rate; they will have to deal with revaluation, the new transitional relief scheme and the NNDR deferral. They are now being asked to add to this the problem of collecting both BRS and BID levies from an additional group of ratepayers—the people who are in the BID.

The second issue is that will have to adapt their systems. The swift implementation for BRS in London means that London authorities as billing authorities will need to adapt their current systems in order to collect, administer and enforce the BRS in London. Software adaptations will be necessary; and as one who was cut off from e-mail for 24 hours yesterday and today, I know just how difficult that can be. It is very upsetting when you cannot receive or send any e-mails for 24 hours. These software adaptations will need to be implemented and paid for, and there will need to be additional resources when they introduce the new systems for testing and assessing how the authorities are going to run their collection and administration systems.

The authorities' third problem is up-front costs, which were dealt with in the amendment that we have just considered. I listened very carefully to the assurances which the noble Lord, Lord McKenzie of Luton, gave the noble Baroness, Lady Hamwee, but those costs could be significant. There is also a timing problem. The authorities will have to incur these costs in 2009-10 and will not be able to reimburse themselves until they have begun to collect the BRS in 2010-11: so there is a transitional cost. Will the Minister say whether that cost will be covered in some way? Will the Government be prepared to help to finance it? London Councils sees this as a key and worrying omission. It is not right to expect the billing authorities—the London councils—simply to bear this out of their ordinary revenues.

Then there is the question of offset costs. It is very unclear how such set-up costs would be recovered. Would costs be offset against BRS revenues, or would the billing authorities withhold costs from BRS revenues before paying them over to the Greater London Authority? As I say, these are likely to cause cash-flow difficulties, and the billing authorities need to be reassured about this.

This may all sound very complex, but Schedule 2 is a very complex amendment to the Bill. Of course, stakeholders will be able to come back to this in another place because, as an amendment introduced by the Government in this place, it will have to go to the other place, but the questions that I particularly want the Minister to answer are what I might describe as the salient questions of what we are looking for. Will new Schedule 2 add any additional time and cost burdens to London boroughs that are acting as billing authorities?

My second question is different. Will the Secretary of State order that a new impact assessment be made of the burden that Schedule 2 will place on boroughs? The impact assessment of the Bill was, of course, provided long before Schedule 2 was envisaged. The Government's commitment, the new burdens doctrine, is on the DCLG's website and says:

"A new burden is defined as any new policy or initiative which increases the cost of providing local authority services ... Government as a whole are committed to ensuring new burdens falling on local authorities are fully funded".

Will the Secretary of State now publish what I might call a supplemental impact assessment so that it can be properly assessed and valued and the necessary reimbursements made?

My third question is the general question which the noble Baroness, Lady Hamwee, asked. Will the London boroughs be assured that all this time and all these costs that will be incurred not just by the BRS but by the collection of BID levies from owners as well as occupiers will be repaid to them?

We have had very little time since Schedule 2 was first amended. It is supported by a large number of bodies. Indeed, I support it myself because it provides the finance that will be needed to enable the Crossrail project to be brought forward. I listened only last night to the Mayor of London describing how vital that was to the whole of London. All the London boroughs and the Greater London Authority agree, but most of those who support the schedule are not billing authorities on which the burdens of administration will fall. I hope that I have said enough to indicate that they have some serious worries and are looking to the Government for reassurance. I hope that the Minister will be able to give that this afternoon. I beg to move.

**Baroness Hamwee:** My Lords, I support the amendment. The noble Lord, Lord Jenkin of Roding, explained the position and the concerns very thoroughly. He emphasised the potential burden. The old Department for Business, Enterprise and Regulatory Reform was certainly very hot on that, although one sometimes got the impression that there could be a burden if that department approved of it. We now have a Minister who is in the CLG and the new department so there should be some more joining up, and one hopes that the burden issue can be addressed very thoroughly.

I have a particular question for the Minister, which I do not think will come as any surprise. In 2003, and no doubt before, the reason given for the exclusion of property owners was the difficulty of tracking them down. What has changed to enable property owners to be included as potential BID contributors in a formal

[BARONESS HAMWEE]

rather than informal capacity with, one hopes, confidence on the part of the Government that there will not be this mechanical difficulty?

**Lord Bates:** My Lords, I, too, support the amendment of my noble friend Lord Jenkin of Roding. He played an invaluable role in Committee and on Report when he introduced amendments at timely instances that went to the heart of the issue. They improved the debate and the Bill as a result. This is another example of that. My noble friend has highlighted a real problem in the way in which the Bill was presented to the House, certainly in Committee.

In response to a two-line amendment put forward in Committee for a ballot allowing BRS-BIDs offsetting to take place for properties, the Government then came up with a six-page Schedule 2 setting out the details about how that will work. That was not done in a sensitive way by giving the House time to consider it; it was rushed through at the last minute. The only option open to those who had concerns and simply wanted to put statements on the record was to table amendments at Third Reading.

The only point I would like to make in addition to those made by my noble friend Lord Jenkin and the noble Baroness, Lady Hamwee, would be to impress upon the Minister the impact that the rating evaluation will have. We were talking about the difficulties and burdens already on the collecting bodies—the councils—that are administering the business rate supplement as it comes forward, but the rating revaluation is under way next year and that will be an additional burden on those authorities. It will not only be a burden on the authorities: it will be a burden on the businesses that have to pay it. The rating revaluation that has been pushed through is testing the rateable value of properties between the years of 2005 and 2008. I am sure that every Member of the House will recognise that those were the years of boom under this Government and the current year is certainly one of bust, yet the strike point by which the revaluation thresholds will be put forward for next year, 2010, will be the high point of inflated property values and inflated rents. That is pertinent to the amendment because of the £50,000 threshold in rateable value. Due to that rate, we could potentially see the cohort of businesses that is caught within the group this year significantly expanding next year. There is an easy way for the Minister to ease at a stroke the burdens and costs on the councils, and on the businesses that are going under at an alarming rate.

Some figures were mentioned in the other place showing that 120 small businesses are closing down every day, according to the Federation of Small Businesses, and that a principal cause of that is the rise in business rates—as they are now, that is, before the revaluation is even in place. This year, two-thirds of businesses are saying that they face a rise of 6 per cent or more, while 10 per cent say that they face a rise of over 20 per cent. These are huge burdens on business, and they place additional burdens at a difficult time upon the administering authorities. The result is that there will be fewer businesses around to pay the business rate supplement and the business improvement district levy,

and there will be more administrative burdens on the councils that have to collect them. Surely that does not make sense.

The most sensible thing to do would be to abandon the plans for the revaluation for the present or to give an undertaking to this House—would the Minister be prepared to do this?—that if the revaluation went through next year, taking account of the thresholds that have been mentioned, the £50,000 threshold that the Government have put in place for the Bill would be reviewed and increased. Will the Minister comment specifically on that question and take note of the concerns mentioned by me, my noble friend and the noble Baroness, Lady Hamwee?

**Lord McKenzie of Luton:** My Lords, I acknowledge that the stage at which Schedule 2 was introduced during the process of the Bill produces challenges, and there has not been a lot of time. I would plead before I respond that I have had even less time to grapple with its complexities.

The noble Lord, Lord Jenkin of Roding, was right in his description of what the schedule seeks to do: effectively, it is to introduce a third levy—a BRS-BID levy—that would operate when a BRS or a BID was in place or approved. The focus would be on owners of properties rather than on occupiers.

**Lord Jenkin of Roding:** My Lords, it says that it is occupiers as well.

**Lord McKenzie of Luton:** My Lords, the structure of the arrangements is that the BID would apply to occupiers and, under the terms of the Bill, a BRS-BID would apply to those who have a relevant property interest, which will be prescribed. However, regulations may prescribe only freehold, leasehold or commonhold interests. In terms of collections, when one is dealing with owners of property rather than people who occupy property and are routinely subject to the non-domestic rate, there are challenges associated with that. We need to be mindful of costs on local authorities, although we also need to be mindful of the benefits that these arrangements could bring to a local authority. With regard to the timing of this, it has been pressed on the Government; it is not a Government-conceived policy that has been visited on the Bill at a late stage.

I will endeavour to deal with some of the specific questions that have, quite reasonably, been raised, although the generality of my answers on process may not fully satisfy noble Lords. This amendment would require that before commencing the provisions for BRS-BIDs the Secretary of State consults those bodies representing billing authorities. It also requires the Secretary of State to carry out an assessment of the likely costs to the billing authorities of any BRS-BID.

I agree with the noble Lord that there must be a full consultation prior to the implementation of BRS-BIDs and a review of the possible impact on interested parties. Indeed, the Government intend to go further than the noble Lord's amendment. I can assure the House that the Government will consult a wide range of stakeholders on the detailed arrangements for BRS-BIDs. That will include businesses, the BID lobby and

property owners, and, importantly, billing authorities, giving them the opportunity to influence how BRS-BIDs will work.

An impact assessment on BRS-BIDs will be published alongside the consultation document. The assessment will look at the impact of all affected groups, including billing authorities. Respondee will have an opportunity to comment on the impact assessment, alongside the proposed arrangements for BRS-BIDs. As noble Lords will recall, before any BRS-BID can be levied, secondary legislation will need to be put in place and Schedule 2 enables the Secretary of State to make the necessary provision before BRS-BIDs can come into being. It may be more appropriate to consult prior to making that secondary legislation than prior to bringing Schedule 2 into force, but I can reassure noble Lords that consultation will take place before any BRS-BIDs are established. I believe that that is the fundamental thrust of the noble Lord's amendment.

The noble Lord, Lord Jenkin, asked whether the billing authority's costs of establishing the BRS-BIDs will be met. As I indicated, there will be an impact assessment when the Government implement the schedule, which will include an assessment of billing authority costs. As to whether the billing authorities will be given time to establish systems for BRS-BIDs, the consultation will be 12 weeks, following which the Government will consider responses and will announce the outcome well before regulations come into force. Without regulations, no BRS-BIDs can be established. There will be a lead time for BRS-BIDs and billing authorities will in practice be given plenty of time to establish systems. I acknowledge the importance of that, particularly with everything else that is going on with revaluation, transitional relief and other matters. The noble Lord, Lord Jenkin, asked whether billing authorities will be covered for transitional costs. That issue will be covered in the consultation paper.

The noble Baroness, Lady Hamwee, and the two other noble Lords who spoke made reference to the potential burden on billing authorities. Any potential problem will be considered through the impact assessment which will accompany the consultation document on the draft regulations. Specifically, I can say to the noble Baroness, Lady Hamwee, in relation to new burdens generally that it is CLG policy that all new burdens on local authorities from duties or powers are assessed and, depending on the outcome of the assessment, are funded by the relevant department.

The noble Lord, Lord Bates, touched on the rating revaluation. Revaluation happens every five years based on market rents at an earlier date—typically, two years earlier. Therefore, the 1 April 2010 revaluation will be based on market rates at 1 April 2008. That system has been in place since 1990. He pressed me on whether the revaluation should be scrapped. We certainly have no plans that I am aware of to do so. The noble Lord also asked whether there should be a raising of the threshold. I think that that was a threshold in relation to BRS, rather than to BRS-BIDs in particular. The threshold is not mandatory and there is scope within the proposals that will come forward for a higher threshold that is introduced in particular arrangements.

The threshold does not have to stick at £50,000. As I understand it, there is scope within the provisions of the Bill to have higher thresholds.

I hope that that has dealt with the questions raised. I am conscious that much of the answer is about how we are going to consult and much of the detail that noble Lords seek will be dependent on that consultation. We will have an impact assessment, which is very important. But until that has been constructed and the consultation has been undertaken, it will not be possible to flesh out some of the more detailed questions that have been raised. I hope that that will at least satisfy the noble Lord of our intent in how we will move forward and that he will feel able to withdraw his amendment.

**Lord Jenkin of Roding:** My Lords, I am grateful to noble Lords who joined in supporting the amendment. I am grateful also to the Minister, because it is clear that he has done his best to try to reassure us that everything will be all right on the night. We shall have to wait and see. There is no doubt that there is a lot of anxiety on the part of the billing authorities in London. They will want to study carefully what the Minister said. They are of course mindful of the benefits, as he said. They all support the Crossrail project and recognise that part of the finance for it was going to be found through contributions from business, hence this Bill.

An impact statement will be welcome—I am grateful for that. I am not quite certain that the Minister recognises that the commitment under the new burden doctrine is that those new burdens should be “fully funded”. If he would like to intervene and say, “Yes, that is quite right. That is what I meant”, I should happily give way.

**Lord McKenzie of Luton:** My Lords, I hope that that is what I said in answer to the noble Baroness, Lady Hamwee; that is, that it is CLG policy that all new burdens on local authorities from duties or powers are assessed and, depending on the outcome of the assessment, are funded by the relevant department.

**Lord Jenkin of Roding:** My Lords, I heard that and I am grateful. The Minister has, I think, confirmed that that sentence, which he has read out again, is intended to represent that they will be fully funded.

I am particularly grateful that the Minister recognised that the late tabling of this substantial and complex amendment has raised serious challenges for everybody. I would like to think that we have perhaps dealt with it effectively in this House, but it is my guess that when the Government's amendment goes back to another place, notwithstanding what the noble Lord, Lord McKenzie, has said, my honourable friends will wish to pursue it further. However, that is for them. It would not be right to spend any more time on it here; there is other business to follow. I beg leave to withdraw the amendment.

*Amendment 4 withdrawn.*

### **Schedule 2 : BRS-BID arrangements**

#### *Amendment 5*

*Moved by Baroness Hamwee*

5: Schedule 2, page 23, line 13, leave out sub-paragraph (2)

**Baroness Hamwee:** My Lords, I apologise to the House for the error both in this amendment and in the reference in Amendment 6. Amendment 5 should read “page 23, line 38” and Amendment 6 should read “page 24, line 8”. I shall speak to Amendments 6 to 12 as well as to Amendment 5. I am grateful to the Bill team, who telephoned me this morning having identified which paragraphs should have been referred to from the questions which I had emailed to them and which I intend to raise under this group of amendments. I apologise to the House for the confusion that the errors may have caused.

I apologise also for being somewhat telegraphic in my speaking to the amendments. I have given notice of my questions, as I have said, and I am not sure, given the Statement which is to follow, that the House would want me to spell things out in greater detail than I intend.

4 pm

The Public Bill Office accepted the amendments with no demur, even though they are to the schedule, which was agreed, albeit reluctantly, by the House at the previous stage. The amendments deal mostly with questions asked by my noble friend Lord Tope, to which the noble Lord then dealing with the matter was unable to give any answers. Although I have used the “leave out” device, these are probing amendments, albeit at a late stage, in order to gain a greater understanding of a number of particular matters within the new schedule.

Amendment 5 relates to paragraph 2(2) under which it does not matter whether the BID arrangements are yet in force. How will that affect the renewal of a BID? Which is day one for the purpose of the two-year provision under Section 54 of the 2003 Act? As regards paragraph 2(5), Amendment 6 is tabled to ask whether local discretion as to offsetting is affected. Paragraph 5(7)—Amendment 7—deals with where both the occupier and the owner vote. For the purposes of the calculations on the ballot—the double lock—is the rateable value doubled because two parties are taking part in the ballot?

The next amendment is regarding paragraph 6(3) asking—this will be particularly telegraphic—whether it is proper for the authority to cherry pick. Paragraphs 6(2)(a) and (b) do not seem to be related to the different circumstances spelt out in paragraph 6(1). Amendment 9—paragraph 6(4)—is to ask for an explanation of weighting. Given the double lock related to the number and value, which comes from the original legislation, is this weighting an addition? How is that double lock affected? Amendment 10—paragraph 7(2)—is to ask whether this will exactly replicate the veto arrangements in Section 51 of the 2003 legislation. My confusion is that a later paragraph, paragraph 9, applies part of Section 51 specifically, so I am not sure why that part of paragraph 9 was necessary.

Finally, there are two slightly different amendments that both apply to paragraph 9(1). As regards Amendment 11, I think what is meant is the words “as if they were”, as the phrases “as if they were” and “as if they apply to” are not synonymous. That is for clarity. The last amendment is to ask why Section 52(2) of the 2003 Act, which deals with regulations about appeals, is not specifically incorporated.

Generally, I noted that the noble Lord, Lord Davies of Oldham, in response to the questions, which now take the form of these amendments, relied on the regulations and on the consultation that will precede them. My underlying concern is to be certain that the regulations will work; in other words, that the primary legislation provides precisely the correct basis for regulations which are—if I can put it this way—not yet even in chrysalis form. I beg to move.

**Lord McKenzie of Luton:** My Lords, I am grateful to the noble Baroness for giving us notice of the intent behind the amendments, as that makes it easier for us to be, I hope, very specific in our responses. This is a large group of amendments that deal with points of detail. If I am not able today to answer them simply, clearly and fully, I will certainly follow up in correspondence, but I hope to meet the noble Baroness's expectations.

As I said when we dealt with the amendment tabled by the noble Lord, Lord Jenkin of Roding, the Government will consult fully before implementing Schedule 2 to the Bill. Schedule 2 gives a valuable degree of flexibility, which many stakeholders have asked for. Of course, with flexibility comes the possibility of implementing the schedule in different ways. In due course, all stakeholders will be given the chance to comment in full on the Government's proposals for implementation, as will Parliament when the necessary regulations come here for debate. I hope that that puts in a useful context the answers to the noble Baroness's detailed questions.

On Amendment 5, the noble Baroness wishes to know how paragraph 2(2) of Schedule 2 applies where a BID is being renewed. The short answer is that it does not. It may be useful if I take a step back to explain why. Schedule 2 will apply where there is both a BRS and a BID in an area, but it need not be the case that either is already in force. All that is necessary for steps to be taken to establish a BRS BID is that a BID has been approved in a ballot for an area and that the final prospectus for a BRS for the area has been published. As a minimum, both the BID and the BRS must have been approved to come into force on some future date, but they need not actually have come into force. That is the combined effect of paragraphs 1 and 2(2) of Schedule 2.

Where a BID is already in force and up for renewal, paragraph 2(2) will have no direct application. The BID will be in force and steps can be taken to establish a BRS BID, provided that there is a BRS for the area. If BID renewal proposals are ultimately unsuccessful, the BRS BID will have to come to an end, because there cannot be a BRS BID without a BID being in existence. However, if the BID is renewed, the BRS BID will be able to continue. The BRS BID proposals will have to allow for both these prospects. The maximum lifespan of a BRS BID will be five years, as is the case for BIDs, and the expiry date for a BID and BRS BID in an area will be the same only if they come into effect on the same day, which will not necessarily be the case.

The noble Baroness asked whether paragraph 2(5) of Schedule 2 affects local discretion to offset BID liabilities against BRS liabilities. It does not. While

BRS BIDs can be introduced only in those areas where a BRS is in place, a BRS BID will not affect owners' or occupiers' BRS liability. A BRS BID might be established so that the BID liability of occupiers can be offset by a contribution from property owners through the BRS BID, but the BRS BID provision is separate and distinct from the flexibility that levying authorities have to offset BID liabilities against BRS liability that is provided for in Clause 16.

Subsections (1) to (4) of Clause 16 provide the BRS-levying authority with powers to offset BID levies against BRS liability, which can be done irrespective of whether a BRS BID is in place. Where a BRS BID is in place, the levying authority has the discretion to offset that liability against BRS liability for anyone who is liable for both levies. That is dealt with in Clause 16(5). The levying authority will need to set out in its prospectus its policy on offsetting BID liability and BRS BID liability against BRS. This policy will have to cover BIDs in existence when the BRS is established, as well as future BIDs and BRS BIDs. Once the authority has done that, BID companies will be able to consider whether a BRS BID for their area might be appropriate and whether property owner contributions might take the place of some or all of the contributions from occupiers who are also liable to BRS.

The noble Baroness, Lady Hamwee, queried whether a rateable value is doubled if both occupiers and owners vote. This contemplates ballots for a BID as well as a BRS BID. The answer will depend on how the ballots for the BID and BRS BID in an area are run. Schedule 2 to the Bill gives the Secretary of State the power to deal with this in regulations, on which we will be consulting, but the Bill contemplates that ballots might be conjoined, held simultaneously but separately, or held at different times.

The Bill also gives the Secretary of State the power, in paragraph 5 of Schedule 2, to deal with how rateable value is attributed to a property owner for the purposes of BRS BIDs. That reflects the practical reality that property owners may own property that does not individually have a rateable value ascribed to it. Office blocks, for example, might comprise several rateable properties and, therefore, several rateable values, but the whole building might not have a rateable value. In those circumstances, one answer might be to aggregate the individual rateable values and ascribe those to the owner for the purposes of BRS BID ballots.

On the specific question, depending on the approach taken, it might be the case that, in a combined ballot where both the occupier and owner of a property vote, the rateable value of that property is effectively doubled, but that will reflect the fact that there are two persons voting in respect of that property. In separate ballots on a BID and BRS BID, that will not happen; when it is conjoined, that will not be the case.

The noble Baroness doubted whether it was proper for BRS BID proposers to be able to cherry pick between provisions that might be made under paragraphs 6(2)(a) and 6(2)(b) of Schedule 2. Paragraph 6(2) flows from discussions between the Government and stakeholders in advance of Schedule 2 to the Bill being tabled. We were told that it would be valuable for those proposing

a BRS to be able to consider how the results of combined ballots on a BID and a BRS BID might be assessed based on the proposals that they are making.

I can understand that the idea of those proposing a BRS BID cherry picking the counting mechanism could give cause for alarm; it potentially looks like *carte blanche* for those proposing the ballot to rig the result. But I can assure noble Lords that that is not what we are providing for. Paragraph 6 simply acknowledges that, in combined ballots, there might be cases where a degree of interdependence is appropriate between the votes of occupiers and the votes of owners before a BRS BID can be established; in others, even though the ballot is combined, it should be enough that the BRS BID vote is successful on its own. The Government recognise that there will be different views on this and that the issue has the potential to be complicated. That is why we have taken the power to make provision of the type contemplated in paragraph 6 of Schedule 2 in regulations, subject to the affirmative resolution procedure and why, as I mentioned, we will be consulting fully.

Amendment 9 relates to the possibility of weighting occupiers' and owners' votes in a combined BID and BRS BID ballot. Paragraph 6(4) is in addition to the double-lock ballot arrangements and follows on from the Government's discussions with BID stakeholders and the British Property Federation at earlier stages of the Bill. As I mentioned, in some cases a BRS BID will be set up so that the contributions from property owners to a BID-funded project can offset the contributions to that project from occupiers who are also paying a BRS. In other cases, occupiers and property owners will fund the same project for their area, through a BID and BRS BID respectively, although the BRS BID will not provide any offset as such.

In both these cases, occupiers and property owners will be contributing a proportion of the funding to the same project. Those proportions may be equal—50:50—or they may not and owners will contribute, say, 25 per cent of the project costs. In those cases, stakeholders have told us that there should be flexibility for the ballots on the BID and BRS BID to be conjoined and for the votes of occupiers and property owners to be weighted. Therefore, where they are funding equal proportions of the project, their votes would carry equal weight and, where they are not, their votes could be weighted by reference to the proportion of the project that their cohort is funding. Potentially, this would be for the person proposing the BRS BID to set out in their BRS BID proposal document. Clearly, however, different stakeholders will have different views on whether such a weighting should be possible and, if so, whether it should be for the BRS BID proposer to decide that weighting is appropriate for their proposals. This is one of the issues on which we will be consulting.

4.15 pm

I move on from ballots to Amendment 10. Paragraph 7 of Schedule 2 to the Bill gives the relevant billing authority the power to veto BRS BID proposals in circumstances set out by the Secretary of State and regulations. This mirrors the position of BIDs under Section 51 of the Local Government Act 2003.

[LORD MCKENZIE OF LUTON]

Subsections (4) and (6) of that provision require billing authorities that exercise a veto to notify all those who are entitled to vote in the ballot, informing them of the reasons for the veto and their right to appeal, and to notify the Secretary of State. Those requirements will also be imposed on billing authorities that seek to veto BRS BID proposals under paragraph 9 of Schedule 2 to the Bill. I acknowledge that the interaction between paragraphs 7 and 9 of Schedule 2 can cause confusion in this respect.

Perhaps at this stage I should speak to Amendment 12, taking it out of turn, since it also relates to vetoes. The power of the Secretary of State in Section 52(2) of the Local Government Act 2003 to make provision in relation to appeals against billing authority vetoes of successful BIDs also applies in relation to BRS BIDs. The power in Section 52(2) has been applied to BRS BIDs by paragraph 10(e) of Schedule 2 to the Bill.

Finally, on Amendment 11, the noble Baroness has queried the wording of paragraph 9(1) of Schedule 2. I hope that I can explain the reasons for the formulation that we have adopted. Paragraph 9(1) applies various provisions of Part 4 of the Local Government Act 2003 to BRS BIDs. Some of those provisions relate to the setting up of BIDs and some relate to what happens when a BID is in force. Similarly, in their application to BRS BIDs, some of the provisions will relate to the setting up of a BRS BID and some will relate to what happens when one has already been established. If I understand the noble Baroness correctly, she is concerned that we have not got the tense right in paragraph 9(1). I hope that, with that short explanation, I have persuaded her that we have and that there is no uncertainty in the drafting of Schedule 2. Each provision applied to BRS BIDs by paragraph 9(1) will apply to the appropriate stage in the BRS BID process, be that pre- or post-establishment of the BRS BID. I hope that I have answered all the points that the noble Baroness asked me to address. If not, I am happy to try again or to write to her.

Since this may be my last chance to speak from the Dispatch Box on this piece of legislation, perhaps I might briefly comment that this Bill makes an important contribution not only to Crossrail but more widely, by enabling local government, in partnership with local businesses, to invest in the economic development of its local areas. I thank noble Lords for their knowledgeable debate and thorough scrutiny of the Bill. In particular, I thank the noble Lord, Lord Bates, and the noble Baroness, Lady Hamwee, for their work on the Bill. I am grateful to all noble Lords for the detailed and careful scrutiny that the Bill has been given. I am also grateful for the work of the Bill team.

Special mention must be made of my noble friend Lady Andrews, who introduced the Bill to this House and saw it through Second Reading and the detailed scrutiny of Grand Committee. My noble friend Lady Andrews was characteristically thorough in her approach, giving a full explanation of the Bill and how the Government envisage that BRS will operate. That has no doubt helped me and my noble friend Lord Davies in the later stages of the Bill; I am very grateful to her. I also thank my noble friend Lord Davies, who, in the interim period between my noble friend Lady Andrews

and me, led the debate on the Bill. I hope that that concludes matters from the government Benches, but I am happy to try again if necessary.

**Baroness Hamwee:** My Lords, on that last point, I am sure that I speak for all noble Lords in adding my thanks to the noble Baroness, Lady Andrews. I am glad to see that she is here to wave the Bill on its way. It was a more enjoyable Bill than I expected when we started work on it. I congratulate the noble Lord on that tour de force in answering my amendments. The whole House has been absolutely riveted and completely enthralled. I found the answers useful; they will be even more so when I read them. I hope that they will be more useful still to those who will be concerned with the Bill after it leaves this House. I beg leave to withdraw the amendment.

*Amendment 5 withdrawn.*

*Amendments 6 to 12 not moved.*

#### *Motion*

*Moved by Lord McKenzie of Luton*

That the Bill do now pass

**Lord Bates:** My Lords, given that the House has other business, I shall only briefly echo the sentiments expressed by the Minister and the noble Baroness, Lady Hamwee. This Bill departs this place in better shape than when it arrived, which is a testament to cross-party co-operation and the great knowledge and expertise that have been brought to bear on it. I particularly pay tribute to the benefit that the House has had of the support and experience of the noble Lords, Lord Jenkin of Roding and Lord Brooke of Sutton Mandeville.

I also pay tribute to the sterling work of the Bill team in the support that it has offered not only to successive Ministers at the Dispatch Box but also to us. It is good to see two predecessors in their place. The noble Baroness, Lady Andrews, who was terrific in the way in which she consulted on, led on and initiated this Bill, is standing at the Bar of the House, waiting keenly, I am sure, to embark on that mammoth tour of English Heritage sites around the country. Finally, on behalf of the noble Earl, Lord Cathcart, and myself, I thank Miss Clemmie Grant for the assistance that she gave these Benches in Committee, Report and Third Reading.

**Lord Jenkin of Roding:** My Lords, on behalf of the Back-Benchers, not very many of whom took part in this Bill, I, too, thank the succession of Ministers—a sort of relay race of Ministers—that we have had, one after the other, for the very full answers that they have given. I hope that I am not disclosing any secrets but, at one point this morning, I was informed by the Government Whips' Office that it would not be the noble Lord, Lord McKenzie of Luton, who would be handling the Bill this afternoon but the noble Lord, Lord Young of Norwood Green. I then had an urgent telephone call from the government Whips, who said, "No, no, no, it won't be Lord Young, it will be Lord McKenzie". So I said, "I know Lord McKenzie, so

that's all right". That is, if I may say so, a pretty strange way to conduct a Government. I am most grateful to my noble friend for his kind remarks and, as I say, I am grateful for the very full answers, which, I know, have gone a long way towards satisfying those outside who have been anxious about this.

*Bill passed and returned to the Commons with amendments.*

## **Digital Britain** *Statement*

4.22 pm

**The Minister for Communications, Technology and Broadcasting (Lord Carter of Barnes):** My Lords, with the leave of the House, I will now repeat a Statement made in another place by my right honourable friend the Secretary of State for Culture, Media and Sport. The Statement is as follows:

"Britain's digital industries are among the most successful in the world. The global technological revolution means that, if we make the right decisions now, they can continue to grow and Britain will continue to prosper from them. Today, the *Digital Britain* report, part of the Government's industrial activism approach, spells out how we can make the most of the opportunities today and in the years to come.

The report covers four broad themes. First, we will only make the most of the digital revolution with the right infrastructure. Just as the bridges, roads and railways were the foundations of Britain's 19th-century industrial strength, our digital communications infrastructure will help power our future success. Businesses, other organisations and individuals increasingly want access to high-capability, high-speed networks that are both fixed and mobile. This is key to Britain's competitiveness.

As a first step therefore, we are reaffirming our commitment to ensure universal access to today's broadband services, delivered through a public fund, including money that has not been used for the digital television switchover process. However, we also need to ensure that Britain has the best next-generation fixed broadband for the entire country. Many other countries around the world are already investing heavily in this. Here, in the United Kingdom, we have already seen an energetic market-led rollout of next-generation fixed broadband networks.

The economics of building what are essentially new networks, as opposed to increasing the capability of existing networks, means that, left to the market, true super-fast connectivity will only reach two-thirds of homes and businesses over the next decade. The other third would be excluded.

In the United Kingdom, largely as a result of competition and regulatory intervention, telecommunications prices for the consumer have fallen significantly in recent years and are expected to fall further as technology advances. We have concluded, therefore, that the fairest and most efficient way of ensuring that people and businesses are not left out is to use some of that saving in the form of a small levy on all copper fixed lines, to establish an independent national fund which will be used to ensure maximum next-generation broadband coverage. To complement improvements to fixed connectivity, we also need to modernise our wireless networks. This report sets out

in some detail plans for the structured release of sufficient high-quality mobile wireless spectrum, Europe-wide, for the creation of the next generation of mobile networks. Those two measures together will ensure that the United Kingdom is among the earliest countries to deploy those networks and that UK consumers continue to enjoy the benefits of vigorous competition.

Today's report also sets out our intention to upgrade all our national radio stations from analogue to digital by 2015, with digital audio broadcasting—DAB—firmly placed as the primary platform. But having the right infrastructure alone will not be enough unless everyone can use and benefit from the opportunities that new technologies offer, so participation is the second big theme in today's report.

Technological progress reduces costs, so affordability is partly being addressed by the market. However, we are complementing that market progress with government action. A £300 million Home Access scheme gives children in low-income families access to computers and the internet. As well as being able to afford the technology, people need capability and skills. We address those in a number of ways in the report. I am pleased to announce the appointment today of the entrepreneur Martha Lane Fox as the new digital inclusion champion. We are also publishing the report by my noble friend Lady Morris of Yardley on digital life skills.

The third key theme of the report is about content—sustaining and strengthening our creative industries and securing plural provision of key public service UK content in the digital age. As noble Lords will know, the ease with which digitised content as opposed to physical content can be copied makes it increasingly hard to convert creativity and rights into financial reward and businesses. The Government believe that taking someone else's property and passing it on to others without consent or payment is wrong.

Developing legal download markets will best serve both consumers and the creative industries, but we will also legislate to curb unlawful peer-to-peer file-sharing. Ofcom will be given a new duty to reduce that practice significantly, including two specific obligations: the notification of unlawful activity and, for serial infringers, identity release to enable targeted legal action by rights-holders. We also propose technical measures by internet service providers, such as bandwidth reduction for serial infringers, if other measures prove insufficient. We will also implement a new, more robust system of content classification for the video games industry, building on the Pan-European Game Information system with a strong UK-based statutory layer of regulation, ensuring protection for children now and in the future.

I now turn to the evolving role of the BBC, Channel 4 and the need to protect public service content, particularly in the nations and regions of our country. In the digital age, a strong, confident and independent BBC is as important as ever. The Government support multiannual licence-fee settlements for the BBC so that it can plan ahead and act independently of day-to-day political pressures. We also believe that it is in the BBC's own interests to evolve into more of a public service partner with other media organisations and to see itself as an enabler of digital Britain. We have therefore been encouraging discussions about a joint

[LORD CARTER OF BARNES]

venture between BBC Worldwide and Channel 4, which we believe would benefit both as well as securing the future of Channel 4. These talks are ongoing and we are ready to help in any way we can. Noble Lords from all parts of this House and Members of another place have repeatedly said they believe that strong local and regional news, including a plurality of provision, is essential for the health and vibrancy of our democracy.

The regulator Ofcom's recent public service review also highlighted the importance of news in the nations and regions. We welcomed its report and the BBC's response supporting partnerships. Partnerships are very welcome, but may be insufficient to meet the scale of the challenge. We believe this will require a secure and sustainable funding stream in addition to those partnerships. The licence fee is the existing major intervention for UK content. There is nothing, as noble Lords will know, in either the BBC Charter, or legislation, to say the BBC must have exclusive rights to it. Independent of the level at which the licence fee is set after 2013, we will consult on the option of sharing a small element of it post-2013 to help ensure high quality, plural provision, particularly in the regions and nations.

Subject to that consultation, we will use some of the current digital switchover under-spend to fund pilots of this model in Scotland, Wales and one English region between now and 2013. We have, however, made it clear to the BBC and others that we are open to alternative proposals should they wish to make them during the consultation. Alongside the *Digital Britain* report, we are publishing a range of related documents, including the outcome of the review by the Office of Fair Trading of the media merger regime and local and regional media.

The fourth key theme in the Digital Britain report is the continued modernisation of government itself. The digital revolution has huge potential to improve the services Government and public bodies provide and to reduce costs. Leave out if short on"—

I am sorry, my Lords, it says here "Leave out if short on time", which I believe I am.

"The report sets out how public services will be delivered primarily online and electronically, making them quicker and more responsive to the public while saving money for the taxpayer. This report"—

even without the paragraph I have just missed—

"will help accelerate Britain's recovery from the biggest economic shock the world has seen since the Second World War. It is a central part of our industrial strategy. It will be key to our economic growth, social cohesion and well-being as a nation and I commend it to the House".

My Lords, that concludes the Statement.

4.32 pm

**Lord Luke:** My Lords, I thank the Minister for repeating the Statement. He must be a little disappointed that he was not able to give the Statement himself. It is his report and his speciality, but the DCMS is one of the few departments where the Secretary of State continues to reside in the House of Commons. His introduction to the Statement has been pre-empted not only by the Secretary of State in another place but

also by the Prime Minister in an article in the *Times* this morning. However, since the Minister also managed to insert an extensive article into the *Financial Times* about his report, perhaps he did not mind. I assure him that the blatant and continuing habit of this Government to press-release major Statements before they have been announced to Parliament is still noticed and deplored in this House.

Like my honourable friend in another place, I am not only disappointed by the way in which the report has been handled by the Government, but also by the content. We on these Benches were hoping that the final report would meet the promises we were given at the announcement of the interim report in January. It is clear that that has not been achieved. The report introduces another 12 consultations. In no way can that be considered a final report. We have yet to see what the Government will do on a range of matters; some of them new, some of them, like the possibility of giving Ofcom the power to tackle copyright infringement, which is familiar.

The question of illegal file sharing as a whole has been around for years. The report confirms that the Government still have little idea what to do. Once again, they have resorted to setting up another talking shop rather than finding positive steps forward to address the issue. During a debate tabled by my noble friend Lord Lloyd-Webber on the subject in April this year, my noble friend Lord De Mauley queried what a new organisation would do that Ofcom or the Government could not. The answer he received was that the whole issue was still out to consultation. I hope I will receive a fuller answer today. It has been clear for a long time that any effective enforcement of rules will have to be done, in the main, by private companies. I am glad to see that this report accepts that, to some extent. The recent announcement that Virgin and Universal Music will be launching a legal alternative to pirate downloads is a welcome indication of a possible way forward.

I find it extraordinary that the report of what the Minister's right honourable friend in the other House said differs from what he said. He said:

"The Government believe that taking someone else's property and passing it on to others without consent or payment is wrong",

whereas his right honourable friend in another place said:

"The Government believe that taking someone else's property and passing it on to others without consent or payment is tantamount to theft".

I wonder why he changed that.

The Government should be focusing their attention on encouraging exactly this sort of private sector solution rather than on establishing yet another quango.

The inability of the Government to develop an effective policy is also clear in regard to the proposed joint venture between Channel 4 and BBC Worldwide. All the Minister is able to say about it is that talks are ongoing. Talks have been ongoing for months. What real progress has been made? Is there any real chance of a successful resolution to these talks? When does the Minister expect them to be concluded?

On the matter of local news provision, we feel that the Government, while initially sounding as if they had got it right, have unfortunately veered off in the

wrong direction. We agree that there needs to be good public sector broadcasting provided at all levels of the UK, but why have the Government decided to focus their attention on regional rather than local news? The Conservative Party's view of regional assemblies is well known. We see them as a meaningless level of bureaucracy that further divides political engagement at a local level with national policy making and accountability. In just the same way, we see the Government's focus on regional news as an unwelcome distraction from the encouragement of genuinely local provision that would address people's local concerns and help engagement with their local government, local issues and local priorities.

Another critical question that the Minister alluded to a few times in the Statement was the cost of implementation of their proposals. It is clear that the DCMS cannot expect the Treasury to look upon expensive policies with a favourable eye and that the economic situation makes finding private sector partners to make up any funding shortfall extremely difficult and, indeed, unlikely. Nowhere is this clearer than in the Government's attempts to find a private company to bear the costs of rolling out universal broadband. BT and Virgin are focusing their efforts on the more profitable urban centres, and using satellite broadband to connect rural British households is apparently going to cost £500 million. Therefore, the Government have decided to fund universal broadband with a levy. As my honourable friend in another place pointed out, the figures on this levy are extremely murky and would seem to suggest that a 20-year levy will be needed. Has there been a more accurate analysis of how much money will be saved after all the transmitters have been switched over?

The Government have also resorted to looking for money within the licence fee. Accepting that there is surplus money within the BBC, they are contradicting everything they said recently about the absolute necessity for an above-inflation rise in the licence fee. On these Benches, we disagree that any surplus should be hived off to other projects. The licence fee has always been raised on the principle that it pays for the BBC's core services. If that is not the case, it should be returned to the licence fee payer.

I was also interested to hear the last few points of the Statement. I entirely agree that the Government's handling of data and the current purchasing of IT systems have huge potential for improvement. It seems extraordinary that it is only now that the Government have realised that the digital revolution raises questions of data security and that that should have an impact on how they operate as a major buyer of IT systems. Given the endless succession of data losses and IT disasters in recent years, one would have thought that that conclusion could have been reached rather earlier.

Finally, I should highlight that if anything is likely to throw up an impediment to the successful implementation of the type of digital economy to which the report refers, it is the constant reshuffling of responsibilities within the Government. The Minister has indicated that he will be resigning and will not therefore be available to drive this report through to its conclusion. I am not surprised by his decision. He gave a very good impression of enthusiasm when

debating the interim report in January, but this report confirms what we then suspected—that this Government have run out of ideas.

4.41pm

**Lord Clement-Jones:** My Lords, just to change the tone slightly, I shall start by saying that while not agreeing wholly with the content of this paper, I congratulate the noble Lord, Lord Carter, on its production and the fact that it was produced on time. He was clearly the right person for the job. Indeed, he was probably the only person, given his background. We will all miss him when he steps down as a Minister.

I want to make one point that is of a slightly negative nature. I was extremely disappointed, not to say incensed, by the late arrival of the Statement, which arrived one hour and 10 minutes before the expected time of delivery and the paper itself, which arrived 35 minutes before the expected time of delivery of the Statement in the House, and that was only because of a raid on the Government Chief Whip's office. That does not serve the Minister well; it does not reflect well on either the DCMS or the department, whose name escapes me temporarily—I think DBIS is the shortened version. It demonstrates contempt for the proceedings of this House, and it does not serve a Minister of the noble Lord's calibre at all well.

As we know, the two departments have had a little over eight months to put this *Digital Britain* report together. On these Benches we got half an hour to read it and to write our response. That is not acceptable and I hope that if the Leader of the House reads this, she will take due note and change the practices of the House so that we have the ability to respond properly.

I noted with great interest what the noble Lord, Lord Luke, had to say about the press. Indeed, I was extremely interested in the article of the noble Lord, Lord Carter, in the *FT*, which I thought gave nothing away. It was a perfectly proper article to write on the morning of the release of the report because it talked essentially about the justification for the paper on the basis of an industrial strategy. It seemed to me that that paper put the creative industries, in many ways quite rightly, on the same basis as the pharmaceutical industry, financial and professional services, and so on. The dimension that we really must not forget today is that it is not simply about industrial policy, but creative and cultural strategy, which is different in many ways. This paper reflects it. We are talking about the content, not simply the way in which that content is delivered.

The important thing about the *Digital Britain* experience—both the interim report and this one—is that it recognises the crucial nature of our creative industries for the future economy of the UK. We have a huge amount of ground to make up. I was recently in Hong Kong and South Korea where universally they have super-fast, one gigabit per second broadband. That is a different dimension from anything that we have in this country, which will serve them extremely well in the future.

Sadly, having invested some hope that this report would settle some of the issues, we find that this is but another interim report. Incidentally, I make it another 11

[LORD CLEMENT-JONES]

consultations which are due, not another 12. I fear that, sadly, the Minister will leave office with unfinished business. There are too many issues that remain unresolved, such as the possible Channel 4 worldwide merger or joint venture, or the inclusion of a return path on digital boxes. I had only a brief time to scan the report, but there was not enough in there about children's television support, and perhaps tax relief or some form of future support for that. The whole issue of the governance of the BBC has not been addressed in the report. We on these Benches believe that an independent PSB regulator will be essential in the future.

There are, however, some very welcome aspects. We now know that the PEGI is to classify video games—a pan-European solution that we have always favoured. A tax break for the games industry is being contemplated, which is very welcome as well. And we finally have a date for switchover to digital radio in 2015, which we on these Benches have asked for consistently. We also have shared concerns about the need to protect intellectual property; millions are being lost by creators, whether of music or film, and potentially, in the future, of books, through illegal downloading and file-sharing. Partnerships between ISPs and rights holders to create new commercial models are the way forward in many areas. Yesterday's deal between Universal and Virgin is a good example. Statutory measures, however, are also needed, and we very much welcome the steps that are proposed; they are proportionate and avoid the heavy-handed “three strikes and you're out” proposals by some countries, such as France. But what has happened to the digital rights agency that had its own paper published after the interim report? I do not see any mention of that in the Statement and I did not find any reference to it in the main body of the final report.

Overall, the proposals for broadband are far reaching and welcome, but the proposed timing means that those in remote rural areas will be disappointed at having to wait until 2017 before the benefits of super-fast broadband are likely to reach them. Should not the emphasis now be on encouraging commercial pull-through so that even more needs to be done to drive forward initiatives such as smart metering, e-democracy and digital healthcare to stimulate demand and hence investment?

Given the real fall in the costs of telecommunications, as the Minister mentioned, the proposed small levy on all copper fixed lines to pay to get near-universal super-fast broadband seems to us imaginative and acceptable. But, even though this is a small sum, it is in the nature of a regressive, fixed charge like a poll tax; I very much hope that he will consider exemptions, at least for pensioners.

We also welcome the reaffirmation of the multi-annual licence fee settlement for the BBC. We welcome the plans to support regional and local news; we have no problem with the BBC's involvement with this, any more than with its helping the rollout of broadband.

We are, however, deeply concerned about the fact that what is initially proposed is essentially a top-slicing of the licence fee. Top-slicing sets a precedent that, in

our view, undermines the BBC's independence. This form of subsidy may be fine in itself, but what guarantee can we have that a future Government will not take money from the licence fee to fund their pet projects in any area, especially when they are unhappy with what the BBC is doing? Surely the BBC should be involved at all stages by establishing a partnership fund within the BBC, as we explained on these Benches in our last debate on the BBC, and clear remit given to it to engage in such partnerships. We clearly have greater faith in these partnerships than the Government.

Clearly, there is a great deal of work to be done and further decisions to be made. It is disappointing that we are still at the stage where we have not yet got final determination on so many areas. This is a work in progress but, limited as it is, we on these Benches welcome it.

4.49 pm

**Lord Carter of Barnes:** My Lords, I very much thank both noble Lords for their contributions. I was perfectly content for my senior colleague in the other place to be the first person to read his Statement. I suspect, despite my gentle rewording of “tantamount to theft” to “wrong”, that I was considerably happier to re-read his Statement than he was to read his.

One of the things that we see in the public domain is the public's engagement with political debate and a desire for deliberative and informed discussion about real issues as opposed to knee-jerk rejections of policy positions, whoever presents them. I would be the first to say that issues remain in this report—there clearly are—but I will try to deal with the substantive questions, most of which were asked by the noble Lord, Lord Clements.

First, I shall clarify my own position, as it is my first opportunity to do so in this House. I have not resigned; I am in the process of completing my task on entering government, which, as I think we made clear in a Statement last week, was to commission and complete this report, and we will do so. The noble Lord, Lord Clements, is correct; there are follow-on consultations. Indeed, there are 11. I make no apology for the fact that there are follow-on consultations, because that is what we are required to do by both good Cabinet Office practice and better regulation practice. However, let us be equally clear that most of those 11 consultations are about implementation, not debate. A very clear consultation document was issued today on intellectual property and digital piracy and how we will transpose the necessary powers into the hands of the sectoral regulator to do what we say we wish to do.

On the bigger question of what we are trying to say with this report today, we are trying to say three things. The first was mentioned by the noble Lord, Lord Clements. For the first time, we as a country should unashamedly endorse our creative industries as an industrial capability of real scale and international clout. We should recognise that the digital economy is central to our future industrial competitiveness, and that that requires us to make some hard decisions about the infrastructure capabilities that we have in this country.

I have many times heard members of the opposition party wax lyrical about the benefits of the liberalisation of the telecommunications market. Indeed, I was a beneficiary of that. I was also a regulator of it, and tried to solve one of its unfortunate by-products: the failure to create an access regime to create a competitive market. It is very clear that if we wish to create a future market structure, we need to make some decisions about investment in next-generation capability: hence the proposals for the levy.

Some questions do remain for us to discuss, but considerably fewer than the noble Lords have outlined. I am deeply saddened by the process point that the report and the Statement were late, and I apologise to the House. We have tried studiously to observe parliamentary primacy, and rightly so—I make no virtue of it—so there were no briefings, certainly not from me or my office, beyond the article to which the noble Lord refers. I took due care and consideration—indeed, I penned the article myself—to make it clear that we were in no way, shape or form divulging content; we were arguing a case. That is a perfectly legitimate exercise of a ministerial position. We were absolutely determined that this report would be delivered to Parliament first, and I am deeply disappointed that colleagues have not had the opportunity to review it in a way that I hope people feel it benefits from.

I have two final points to make. First, the contestability of the licence fee is not a small question. I for one in government have been insistent that there are two principles that need to be tested: one is that there is a requirement for funding for local news, regional news and news in the nations; the second is that we are for the first time asking whether the licence fee should be used for other things. The Government are clear that the time has come, but we believe that it is a substantial policy change that benefits from a clearly time-defined policy and public consultation. Again, I make no apology for that. We are both clear and open, and I, for my part, believe that that is the definition both of good government and of good policy development.

The noble Lord asked about the delivery of services to rural and remote Britain—or not so rural, because we are talking about a third of the country. I sincerely share the noble Lord's hope that our recommendations today will act as an accelerator to commercial investment in market deployment, notwithstanding that we believe that a clear case has been made for targeted, market-facing and forensic intervention. I commend the report to the House.

**Lord Fowler:** My Lords, from what the Minister said, the idea of a full-scale merger between Channel 4 and BBC Worldwide is dead. Perhaps the Minister could confirm that. However, I want to ask about regional and local news, and I declare a past interest as a former chairman of two regional newspaper companies. I apologise for using that phrase to my noble friend, who obviously takes offence at it. If ITV, as it promised, pulls out of regional news, the BBC will have a television monopoly in this country. That would be totally undesirable. We would be going back the 1950s or even worse, because regional newspapers were once

very strong and they are now fighting for their very survival. Will newspapers be able to take part in any consortiums put together to replace regional news, which is being taken away?

As for the BBC, unlike what the noble Lord, Lord Clement-Jones—which is the normal way of pronouncing the noble Lord's name—said, surely it is reasonable to divert a small part of the licence fee to help, and to ask the BBC to accept that it has a wider broadcasting responsibility than simply looking after the affairs and interests of the corporation itself?

**Lord Carter of Barnes:** My Lords, on the last point, that is the nub of the question. If you take the same view as the Government, and I sense from the noble Lord's contribution that he does, monopoly provision of regional news and, importantly, alternative news in the nations—if you spend time in Wales and Northern Ireland, that is a critical question—would be a deeply unfortunate consequence. There is an obligation on society and therefore on the Government. We believe that the BBC Trust, as the governing body, should help facilitate a funding mechanism for that. That is why we propose what we propose; because we share the noble Lord's view that there is a clear and present danger of the emergence of a monopoly.

Monopolies are generally bad. Monopolies in the provision of news and democratic debate are profoundly bad social consequences. Will newspaper bodies be able to be part of those consortiums if they come to pass? Yes, they certainly would. Are we saying that a full merger between the BBC and Channel 4 is dead, to use the noble Lord's phrase? To be clear, I think we are saying three things. We believe that there is a clear case for the trust to look in more detail at a greater level of commercial separation of BBC Worldwide's activities from the main institutional structure of the corporation's activities in the United Kingdom. We also believe that there is an opportunity for an operating joint venture in the UK between BBC Worldwide and Channel 4, but we are equally making it clear that that is a matter for the parties. They must do that on commercially transparent terms. But if they can reach an agreement, the Government stand ready to approve that and facilitate any loan financing on commercial terms that may be needed to make that joint venture operate. I hope that that provides the noble Lord with clarity.

**Lord Harris of Haringey:** My Lords, I welcome chapter 7 in the report, which deals with digital safety and security. I have two specific questions about that section. First, there is the welcome intention of the Government to issue a cybersecurity strategy. When are we likely to see that take place? Secondly, I note in the report the support for the after-sales services provided by a number of computer retailers, such as the Geek Squad, the Tech Guys and so forth. Have the Government given any thought to the personnel who visit people in their homes and put things on their computers? What steps are being taken to ensure that those individuals are quality-assured and regulated in the same way that physical security personnel are regulated by the Security Industry Authority?

5 pm

**Lord Carter of Barnes:** My Lords, those are two very interesting questions. I am glad that my noble friend supports what we have said in this section of the report. Noble Lords will see that it tries to lay out in some detail the relationships between the security issues in an online world internationally, nationally and domestically.

The first question was when the full cybersecurity strategy will be published. My understanding is that that will be before the summer, but I will clarify that. On the second point, I do not know what checks and balances those operators put in place, but I will do further due diligence to find out. My noble friend raises an interesting question; as people's domestic IT systems become more and more sophisticated—which they will—the level of complexity, and therefore the level of security and trust that people will want to have with the providers of those services, will only increase. My view is that it will be four or five years before we have a sort of AA or RAC of the IT world providing that level of assistance at scale for many homes. It is an intriguing question.

**Baroness Howe of Idlicote:** My Lords, I congratulate the Minister on his report. Like other noble Lords, I am sorry, but perhaps not surprised, that it is not a bit further forward. I thank him for all the hard work he has put into it. We shall be sorry to see him go, for whatever reason.

I have two questions, both to do with children. In Ofcom's research there was a clear desire for more programming for children, with more UK content, on both TV and radio. It was not just news that was wanted. How high a priority will that be, and where will the funding come from?

The Minister mentioned the video games industry and the fact that it will be regulated. He indicates here that not only will the PEGI system apply but there will be a rather strong UK-based statutory layer of regulation, which I presume will mean that the BBFC is involved. That is a system that British families would understand. Can he confirm that that will be the case?

**Lord Carter of Barnes:** My Lords, on the first point, the noble Baroness is right: in the Ofcom review, in its consultations and in the consultations that we had, there was a significant level of concern about the amount and quality of content for children—primarily programming, but also radio, as the noble Baroness mentioned, and online content—being produced by organisations other than the BBC.

We have thought long and hard about this, and we say three things in the report about children. First, on the point of contained contestability, we say that we see this primarily as a funding mechanism for news in the nations, in the regions and locally—a point made earlier by the noble Lord opposite—but we recognise that there are other calls on that, which could include children. Secondly, in our proposed revised remit for Channel 4 we specify an increased responsibility for the provision of children's content, not just traditional programming. Thirdly, one of the many virtues of clarity about the switchover timetable for digital radio is that, as the noble Baroness will know, digital radio is

capable of infinitely greater capacity at lower cost if you can resolve the multiplex licensing and transmission costs, and we lay out how to do that. This will lead to a flowering of radio services at more affordable cost, including the potential, much discussed for a long time, of a commercially funded children's radio station.

On the video games industry, we are very clear in the report that after due consultation and debate we will opt for the PEGI system as the predominant system, but we recognise that in some areas there is a role for the BBFC, which is a statutory UK-based body. We lay out clearly how we see those interrelationships working. Much to the irritation of some noble Lords, a more detailed consultation on that question is published at the same time.

**Lord Roberts of Conwy:** My Lords, perhaps I may give a Welsh welcome to what is said in the Statement and the report on regional programming at the Welsh national level. I suspect that what I am saying also applies to Scotland. I speak as a founder of the first local television news service for south Wales and the West Country way back in 1958 at the time of Television Wales and the West. How will the pilots proposed for Wales and Scotland be run? Will they be run by independently financed news consortia and, if so, by whom will they be led at the local level?

**Lord Carter of Coles:** My Lords, I am delighted to receive a Welsh welcome. Earlier today, I said to a colleague from Wales in another place that there is an enormous amount in this report for the nations and the rural parts of the United Kingdom. That is not just in relation to broadcasting and content, but also to the coverage of broadband service, the funding for next-generation networks, extending mobile coverage to 100 per cent, the rolling out of digital radio capabilities and the funding of pilots. I hope that one of the consequences of this will be an increase in the binding together of the United Kingdom through an extension of services to parts of the country currently underserved by these things.

On the noble Lord's specific question, it is very clearly argued that these will be commercially run consortia, notwithstanding that they will use pump-priming finance through the contestable fund process. Therefore, I suspect that they would end up having a combination of anchor tenants or anchor shareholders who would act as a way of bringing together other interested parties. We have already had some proposals from commercial operators in Scotland as to how they can put together their first pilot. I have two views: first, the Government should stay away from running it as far as possible and let the operators run it and, secondly, we should use these pilots to investigate their optimal way of working. I suspect that we will end up with a different model in Scotland to that in Wales and that in the English region, and I think that we will learn from that.

**Lord Whitty:** My Lords, I welcome strongly the broad thrust of the main part of this report, which relates to extending broadband and other digital accessibility factors to the bulk of the population. That is very commendable. However, one part of this

report perturbs me greatly and I need to dissent from the Government's view and the view generally expressed here; namely, the importance of digital rights. The Government and, apparently, the opposition parties are seriously out of touch and are adopting the wrong tack. I need to declare an interest as chair of Consumer Focus.

Activities done by millions of people every day, to no profit to themselves in many cases, should not be regarded as criminal activities with sanctions enforced through private sector companies, which are reluctant to take on that role. I recognise that the Government have backed off a little from the more draconian measures urged upon them, but they are still too keen to accept the protectionism in the music industry. There are other ways to deal with this. The paper refers to new models and to developing legal download markets. I had hoped that the Government would have explored those options rather than accept even watered down sanctions, which inevitably will hit and restrict the access of millions of relatively young people engaging in this activity every day of the week. There must be better ways of doing it. I hope that before we embark on that mass criminalisation we will explore other alternatives much more fully.

**Lord Carter of Barnes:** My Lords, as the noble Lord knows, I have enormous respect for his opinion and that of the organisation of which he is chair, which has engaged in depth and constructively on this question. I would be the first to acknowledge that this is a very difficult area. We have seen only this week the French Government's position overruled by the French high court because it was judged to have gone too far down the path that he described. I would therefore describe our approach not as a watering-down but as an intelligent balance between the rights of the rights owners and those of the users, but I am afraid that I make no apology for where the Government have clearly come out.

If we believe, as this Government firmly do, that the digital economy and the creative industries are central to our industrial capability, we must have a framework that protects intellectual property, allows it to be monetised and gives it standing in the world in which most of these transactions are going to be conducted. I entirely accept the noble Lord's point that the operators and rights holders need to change their approach. The noble Lord opposite commented that we should welcome deals such as those announced by Virgin and Universal. If he were to ask his colleagues in another place who wrote the briefing note to do their research, they would tell him that we facilitated that arrangement, largely on the basis of what we are announcing today. It is an example of the sort of new business model that will come about. That requires clarity from the Government and the regulator on what will be allowed. We are not in a position not to have an opinion on this question.

**The Earl of Erroll:** My Lords, I support the point made by the noble Lord, Lord Whitty, and would like to ask the Minister a couple of questions as a result. Does he realise that royalties usually go to the copyright holders and not to the artists? It does not encourage

innovation; it encourages making money out of back catalogues. It therefore stifles a lot of new stuff done by teenagers such as mash-ups, where they use backing tracks, put them together with other stuff and put them up on YouTube. Who will get sued? Where is the copyright and who is the infringer?

The Government are going to form a rights agency, which will be a government body that enforces civil infringements. It is a bit of a departure for the Government to start putting their own body into enforcement; Parliament should debate whether that is a good principle. I should explain: peer-to-peer file-sharing is not illegal—we should make that clear. To find out when it is illegal, ISPs will have to look at the content of those communications. It is like opening people's mail. That will be quite a step forward, since people are trying to hit certain other companies for doing that very thing to try to benefit people. The Government should look carefully before they turn that into legislation. Bandwidth reduction could bankrupt SMEs. If children ride on the back of their parents' SME bandwidth, how will you respond to that when they cannot respond to government inquiries?

Does the Minister not feel that this is the time for us to be moving into the 21st century? Strong copyright can inhibit innovation. We should look at proposals that were debated at the Digital Britain conference. The Government should simplify IPs, particularly for small businesses. We should look at the Creative Commons. We need to change business models because of digital copying rather than trying to enforce stricter copyright restrictions, entrenching a dinosaur method that belongs to the last century.

**Lord Carter of Barnes:** My Lords, I detect a level of disagreement. I share the noble Earl's view that there is a balance to be struck between copyright protection and innovation. I do not share the view that strong copyright automatically stifles innovation. I am conscious of the earlier criticism made by the noble Lord, Lord Clement-Jones, that we have not given noble Lords much time to read the report, but it talks about greater access to orphan works and what progress we seek to make on format shifting. There are areas where we can make progress.

The noble Earl's point about royalty allocation is important but it is not relevant to this question. The body that he refers to is not a government body. Let us be clear: we are saying that we believe that there is a role for an industry body, which would be responsible for setting a code under licence from the statutory regulator. That is no different from what happens in, for example, the advertising industry, where the Advertising Standards Authority, which is not a government body but an industry body, provides a code, a framework and a set of rules around which commercial advertisers, media owners and inventory providers operate in a way that protects us as consumers of advertising content. We are not talking about another government agency. That is another piece of nonsense that has been spread around as a means of trying to pollute the policy debate. However, the central question that the noble Earl asks is very legitimate: do we have the balance right? We believe that we have, but I entirely accept that there are alternative opinions.

**Lord Baker of Dorking:** My Lords—

**Lord Davies of Oldham:** I am sorry, my Lords, our 20 minutes are up.

**Lord McNally:** My Lords, the ever alert noble Lord, Lord Davies, is on his feet, but if he would sit down I could make the point that the time to read this document and the time for noble Lords to question the Minister have been totally inadequate. Will he take that back to his colleagues and suggest a full day's debate on this in government time?

**Lord Davies of Oldham:** My Lords, the Government will certainly have heard what the noble Lord said.

## Apprenticeships, Skills, Children and Learning Bill

*Committee (1st Day)*

5.16 pm

### *Amendment 1*

*Moved by Lord Hunt of Wirral*

**1:** Before Clause 1, insert the following new Clause—  
“Definition of “apprenticeship”

An apprenticeship must include the following components—

- (a) an agreement with an employer to train a person, using the practices, equipment and personnel of his or her enterprise in doing so;
- (b) a mixture of on- and off-the-job learning; and
- (c) training designed to lead to a generally recognised level of proficiency in a trade, profession or occupation.”

**Lord Hunt of Wirral:** First, I declare my interests as recorded in the register with one important addition as of this moment. I am delighted and honoured to have been asked to serve as chairman of the independent company set up to oversee the implementation of the McDonald's apprenticeship programme, following the company's announcement in January that it is set to become the UK's biggest provider of apprenticeships. This year, McDonald's will provide apprenticeships in multiskilled hospitality for up to 6,000 of its 71,000 UK workforce, increasing to up to 10,000 a year from next year. Staff will enjoy the opportunity to gain a valuable nationally recognised qualification that is equivalent to five GCSEs at grades A to C. I thought that I should explain the situation, as the qualification recognises job-specific skills acquired through workplace training, combined with GCSE-equivalent maths and English, and will be accredited by the leading awarding body City and Guilds.

Apprenticeships come in many shapes and sizes, as the Government's newly appointed enterprise tsar would no doubt be able to confirm were he already a member of this House. Different apprenticeships suit different individuals, but I believe that it is crucial that we should be clear in each instance about what is being demanded of an individual and what the value of any qualification earned is going to be, especially in the eyes of potential employers. Of course, the first wave of McEdCo qualifications will be the equivalent of educational level 2. Vocational qualifications may vary in the level of attainment that they signify, but the

apprenticeships that lead up to them generally have numerous features in common, which leads me directly on to the substance of this group of amendments.

As matters stand, there is no clear and concise definition in the Bill of an apprenticeship. Amendments 1 and 13 would define “apprenticeship”, because there is no statutory definition. Amendments 3, 6, 57, 61, 178 and 208 would ensure that some element of workplace training is included in apprenticeship training. Amendment 70 would ensure that, when careers advice is given on an apprenticeship, it is taken into account that the apprenticeship is defined as training that will lead to, “competence in a chosen trade, profession or occupation”.

We are trying with these amendments to set out in a readily understood form what we believe most people would regard as the essential features of a meaningful apprenticeship. It should be a job. It should offer a combination of on-the-job and off-the-job training. There should be substantial employer engagement. It should lead to a recognised level of proficiency, clearly expressed in terms of the equivalent educational attainment. Standards must be robustly and rigorously monitored.

Ideally, these matters should be discussed, and ultimately resolved, far above the usual party-political fray. My noble friend Lady Morris of Bolton explained why I could not be present—it was my 36th wedding anniversary and it was more than my life was worth to be absent—but I listened to the speech of the noble Baroness, Lady Morgan of Drefelin, when she claimed credit for the Government's supposed achievement of bringing apprenticeships, “back from the brink of extinction”.—[*Official Report*, 2/6/09; col. 108.]

That is fine, rousing rhetoric, but it is a staggeringly hyperbolic assertion far removed from the truth.

When I had the honour to serve as Secretary of State for Employment in 1993, I was able to introduce these new, modern apprenticeships at qualification level 3 or above, working in partnership with the private sector. Our ambition was to have 150,000 places at any one time. From what was effectively a standing start, we had reached 65,000 by 1997. We made a substantial investment and this was a substantial achievement, greatly helped, I might add, by a number of bodies, including training and enterprise councils and the TUC—the noble Lord, Lord Jordan, gave me the vision of these new apprenticeships, which was brave at the time. We were also helped by the CBI and many other bodies. It is not a good idea to belittle all that was achieved in moving away from the old-fashioned system to a new, modern apprenticeship system.

I hope that we can take this forward on a non-partisan basis. It would make it a lot easier if we stuck to agreed facts and definitions. Ministers have changed the working definition of apprenticeships before—in 2000. I suppose that that made the figures look a bit better, but it underlines the need to be absolutely clear in the legislation about what we mean by an apprenticeship—otherwise we shall find ourselves compared to Humpty Dumpty, who said:

“When I use a word, it means just what I choose it to mean—neither more nor less”.

We must seek to guarantee the integrity of vocational qualifications.

Amendments very similar to these were rejected in another place. However, the Minister, Siôn Simon, appeared to agree with our intention, if not with our precise formulations. He said to both the Liberal Democrat and Conservative Front Benches:

“The fundamental underlying principle of an apprenticeship is that it is a paid job ... I understand and sympathise with the spirit and the intention of his amendments ... This is an occasion—and not all of politics is so—on which we agree wholeheartedly on the ends and are merely disputing the means ... I certainly agree that all apprenticeship frameworks must include supervised training in the workplace. There is no doubt about that, and the Government have never been equivocal about that. Supervised workplace training is central to the apprenticeship experience. It is what all apprentices have a right to expect”.—[*Official Report, Commons, Apprenticeships, Skills, Children and Learning Bill Committee, 10/3/09; cols. 204-05.*]

We on these Benches agree with every syllable of that.

On that basis, we look forward to hearing the response of Ministers here. I hope that they will feel able to accept these amendments not only in principle but also in practice. Otherwise there is a genuine danger that some of the qualifications awarded at the end of an apprenticeship may be regarded by potential employers not as a gold standard but as a very base metal indeed. I beg to move.

**Baroness Sharp of Guildford:** I cannot declare any interest in relation to learning providers such as McDonald's, but I declare an interest as a member of the corporation of Guildford College of Further and Higher Education, which is involved in providing work-based learning in various forms. I would like to be able to give it a similar advertisement for what it achieves as the noble Lord, Lord Hunt, has given to McDonald's and its training programmes.

We have a great deal of sympathy with this raft of amendments. It has been put to us by quite a number of those who have been in touch with us about the Bill that there should be incorporated somewhere within it a clear definition of “apprenticeship”. We are sympathetic to that point of view. It does come out in the Bill and is quite clear from different bits if you put them all together: you are to be employed and to have off-the-job training leading to a recognised qualification for a trade or profession. All of this is in the Bill, scattered in different bits, but you have to put the bits together to arrive at the definition. It would be nice if, somewhere early in the Bill—and this comes at the beginning—there was a clear definition of “apprenticeship”. After all, it started off as the draft apprenticeships Bill, and the Apprenticeships, Skills, Children and Learning Bill now has all these other bits hanging on to it.

We are also sympathetic to the notion that an apprenticeship involves being employed, but we have some problems with that being stated blankly within the definition. It does not always work that way, does it? I refer your Lordships to an excellent report produced by the Economic Affairs Committee of this House on apprenticeships. There is currently a dearth of apprenticeships in this country. Employers are not offering them. How can we offer an entitlement to an apprenticeship, which is core to the Bill, for those aged 14 to 16 who want to go into one if the jobs are not there?

Over time, we can perhaps deliver on that entitlement. In particular, it is vital that the public sector opens up. There is currently a marked contrast between the number of apprenticeships offered within public sector organisations and those offered within the private sector. I know that the Government are conscious of this and are now trying to expand the number of public sector apprenticeships.

5.30 pm

I give one example of where we ought to expand apprenticeships. Universities have great difficulty in filling technician posts for their laboratories. When it was put to Imperial College—which was complaining about not being able to recruit people with the appropriate A-levels to fill such technician posts—that it might train apprentices, it said “Oh no, that is not for us”. However, it is, is it not? Our universities ought to be thinking quite seriously about training people for technician posts. Across the board, it is important for us to look at apprenticeships, but it will take time to build up such opportunities.

I talked about the dearth of apprenticeships that are available among employers but we currently face a fairly deep recession. Quite a number of young people are being made redundant from their apprenticeships at the moment. Do we just wipe them off the board? Certainly, at Guildford College we try to make sure that, where young people have been in apprenticeships and been made redundant, we pick them up and ensure that they at least finish their courses. We try to get them linked to another employer. We cannot always do that because the jobs are not necessarily available. The whole issue of whether the jobs are available and, if we offer an entitlement, whether we can deliver on that entitlement and—in the current situation—how quickly we will be able to move towards delivering on the entitlement, is very important. If we tie the definition into having to be employed, it could create problems.

My noble friend Lady Walmsley will talk more about two other areas, including how exclusive we want apprenticeships to be. Are we going to exclude the disabled from access to apprenticeships? There are problems in accessing apprenticeship courses for those with learning and physical difficulties. They are not always attractive to employers. There are quite a lot of programmes that help such people to move towards apprenticeships. I am fully aware that the funding cut-off is extended to the age of 25 when learning difficulties or any form of disability are involved. Nevertheless, the need here for access to an apprenticeship is very important.

The second group is made up of those who drop out of school, often at the age of 13 or 14, and later discover that they have more talent than they ever realised. Such organisations as the Rathbone Society and Barnardo's pick them up and help them to move back into this area. We do not want apprenticeships to exclude the disadvantaged and be there only for the advantaged. It is vital, therefore, that we look at flexibility. Our amendments in the fourth group that we will debate today try to introduce some flexibility to the Bill. That flexibility needs to be there, at least in the shorter term. I believe that we need it in the longer term. We do not want apprenticeships to exclude those

[BARONESS SHARP OF GUILDFORD]

who, for one reason or another, are disadvantaged. There is a silver spoon for those who go through school, taking GCSEs and A-levels, and go on to university. You could argue that there is another silver spoon for the bright kids who can pick up vocations. What about those for whom a vocational training is utterly right but whom the current school curriculum just turns off when they are 12, 13 or 14? As I say, they may discover later that they have abilities. These are the people whom Rathbone and Barnardo's pick up. If we seek to make the most of the potential of all these young people, it is vital that we offer them the opportunity of an apprenticeship.

**Lord Elton:** I hope that the noble Baroness will forgive me. She is very anxious about the exclusion of people with disabilities or learning difficulties, which we sympathise with. Could she direct my attention to what in my noble friend's principal amendment amounts to an exclusion?

**Baroness Sharp of Guildford:** If you write into the Bill that they must be employed, it can create difficulties in this respect.

**Lord Elton:** I am sorry, but I am asking how it excludes disabled people, rather than others. I take the point that if the jobs are not there, people cannot be employed. The question then arises of whether we ought to call these apprenticeships but that is a wider debate. I am asking how a handicapped person is excluded by the proposed new clause.

**Baroness Sharp of Guildford:** They are not, necessarily, obviously, but there are occasions when those with disabilities—as everyone will know—find it extremely difficult to get jobs because of problems of physical or other access. If you look at the proportion of young people with disabilities of one sort or another who are employed, it is extremely low compared to the general proportion.

I declare an interest as a member of the Skills Commission, which is an all-party group. It has done several studies of different areas of skills. When the Bill was introduced in the other place, the commission was looking at this. We looked in particular at what are called programme apprenticeships and of sorts of apprenticeship. By and large, the commission agreed that the sort of training that provided very little in the way of work-based training—in particular by further education colleges—is not acceptable.

We have concluded that we have particular sympathy with the principles behind the amendment. In particular, as I mentioned at the beginning, we are very sympathetic to having the definition of an apprenticeship in the Bill, but we believe that there has to be an element of flexibility to allow for the exceptions that I have mentioned. We have drafted a series of amendments that can introduce such flexibility to the Bill without running a coach and horses through its principles. These will shortly be introduced by my noble friend Lady Walmsley. While we have sympathy, we do not wholeheartedly go along with the Opposition in endorsing the whole raft of amendments that they have tabled here.

**The Earl of Listowel:** While welcoming what the noble Lord, Lord Hunt of Wirral, has said about it being clear in the Bill about exactly what an apprenticeship is, there is a difficulty, which the noble Baroness, Lady Sharp of Guildford, has raised. As David Blanchflower, the retiring Monetary Policy Committee member, said last night, we have seen the worst month's employment figures ever, with the largest, and highest percentage, increase in one month. He spoke of a lost generation of young people. We are talking about nearly 900,000 under-25s now, and when the class of 2009 graduates there will be more than a million. When we have this problem, we particularly wish to think about the issue that the noble Baroness referred to—and was raised by Rathbone and Barnardo's—of not just children and young people with disabilities, but those who are on the margins. The noble Lord, Lord Hunt, referred to defining an apprenticeship as having to be paid employment. There are concerns, which we will come to later, that there should be some flexibility and that some unpaid programmes should lead to paid employment and could particularly benefit young people who might otherwise be disengaged from any idea of employment. While welcoming the broad thrust of what the noble Lord said, I think that there is that concern on the side.

**Lord Sheikh:** I support all the amendments in this group. However, I want to talk specifically about Amendments 1, 3, 6 and 13. Amendment 1 seeks to define an apprenticeship to ensure that employers are compliant with the terms of an agreement. This definition is essential to the success of apprenticeships, as it clearly states what is required of employers, thus ensuring that apprentices gain broad knowledge and interest in the specific industry.

The purposes of an apprenticeship are threefold. They are vital in making sure that apprentices develop the practical skills and qualifications that will enable them successfully to gain employment in their chosen industry. The contents of apprenticeships must be in synergy with the demands of employers in a specific industry. It is crucial that relations of mutual understanding and respect are fostered between employers and apprentices. This would promote the likely scenario that the employer would be willing to offer an apprentice a job in their company after the completion of an apprenticeship.

The proposed new paragraph (b) in Amendment 1 requires an employer to provide a varied apprenticeship programme that encompasses both on-the-job and off-the-job training. This amendment is of particular importance as it will give apprentices the opportunities to master their fields across a spectrum of practical and office-based learning. It is a common occurrence for some employers to state that many of the younger employees excel in the textbook application of their duties, but are lacking in the vocational sense. I congratulate my noble friend on this amendment as I feel it will be strongly supported by employers and apprentices alike.

The proposed new paragraph (c) in Amendment 1 seeks to provide apprentices with training that has the long-term goal of providing apprentices with an award of proficiency that is recognised in their field. This will work towards enabling apprentices successfully to gain

employment in their chosen trade. The development of a qualification that is respected and recognised in the industry will give learners confidence in their achievement and could also lead to international recognition of British apprenticeships. This would greatly support and promote our young people, while creating a reputation for Britain as a place where apprenticeships are highly valued, which would consequently boost our economy.

Amendment 3 makes provision for supervised training in the workplace as part of an apprenticeship. The value of practical work experience in a chosen field must not be underestimated. By providing supervised training as part of an apprenticeship, the employer may offer further guidance to the apprentice that may not occur otherwise. This amendment has additional benefits to learners in the sense that supervisors may feel inclined to ensure that the apprenticeship is successfully completed. This is a likely probability as the amendment could lead to employers building a rapport with learners that may lead to long-term mentoring after the completion of the apprenticeships.

I welcome Amendment 6 on the issue of apprentices' certificates as it makes supervised training in industry a provision for which a certificate cannot be issued in its absence. This provision will ensure that learners get a broad experience of what working in industry will entail. The difference between apprenticeship and the traditional academic path of study essentially rests upon this requirement. This amendment will also add legitimacy to apprenticeships and will encourage a greater commitment from learners to really apply themselves to their courses. Students are awarded certificates after successful completion of their GCSEs and A-levels; it is right that this should be the case for completing an apprenticeship.

Amendment 13 states that employers should be given the freedom to decide upon the provision of the apprenticeships in relation to the workplace. Employers should be encouraged to sponsor apprenticeships and decide upon their content as they have full knowledge of the skills required by the industries. Apprenticeships should have the status of vocational courses, which are on a par with academic qualifications and give learners a clear path to a degree-level qualification. This method could prove to be an effective way of destroying the unfortunate stigma attached to vocational courses in certain circles. This amendment also provides apprentices with protection as they will be in a position to make a complaint should an employer renege on the terms of an apprenticeship agreement.

5.45 pm

**Baroness Perry of Southwark:** I, too, support these amendments. I have added my name to three of them that emphasise the element of supervised training. We all know that the quality of an apprenticeship depends very much on the supervision that is given in the workplace; how seriously the employer takes the responsibility of what is actually happening to the young person. I am sure that many other noble Lords have heard, as I have, some pretty grim stories of apprentices being pretty well left to their own devices with very little supervision of what is going on and very little constructive learning of the trade.

I hope very much that the Government will accept the amendment and support the amendments in the group that emphasise the importance of the employer's role as a partner in the young person's learning. It is not just the FE college that is responsible for the learning; it is very much the employer as well. I hope that the Government will take this on board.

**Lord Elton:** I also welcome this group of amendments. It is essential that we know what the Bill is about. I shall listen with great interest to the Minister's reply to the noble Baroness's question of how you carry on if you give an entitlement to something that does not exist. We have to agree on what we are offering an entitlement to. It seems to me that we cannot escape the necessity to define. The debate must surely be about what the definition is; it is not a case of whether my noble friend's amendment should be accepted but of the modification that would make them acceptable.

**Viscount Eccles:** I would like to try a line about inclusion. I think the whole House would agree that further education and training is a must; it is a necessity for everybody who can be persuaded or cajoled into becoming included. The question then is complicated by the fact that there is a mismatch between the demand for certain types of job and the supply of them. This mismatch affects apprenticeships.

Perhaps the classical apprenticeship is in Wagner's "Die Meistersinger von Nürnberg", between Hans Sachs and David. There you see a very small, self-employed firm in the shape of Hans Sachs, very much training on the job. My worry is that making apprenticeships all-inclusive may be a mistake; it would devalue apprenticeships, in my view. They need to be specific, as my noble friend Lord Sheikh was pointing out, and not a kind of class of further education available to all. Surely we can achieve the inclusion through other available methods: through further education colleges, training, Rathbone and all sorts of ways.

I end on one thought. There is a certain danger of there being a mythology about apprenticeships. Apprenticeships after all were originally about craft. In many industries, including those that I have been in myself—I cited the foundry industry at Second Reading—we have been deskilling, in the craft sense, for years and years. We have been putting in much larger chunks of capital in order to reduce the need for craft labour. We have then had to put a great deal more emphasis on numeracy, literacy and the ability to handle IT in all sorts of shapes and forms. I shall cite just one example. Lace-making is done very little by hand and almost wholly on large machines. The skill is in the setting up of the machine, not in the operating of it. Once you have set the machine up with the right fibres in the right places, the floppy disk in the end of the machine can be sent to China and put into the same machine made by the same German manufacturer, and out comes the same lace. The skill is in the setting up and the maintenance of the machines. It is entirely specific. I am concerned that we do not believe that in some way we can generalise apprenticeships to be the all-inclusive form of further education and training that is implied if we do not accept the amendments.

**The Earl of Listowel:** Briefly, I want to support the noble Baroness, Lady Perry of Southwark. I was speaking recently to, I think, a 20 year-old woman who had been doing a two-year apprenticeship that she had failed to complete. Her first comment was that she and her fellow apprentices very much valued individual supervision with their supervisor, but she did not feel that they had had sufficient of it. Then there was the issue of the way in which the supervisor treated the young people, which I will not go into now. That interview brought home to me the importance of our doing all we can to support supervisors in what they are doing.

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green):** In prefacing my reply I should declare my interest as a former apprentice. I suppose, so I have had some experience. Admittedly it was one or two years ago but it left a searing impression on me, in the best possible way.

I shall set the scene before I launch into the detail. I do not want to engage in a particularly bipartisan way but I can resist anything except temptation, as Oscar once said. We pay tribute to the role played by the noble Lord, Lord Hunt; unfortunately, I was not at Second Reading but I observed the point about his involvement with the modern apprenticeships. Yes, the numbers had grown a bit, but from a very low base. Unfortunately, only just over 27 per cent of people were completing their apprenticeships, so nearly three-quarters were not. Maybe noble Lords think that it is hyperbole, but I believe that it is right to say that we have witnessed a renaissance in apprenticeships, because 10 years on we have 250,000 and nearly two-thirds of people are completing them. That is something to be proud of. It needed to be done, and perhaps I acknowledge that it built on a foundation. That is fair.

There were lots of comments about the importance of quality, which I will address. The noble Baroness, Lady Sharp, made the point about employers, and that we need to ensure that we continue to generate apprenticeships if we are to meet the entitlement in 2013. I agree. That is why the Government have taken a number of steps to ensure that we do that including, as was specifically announced at the beginning of the year, £140 million for another 35,000 apprenticeships—15,000 in the private sector and 20,000 in the public sector. It is true that the public sector had 20 per cent of the employees and 10 per cent of the apprenticeships; I described it as apprenticeship-light, which is why we need to drive on that. I also draw to noble Lords' attention that we have made it mandatory when people bid for public procurement contracts—first in construction, but we are moving on to IT and facilities management—that they will have to contain the number of apprenticeships and specify training. That will be another important area for generating apprenticeships.

I was interested in and agreed with the point made by the noble Baroness, Lady Sharp, about universities. Not only universities but schools and FE colleges have opportunities. Indeed, we have a champion for their promotion in universities, and another in FE. Some progress is already being made in those areas. We have

created the National Apprenticeship Service precisely for that reason—to drive the creation of apprenticeships, and to be the one-stop shop for employers. Of course, we have also implemented the national Apprenticeship Vacancy Matching Service, where young people, teachers and parents can check what apprenticeships are available and employers can register their vacancies. It is in its early days, but it is already beginning to have some success. There is no doubt that, in the current environment, we will need to push as hard as we can to ensure that employers understand the need for apprenticeships. By and large, we are in a different situation from that in previous recessions. There seems to be recognition that apprenticeships will provide the core skills of the future.

The best thing I can say about the concerns on disability is that we will address a lot of them on the fourth group of amendments. I do not want to anticipate too much of that debate, except to make it clear that it would be totally wrong to create an environment in which people with disabilities were excluded from apprenticeship opportunities, of course.

Amendment 1 proposes a definition of an apprenticeship, and Amendment 13 would require that the proposed components of the definition were inserted in the interpretation of an apprenticeship framework. Amendment 70 uses part of that definition in relation to Clause 35, which regards careers education. I understand the intention behind these amendments, but we consider such a definition unnecessary.

Part 1 sets out the four key elements that together provide the structure for the operation of statutory apprenticeships. The specification of apprenticeship standards will set out the standards that all apprenticeships in whatever discipline must satisfy. Apprenticeship frameworks, issued by the sector skills councils, will set out the specific requirements for apprenticeships in different trades or sectors. We are going through consultation at the moment on the specification and standards for apprenticeships in England. Apprenticeship agreements will in effect be the contracts between the employer and the apprentice, setting out their respective responsibilities and what each can expect from the apprenticeship experience. They will be really important. I concur with the points made by the noble Baroness, Lady Perry, about the importance of quality. That is what we are looking for. The Bill is about not just creating more apprenticeships but ensuring that they remain a respected brand, with people feeling that they are being given a real career opportunity and delivered a quality experience. Apprenticeship certificates, issued by the National Apprenticeship Service, will carry the appropriate sector skills council logo as an endorsement, and certify that the requirements of an individual apprenticeship framework have been met.

I recognise that the desire of noble Lords opposite to set down in statute a concise definition of an apprenticeship flows from a genuine desire to ensure that the standards of apprenticeship are maintained. I share that ambition; it lies at the heart of why we have decided to legislate again on apprenticeships through this Bill. However, we believe that the quality will flow not from a few rather high-level and unspecific points included in the proposed new clause, but from the

robust operation and monitoring of the four core elements of the apprenticeship programme that I have set out.

A key part of the proposed definition in Amendments 1, 6, 57, 61 and 178 seeks a requirement in the Bill that an apprenticeship should include supervised training in the workplace. Of course I concur with that view. It lies at the heart of what an apprenticeship is delivering. It is no good delivering technical qualifications if the individual does not have the core competence and practical skills. A fundamental part of any apprenticeship is supervised training on the job with the support of an experienced work colleague. At the same time we should involve structured learning, away from the immediate work station. It must lead to competence in the relevant trade, profession or occupation. I humbly submit that merely referring to those elements in the way proposed by the noble Lords opposite does not complete the task. If I were an apprentice starting out, I would want to know how much time I could expect to spend away from the workplace and in college. I would expect to know what my employer proposes to do to ensure that I receive the appropriate training and support while in the workplace. I would want to know clearly what knowledge and skills I would need to demonstrate to complete my apprenticeship.

6 pm

In the same way, if I were an employer, I would also want to know precisely what my responsibilities were. That balance of rights and responsibilities needs to exist in this agreement between the employer and apprentice. Clearly, it would be impossible and inflexible to specify all this information in primary legislation for all 200-plus existing apprenticeship frameworks. Rather, it is better to specify these details in the specification of apprenticeship standards. Remember that we are enhancing those standards and criteria that we expect to be contained in an apprenticeship framework. Those standards will be the criteria that will determine the quality of an apprenticeship framework. They will be a matter of discussion and negotiation between employers and the sectors skills councils. They will be matched against the specification and standards.

I recognise the argument that for many employers supervised work-place training will come naturally. I do not want to name any particular employers, but a number of good employers run first-class apprenticeship schemes. We want to make sure that there are not any situations where young people or mature apprentices end up in an environment where only lip service is paid to an apprenticeship agreement and people could be seen as being used as cheap labour. We need to be watchful for the rogue employer who will neglect his or her responsibilities and merely use the apprentice as cheap labour. While we were considering the amendments and the genuine concerns being expressed, it seemed to me that it would be appropriate if something apart from the specification laid down in the agreement between the employer and the apprentice was received by the apprentice at the commencement of their apprenticeship that made clear the rights and responsibilities of the employer and of the apprentice as well. We are looking at that.

If apprentices have a complaint about the quality of the apprenticeship, we want to ensure that they know that they can raise that complaint with the National Apprenticeship Service. We treat seriously noble Lords' comments about the importance of quality in any apprenticeship agreement.

The *Specification of Apprenticeship Standards for England* and its Welsh sister document will require all apprenticeship frameworks to set out the principal qualification, in terms of the level of competence required; the level of knowledge and skills needed to complete the framework; and that only accredited qualifications can be used to meet the competence and knowledge elements of apprenticeship frameworks. That will be based on the accreditation process operated by Ofqual in England and the Department for Children, Education, Lifelong Learning and Skills in Wales.

I also confirm that we plan to consult on the basis that the apprenticeship agreement, agreed by the apprentice and the employer, will set out the levels of on-the-job training and away-from-the-workstation structured learning. The apprenticeship agreement will also specify the total amount of training that will be undertaken to meet the requirements of the specific apprenticeship being undertaken, including both training on-the-job and training away from the workstation.

If a rogue employer is renegeing on their commitment through the apprenticeship agreement, the young person will be able to hold them to account in the same way as through any other contract of employment. They will also be able to complain to the national apprenticeship service, and we will ensure that young people embarking on an apprenticeship are aware of their rights and where they can go if they have a problem. That is profoundly important. In the light of all these safeguards, and in particular the assurance I have given that the apprenticeship agreement will include specific provision relating to work-based on-the-job training, I do hope that the noble Baroness and noble Lord will be prepared to consider withdrawing their amendment.

**Lord Elton:** The centre of the noble Lord's opposition to my noble friend's request for a definition of apprenticeship seemed to be a list of other provisions that could not be written in the Bill. I do not see that that has anything to do with the matter.

The second leg of his argument was, as I recall, that a great deal of the definition would become clear in regulations and agreements. That would fit inside the definition that my noble friend proposes, which would be a requirement that those standards and specifications should be in the agreements about which he is speaking. He is asking to have robust machinery to deliver what the noble Lord is offering. I hope therefore that he will not be as antagonistic to it as he has been.

**Lord Young of Norwood Green:** I am hurt. I did not believe that I was being antagonistic—I thought that I was being emollient. Rather than trying to write all that information into the Bill, it will be most effective in the specification and standards, and in the apprentice agreement. Those documents will define the quality of the apprenticeship framework. I attach a great deal of importance to that matter, which is about setting the standards and quality.

[LORD YOUNG OF NORWOOD GREEN]

The next document that addresses a number of concerns that have been raised by noble Lords is the agreement. We must ensure that it is not just dealt with theoretically in a framework but that the agreement between the employer and the apprentice lays down clearly the obligations on the employer in terms of workplace learning and away-from-the-job learning. Those places are the most effective to address the concerns that have been expressed here.

**Lord Elton:** The other thing that puzzled me about the noble Lord's remarks is that he spent a great deal of time agreeing with my noble friend that an apprenticeship would naturally include a great deal of on-the-job instruction and supervision. His answer to the question of the noble Baroness, Lady Sharp, about what happens if the jobs are not available as described seemed to be a case of "it will be all right on the night". Can he give us any specific assurance as to what will happen if there are more candidates than places?

**Lord Young of Norwood Green:** My answer was a little more explanatory than, "It will be all right on the night". I pointed out a number of areas where the Government had explicit proposals, whether it was in public sector apprenticeships, where we are investing more money; or public procurement, where that will generate apprenticeships; or the creation of the National Apprenticeship Service, where we believe that it is important to have a body. We do not believe that we can leave the matter to chance. We will have to work hard in the current environment.

I am merely pointing out that in going round and meeting many employers—large, small and medium-sized enterprises—I detected a different mood and much more willingness to understand that if they do not continue training in the current environment, when we inevitably come out of this recession, we will be where we were previously, lacking skills that are desperately needed in UK plc.

**Lord Brookman:** I do not want to prolong the discussion, but everything the Minister said is right. What on earth are we talking about here this evening? The Minister has a background of looking after working people, apprentices and so on and so forth. He is trying to do the best for working people in this country. Why do we not accept that?

**The Earl of Listowel:** Before the Minister replies to that statement, may I briefly interject to prevent him having to get to his feet again? He has so much experience in this area that his response was very comforting. He clearly outlined that young people will know that if they are being hard done by, they have someone to turn to in the workplace, and they will have a clear idea of what to expect. That is comforting to me.

I have two specific points, and the Minister may prefer to write to me on them. First, there is the point raised by the young woman. In the apprenticeship agreement, will there be, in most cases, an idea of how much individual supervision the applicant will receive? That may be a detail too far, but it might be helpful for young people. Secondly, speaking with supervisors in

the past, they have said to me that bringing on young people is a wonderful job, but it can involve a lot of stress. This may be outwith the Bill, but I would appreciate hearing what sort of support supervisors would be expected to receive when working with young people, sometimes quite troubled young people or perhaps challenging young people. The Minister might prefer to write to me about this rather than reply now.

**Lord Young of Norwood Green:** I think that would probably be best. I accept what my noble friend said but, nevertheless, I am sure that there will, as ever, be a robust exchange of views. Perhaps the Bill will benefit from that.

**Baroness Sharp of Guildford:** The Minister said that we need the specification, the standards and the agreement. They are all defined in the Bill. The problem is that the definition of an apprenticeship is spread out in bits and bobs throughout the Bill. I started by saying that we have some sympathy with the notion that we need to start by having a clear definition of what this is about. My noble friend Lady Walmsley has pointed out to me that while I was objecting to some extent to the notion that an apprentice must be employed, the wording of the amendment is that an apprenticeship is, "an agreement with an employer to train a person".

The Barnardo's or Rathbone type of scheme frequently involves an agreement with an employer. As far as the Skills Commission was concerned, if we looked to programme-led apprenticeships, they had to involve a great deal of workplace-based learning leading on to an agreement with an employer.

We have all this business about the specifications and so forth, but they mean much more if they start off with a general definition. We may want to add to it, but it does not exclude the rest of the Bill in any sense. The rest of the Bill builds on a definition that could be at the beginning.

6.15 pm

**Lord Young of Norwood Green:** The noble Baroness talked about the nature of the employment relationship. There is a balance to be struck on two fronts. One was addressed by the noble Viscount, Lord Eccles, when he talked about sustaining the quality of apprenticeships. That is very important. Whatever we do, we must ensure that we do not dilute the brand. We are going to deal separately with ensuring that people with learning difficulties and disabilities have access to apprenticeships.

Another problem was defining an apprenticeship. When we counted them, the Government took a view that the best way of ensuring that we had a clear and acceptable definition was by stating that there had to be workplace employment. An apprenticeship could not be completed without that connection. We can address the Rathbone and Barnardo's thing in the right place as I do not want to confuse this debate. There are other flexible approaches, but we are trying not to have the arguments and debates about how many apprentices we have that we had with programmed apprenticeships. People argued that they were not proper apprenticeships but simply college-based work with insufficient on-the-job training. We have taken a

fairly hard line on this, but there is some ability to be flexible to address specific situations. For example, the noble Baroness, Lady Sharp, pointed out that young apprentices, especially in the construction industry, were being made redundant. We wanted to ensure that if we could not find alternative employment, which we did for hundreds of them by having a construction industry vacancy matching service, if they were six months away from completing a two or three-year apprenticeship, we enabled them to complete it in a college, provided they had had sufficient on-the-job workplace experience. That is an example of flexibility.

**Baroness Howe of Idlicote:** I have been listening to all of this because I have considerable sympathy with all the points that have been made. However, the longer I have listened, the more I have sympathy with the point made by the noble Baroness, Lady Sharp, that it might be possible to construct a general definition out of the definitions that are scattered around the Bill, which would help us start off on the right foot.

**Lord Young of Norwood Green:** I hear what the noble Baronesses, Lady Howe and Lady Sharp, said. We think we have got the specific definitions in the right place in the apprenticeship standards specification and the apprenticeship agreement. We will look at the points that have been made, but we believe that that is where we should refer to the detailed requirements. We believe that that will have the most effect in relation to apprentices. They will not be looking at the legislation to find a definition of their apprenticeship, but at the agreement between them and their employer. If we want to look at what an apprenticeship framework represents, we will look at the standards. That is why we believe that is the appropriate way. However, we will look at the scattering to see whether there can be any improvement, but we believe we have it about right.

**Lord Hunt of Wirral:** What an interesting debate this has been. First, I welcome the noble Lord to his new position as Parliamentary Under-Secretary of State at the Department for Business, Innovation and Skills. I am delighted with his appointment as he knows a great deal and, as his noble friend Lord Brookman said, he was an apprentice. But I would differ with the noble Lord, Lord Brookman, in that we have moved on from the sort of apprenticeship that the noble Lord undertook. I pay tribute to the TUC and the CBI and to the work of the noble Lord, Lord Lea. I see the noble Lord, Lord Morris, in his place. A number of noble Lords helped us all to try to move forward with the whole notion of apprenticeship.

The noble Lord has sought to clarify for everyone that the Government have given a great deal of thought to the question of whether there should be a definition of apprenticeship. They have concluded right at the outset that there should not be such a definition. As the noble Baroness said, it is contained all over the place. The noble Lord tried to explain by saying that it could all be in the agreement—part of what the employer agrees to. But that is a sort of bureaucratic answer. I want someone to know what an apprenticeship is. I pay tribute to my noble friend Lady Perry of Southwark and a number of other noble Lords, including my noble friends Lord Sheikh and Lord Eccles.

The noble Earl, Lord Listowel, made a very important contribution, which was absolutely on all fours with what my noble friend Lady Perry said. My noble friend Lord Elton pinpointed this area by giving the Minister a chance to say, “All right, we will go away, have a look and try to reach a decision about what the definition should be”. The noble Lord had that opportunity, but he sought to avoid it by resorting to something that I used to have to do—defend the indefensible. I readily admit that there were those times, and I sense that deep down he would like a definition.

I pay tribute to the noble Baroness for all her experience. She served with Tim Boswell, my honourable friend in the other place on the Skills Commission, and has done valuable work at Guildford College of Further and Higher Education. We will come to many of her points in other debates. There must be no barriers; no bar. Some of us have been discussing how we recognise pre-apprenticeship and how apprenticeship becomes part of an ongoing process, which is extremely important. This is the new way in which real apprenticeships can be fashioned.

As always, I found myself in total agreement with the noble Baroness, Lady Howe of Idlicote. We have a sense that we want a general definition. What on earth should I do? My noble friends Lady Verma and Lord De Mauley have given me the answer. I am moving Amendment 1. Let me make it clear that I am doing it because I wish to have a definition, but not one that excludes. I cite the three proposed new subsections referring to,

“an agreement with an employer to train a person, using the practices, equipment and personnel of his or her enterprise in doing so ... a mixture of on and off-the job learning”—

the balanced point—

“and ... training designed to lead to a generally recognised level of proficiency in a trade, profession or occupation”.

That is the limit on which I wish to test the opinion of the Committee.

I believe that there should be a definition. Whether this is just a step—the noble Lord said that perhaps this is the start of the process and believes that it can be achieved in other ways—I think we ought to pause for moment to ask whether this is the path we want to follow. Let us have a definition. This is a good start at a definition. There is more to be done and more amendments to come. In the mean time, I beg leave to test the opinion of the Committee on Amendment 1.

6.25 pm

*Division on Amendment 1*

*Contents 135; Not-Contents 112.*

*Amendment 1 agreed.*

#### **Division No. 1**

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### 6.35 pm

#### Amendment 2

#### Moved by **Baroness Sharp of Guildford**

**2:** Before Clause 1, insert the following new Clause—

“The National Apprenticeship Service for England

(1) There shall be a body corporate known as the National Apprenticeship Service for England which shall be the ‘English certifying authority’ in relation to apprenticeships.

(2) In Parts 1 to 5, that body shall be known as the NAS.

(3) Except as provided in sections 9 and 10, the NAS is to perform its functions in England only.”

**Baroness Sharp of Guildford:** In speaking to this amendment, I shall speak to all the other amendments in this grouping in my name and that of my noble friend Lady Walmsley.

As presently set up, the National Apprenticeship Service is an agency working under the Skills Funding Agency, which, as established in this Bill, is not a non-departmental public body with its own board and its own chair but a next-steps agency and part of the new Department for Business, Innovation and Skills.

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Liberal Democrats have considerable reservations about replacing the Learning and Skills Council, which is a non-departmental public body, with the YPLA, which again is a non-departmental public body, and the SFA, when the SFA is not set up as a non-departmental public body but is under the thumb of the department and is set to administer so many different sub-agencies.

The SFA has four distinct sub-agencies working under it: it will administer the Adult Advancement and Careers Service, the Train to Gain service, the National Employer Service and the National Apprenticeship Service. This is all part of the complex changes to the machinery of government that have been introduced as the successors to the LSC. Now we have yet more such changes. Initially we had the separation of the under-19s into the Department for Children, Families and Schools and the over-19s into DIUS. Now DIUS has disappeared and further and higher education and skills have all moved into the mammoth new Department for Business, Innovation and Skills. The danger is, of course, that they will get lost and that a next-steps agency within that department, amid masses of agencies that that department runs, will also get lost.

We believe that the National Apprenticeship Service is thoroughly important. We were delighted when the Government proposed to set it up and we certainly endorse its broad aims. We believe that it should be a non-departmental public body in its own right, with its own chair. Its aims should be, first, to champion apprenticeships among employers; secondly, to liaise with the sector skills councils; thirdly, to award certificates; fourthly, to operate the Apprenticeship Vacancy Matching Service, which is now beginning to emerge and which was one of the main recommendations in the Select Committee report on apprenticeships from your Lordships' House; fifthly, to liaise with the DCSF and local authorities to increase demand for employer-based 14 to 19 apprenticeships, including public sector apprenticeships; sixthly, to ensure that proper careers guidance in schools and colleges about apprenticeships is delivered; seventhly, to promote 14 to 15 pre-apprenticeship training, with schools and colleges collaborating with each other; and, lastly, to liaise with the Department for Business, Innovation and Skills, the Department for Children, Families and Schools, the SFA and HEFCE to promote levels 1, 2, 3 and 4 apprenticeships and progression within those apprenticeships.

All these are worthwhile objectives for the National Apprenticeship Service. We feel strongly that the service should be able to stand on its own and promote those objectives. We worry that, as set up as a next-steps agency under the wing of the Secretary of State, it will not have the degree of independence or business leadership that it needs. For example, in Clause 11, it is the Secretary of State who runs the show and chooses who shall be designated to issue the frameworks; in Clause 21, the Secretary of State tells the chief executive of skills funding to prepare the specification; in Clause 80, the Secretary of State tells the chief executive again what he should be doing. Much too much micromanagement is written into the Bill.

Our vision is that the Bill should set up the National Apprenticeship Service with its main functions. Clauses 81, 82, and 83 set out the sort of functions that we think should be included. We would hope also to look at apprenticeships for the post-19 group. In this Bill, that is a big black hole at the moment, yet, if you talk to employers, they will tell you that they have more people aged over 19 wanting to take up apprenticeships than they have people under 19. This is the area of big expansion in apprenticeships at the moment, yet this Bill hardly deals with apprenticeships for those post-19.

As I say, we would like the National Apprenticeship Service to be set up as what is known as a non-departmental public body, with its own chair, with its own board and with a secure set of objectives. There should have been a fourth subsection to Amendment 2, which has three subsections. We had added a fourth subsection that there should be a schedule that makes further provision for the National Apprenticeship Service and we would have modelled that schedule on Schedule 3, which sets up the YPLA as an NDPB. We could quite easily have gone through it all and changed "YPLA" to "NAS", but we talked to the clerks and they suggested that perhaps it was not sensible to waste all those trees in printing; we, too, felt that it was not sensible to waste the trees on this occasion. Therefore, the Committee has not been presented with a Marshalled List of an extra eight or so pages; I think that noble Lords are probably quite glad of that. However, that is how we would like to set up the service.

The substantive amendments are Amendment 2, which would set out the National Apprenticeship Service as a body corporate; the question whether Clause 4 should stand part, as the English certifying body, as far as we are concerned, should be the National Apprenticeship Service and not the chief executive of skills funding; and Amendment 16 to Clause 11, which would designate the National Apprenticeship Service as the body responsible for issuing general guidelines and the general specification in relation to apprenticeship frameworks and for designating other persons. We shall talk about that later, because, as we all know, "person" in parliamentary draftsmanship can mean a body as much as a person—in this case, the sector skills councils. Our vision is that the National Apprenticeship Service should be responsible for the general specifications in relation to apprenticeships, with the sector skills councils responsible in relation to specific sectors. Finally, we question whether Clause 80 should stand part, to prevent the Secretary of State from constantly interfering. This is our vision. This is what we would like to see.

There is one question that I should like to put to the Minister. What is the strategic role of the Secretary of State in relation to skills? Section 10 of the Education Act 1996 has a general duty for the Secretary of State:

"The Secretary of State shall promote the education of the people of England and Wales".

Section 11 states, under the heading "Duty in the case of primary, secondary and further education":

"The Secretary of State shall exercise his powers in respect of those bodies in receipt of public funds which—

(a) carry responsibility for securing that the required provision for primary, secondary or further education is made—

[BARONESS SHARP OF GUILDFORD]

(i) in schools, or

(ii) in institutions within the further education sector, in or in any area of England or Wales, or

(b) conduct schools or institutions within the further education sector in England and Wales,

for the purpose of promoting primary, secondary and further education in England and Wales.

(2) The Secretary of State shall, in the case of his powers to regulate the provision made in schools and institutions within the further education sector in England and Wales, exercise his powers with a view to (among other things) improving standards, encouraging diversity and increasing opportunities for choice”.

The general duty of the Secretary of State to promote the education of people in England and Wales was written into the Education Act, but what is the general duty of the Secretary of State—we have now two Secretaries of State—in relation to skills? Do we not need a similar commitment from the Secretary of State in relation to skills? Do we not want the Secretary of State to work with local authorities, industry and other bodies to ensure that there is necessary provision to deliver the Government’s commitment? An important part of that commitment is the entitlement given to young people by this Bill: if they wish to be trained through an apprenticeship and have the necessary capabilities to cope with that training, they should be able to do so. We think that it is important that the body charged with delivering that commitment should be given the status and independence that it deserves. We are proposing this series of amendments to set up the National Apprenticeship Service as a service in its own right, with its own board and its own chair. I beg to move.

6.45 pm

**Lord Hunt of Wirral:** I have some sympathy with the amendments that the noble Baroness, Lady Sharp of Guilford, has just proposed. As it stands, the Bill introduces a statutory right to an apprenticeship. We very much share the desire to increase the number of apprentices. Nevertheless, as my noble friend Lord De Mauley said at Second Reading, one cannot simply legislate for improvements; one has to make them happen. Once we get into the nitty-gritty of attempting to provide the mechanics, we see, as the noble Baroness has just pointed out, the complex intricacies of the relationships between the Government’s many institutions. My fear is that this can only have a damaging impact on the growth of an apprenticeship system, which I hope and expect all noble Lords right across the Chamber are keen to see develop.

As the Bill stands, it is clear that the English certifying authority will be the chief executive of skills funding. Nevertheless, the Explanatory Notes state that it is expected that the chief executive will delegate the responsibility to the chief executive of the National Apprenticeship Service. I am not sure that the NAS needs a separate status, but given that the NAS will be responsible for the day-to-day running of the apprenticeship scheme, could the Minister please explain to us why it has been decided that the English certifying authority will be the chief executive of the SFA? This may be a sensible position for the NAS, but I should be grateful if the Minister could expand on the theory behind it for the benefit of us all.

In discussions in another place, my colleague Mr John Hayes talked about the sector skills councils as the issuing authority at the moment and as the bodies that, according to the Explanatory Notes to this Bill, are expected to help to develop frameworks for apprenticeships in conjunction with the standard-setting bodies. The argument is that it would not make sense for the sector skills councils to translate into the certifying authority, because then there would be too many different certificates, rather than just one produced by the NAS. Nevertheless, this need not prevent the NAS from being held accountable to the chief executive of skills funding. At the moment, the issuing authorities are the sector skills councils. After the Bill becomes an Act, the chief executive of the SFA will be the certifying authority who will then delegate the function to the NAS, which will sit inside the body of the SFA.

I understand from the Minister in another place that none of this will mean any “diminution” of the role of sector skills councils. I reflect for a moment that the Government are creating a complex web. I am not averse to the NAS remaining under the aegis of the chief executive of skills funding, but I very much look forward to hearing the Minister’s response. I hope that he will untangle it all for us with a clear explanation of the accountability and reporting functions of all these bodies. It is in that expectation that I await his reply.

**Baroness Perry of Southwark:** As so often, I greatly sympathise with what the noble Baroness, Lady Sharp, has argued. I also greatly sympathise with her aversion to the way in which the Bill gives so much more centralised power to the Secretary of State. We see the Secretary of State doing almost everything on every other page, and that is the wrong direction in which education should move or be controlled.

As I listened to the noble Baroness, I also had considerable sympathy with the concept that the NAS should have some kind of senior status within this appalling “network”, as my noble friend Lord Hunt so graphically described it, of quangos that the poor people on the ground who have to deal with all these various bodies have to cope with. The Minister himself said that there have been attempts to improve the status of apprenticeships and to increase the number of young people going into apprenticeships, which the country so badly needs, so would it not be a gesture to say that the NAS should be separate from a funding individual or agency that regulates the money? The NAS should be there to ensure that the apprentices have a proper experience of quality, that the numbers of employers who are prepared seriously to take on apprentices improve and that the numbers of apprentices steadily increase over the years.

I remember the early 1990s, or perhaps even the late 1980s—my memory goes back a long time now—when the NVQs were first introduced. I had the great fun of being on the national advisory council and working on the Aspire Training Team targets for NVQs. Separate from funding and regulation, our job was to encourage employers and more young people to take up NVQs. I could envisage something quite positive for the NAS in that sort of field—something that was separate, as I say, from the Skills Funding Agency, which will be

very much more a regulatory and finance-based kind of body. Although I am the last person to want yet more quangos in the field, I have a great deal of sympathy with the noble Baroness's arguments.

**Lord Low of Dalston:** I support the amendment because the National Apprenticeship Service needs a separate status. Under the Bill, as we have heard, responsibility for the apprenticeships service is given to the chief executive of skills funding. However, the agency that he heads—the Skills Funding Agency—has no life under the Bill, which does not even mention it. The head of the agency is the chief executive of skills funding, who will simply be a senior civil servant in the Department for Business, Innovation and Skills.

Three things are wrong with this. First, it means that the SFA is completely unaccountable to Parliament, unlike its predecessors the LSC and the Further Education Funding Council. Given that this agency will have responsibility for more than £5 billion of public expenditure on skills and development, this seems to be quite wrong. Of course, it will be accountable through the Department for Business, Innovation and Skills, as that department is accountable for all its activities, but it will have no direct accountability. Its accountability through a great department of state, such as the Department for Business, Innovation and Skills, will be much diluted—one might say almost to the point of invisibility.

Secondly, not being established on a statutory basis, the agency will be that much less immune from further ministerial and administrative tinkering. One might say that being established on a statutory basis has not proved to be much of an obstacle to Ministers tinkering in the recent past. Still, it would be preferable if the agency was firmly established on its own statutory basis.

Thirdly and finally, of particular importance is the fact that this also means that, unlike the LSC, the SFA will not be subject to the disability equality duty under the Disability Discrimination Act or to the public sector equality duty when it comes in under the Equality Act later this year or next year. It will fall under these duties only indirectly in so far as it comes within the scope of the department's duty. As will become clear as we go through the Bill, the activities of this agency will have a considerable impact on disabled people and the ease with which they can access apprenticeships, so its effective exclusion from the requirements of the equality duties is a particularly unwelcome feature of the Bill.

In summary, the amendment would remove the responsibility for apprenticeships from the SFA and create an accountable body, the National Apprenticeship Service, with general and specific duties under the Disability Discrimination Act and other equalities legislation. Given that the body will have an end-to-end responsibility for apprenticeships and government targets, this is not an unimportant matter.

**Baroness Howe of Idlicote:** I, too, support this series of amendments, and Amendment 2 in particular. The more I look through the document on the National Apprenticeship Service, the more the service seems to

have a great deal of responsibility; it will evaluate what is going on the whole time to see that it really is value for money and so on. However, we suddenly find out that it actually has very little authority of its own. It must work indirectly, really. Perhaps even more important, it does not seem to have quite enough accountability to the rest of us, other than what we are going to be told by the government department, BIS. The more I have listened, the more I think that there is a lot to be said for the amendment, which would set up a body that was rather more independent and responsible to all of us: the National Apprenticeship Service in a rather stronger form.

**Lord Elton:** I endorse what my noble friend Lady Perry has said, particularly about centralisation. If we must go on having centralisation, can it please be on Parliament and not on Ministers?

7 pm

**Lord Young of Norwood Green:** Amendment 2 would insert a new clause that would place the National Apprenticeship Service on the face of the Bill, changing its status to a non-departmental public body. The NAS would no longer be a discrete service within the Skills Funding Agency, and would have powers and duties in its own right.

I understand that in part the amendments have been inspired by concerns among some bodies, including members of the Special Educational Consortium, that the apprenticeships programme be established under a single entity. I must admit that we were puzzled: given the criticism that we have faced for the number of public bodies that the Bill already creates, I hope noble Lords will forgive me for expressing some mild surprise that we are being encouraged to establish yet another one.

That said, I can assure the House that establishing the NAS as a separate NDPB was certainly one of the options that we considered when framing the legislation. We discounted it because we believe that there are significant benefits from housing the NAS within the Skills Funding Agency. In particular, it will ensure that apprenticeships form a key part of the overarching skills agenda managed by the Skills Funding Agency. That connection may be lost if the NAS has the level of independence and status conferred by being a separate NDPB, and would create the potential for the NAS to separate itself from the overarching aims and objectives of the Skills Funding Agency. It should be a part of that, not something separate. We understand the need to focus on apprenticeships, but apprenticeships must be part of a skills and training programme that is helpful to our policy aim of achieving a more coherent system for learners and employers.

In creating the Skills Funding Agency, a key design principle has been to ensure a much stronger employer and learner focus, and that it why it will house a number of discrete client-facing gateways. As well as the National Apprenticeship Service, these will include Train to Gain, an employer skills service including the National Employer Service and the Adult Advancement and Careers Service, ensuring that all of these gateways offer a coherent package to learners and employers.

[LORD YOUNG OF NORWOOD GREEN]

Within this structure, the National Apprenticeship Service will have a significant level of operational independence, as its activities will be managed by its own chief executive who will be directly accountable to the Secretaries of State for Business, Innovation and Skills and for Children, Schools and Families, bearing in mind that we have a range of apprenticeships from those age ranges covered by the DCSF and post-19. This structure will also enable more streamlined funding arrangements for colleges and other providers, as contracting for apprenticeships will be managed through an account management system which will sit within the Skills Funding Agency.

I understand that there are concerns about whether the Skills Funding Agency, and by extension the NAS, will be covered by discrimination legislation—a concern expressed by the noble Lord, Lord Low—such as the Disability Discrimination Act and the new Equality Bill. I can reassure the Committee that, as a government agency, the Skills Funding Agency will be covered by a single equality duty which will be placed on the Department for Business, Innovation and Skills by the Equality Bill when it comes into force. However, we also want to follow the spirit of this legislation, and following the practice of other agencies such as Jobcentre Plus, we will expect the Skills Funding Agency to have its own Single Equality Scheme. That requirement will be set out in the framework document that will underpin the relationship between the department and the Skills Funding Agency.

We will discuss the reasons for establishing the Skills Funding Agency as an agency rather than an NDPB at a later point in our consideration of the Bill, so I will not go into detail here. Suffice to say that it strikes an important balance between making the Skills Funding Agency, including the apprenticeships programme, responsive to evolving policy and giving it the legal accountability we would expect would accompany a budget of this scale.

The noble Baroness, Lady Sharp, said that we were micromanaging. I find that strange because many of these powers existed and needed to exist with the LSC as well. We had to have the ability for the Secretary of State to direct where necessary. For example, we do not regard as micromanagement the Secretary of State's powers to direct that certain key documents be produced, such as the specification of apprenticeship standards in England. This is all about delegating powers away from the Secretary of State. There is absolutely no chance of the Secretary of State wanting to intervene and micromanage as has been suggested. I would be interested to know a Secretary of State who had the time to do that, let alone the inclination.

We have already established the National Apprenticeship Service with its own chief executive already doing a good job in focusing on the important need for more apprenticeships and ensuring that we set the right standards. It is already functioning. There is no question of micromanagement in those circumstances. Will it be accountable to Parliament? Yes, it will be through its chief executive, who will be named in legislation and will be an accounting officer

in their own right. If Parliament wants to hold the CEO of the Skills Funding Agency to account, it can do so.

We believe that we have got it right. We would not say that the structure is simple, but we have tried to ensure in the new arrangements that we are devolving, which is the opposite of centralising. Part of the criticism of the current arrangements of the Learning and Skills Council is that it is a large, central body. We have been trying with this policy to push that power down towards local authorities and make the agency more responsive to employer demands, which is something that those on the Opposition Benches normally applaud. We do not believe that creating yet another NDPB is the right solution in the circumstances. I hope that I have addressed the points of concern raised by the noble Lord, Lord Hunt. I have dealt with the question of the chief executive of the NAS.

On the role of the sector skills councils, the nature of that relationship is fundamentally important. The most important part of the sector skills councils' job will be to work in conjunction with the employers—who, after all, make up the sector skills councils—on the design of the apprenticeship framework and to ensure that we sustain the largest number of apprenticeships possible. The role of the SSC will continue. The only thing that we have done is to enable the National Apprenticeship Service to be the body that issues the certificates and we believe that that is right. Again, we are ensuring that there is one standard apprenticeship certificate to ensure that there is a quality brand. As I acknowledged in the previous debate, the particular sector skills council logo will form part of that certificate.

I cannot accept that we have created a scenario where there is constant micromanagement by the Secretary of State. There are occasions where, I suggest to the noble Baroness, Lady Sharp, we would want the Secretary of State to have some power to direct if the circumstances changed—as they did on the question of apprenticeships being made redundant, for example. Powers would be exercised as they currently are only in urgent or necessary circumstances. There is no question of micromanagement. Again, I hope that that reassures the noble Baroness and that she will consider withdrawing her amendment.

**Baroness Sharp of Guildford:** I am grateful to the Minister for his response and to other noble Lords for their substantive contributions.

The Minister has made three points in response. The most important is that, in answer to the question of why the SFA and why this complicated system under it, it gives greater system coherence to the skills agenda. He talked about a more coherent system of learning and employment. I am not sure that it does; it is split between the YPLA and the SFA, so there is already a split between under-19s and over-19s, which actually complicates the whole apprenticeship area. A great advantage of bringing the National Apprenticeship Service into one body is that there is then a single body to champion apprenticeships and run the clearing house service that is so necessary.

The notion of having a single body gives it greater coherence rather than less, particularly because apprenticeship is such a satisfactory way for young people to learn by doing. That was another point that

came up in your Lordships' report on apprenticeships: it is the most satisfactory form of work-based learning. We want to see an expansion of apprenticeships and we want a champion; we want something that pulls together all the different bits so that it is not split between pre-19 and post-19 in the way that it is. There is coherence there.

Secondly, the Minister said, "Why on earth do you want to make another quango when we already have so many?". If he looks carefully at the Bill he will find that we, alongside the Opposition, do not want to see quite so many of them. Part of what we are about in the Bill is to try to ensure that there are not so many quangos in the offing. There is coherence in what we are proposing because it puts the National Apprenticeship Service under a single body.

He says that the SFA is about devolving responsibilities, not micromanagement. He says that all the instances where I accuse him of micromanagement were already written into the Learning and Skills Act. One reason why the Learning and Skills Council failed so badly was that the Government kept putting their nitpicking fingers into the council and telling it what to do. It might have done somewhat better if it had been left alone to get on with the job. I am not sure about that—it really did make a mess of its capital programme, didn't it?—but I do not think that it is a good example of how this should be done.

Thirdly, there is the whole question of accountability. The Minister says that of course it is going to be accountable: its chief executive officer will be its accounting officer, and he will be accountable to Parliament. That is true, but only through the Secretary of State for Business, Innovation and Skills or his Permanent Secretary. As we know perfectly well, the chief executive officer for skills funding is going to be a civil servant sitting within the Department for Business, Innovation and Skills, not a Minister. We are asking for a degree of accountability directly to Parliament. The point made by the noble Lord, Lord Elton, is a telling one: we want to see if we can get centralisation. "Let's have centralisation around Parliament"; this is what people are asking for now. We do not want more centralisation around the government Benches; we want to see Parliament being able to scrutinise to a greater degree what is going on.

This has been an interesting debate. We have opened up a number of fascinating areas here, and we will have to ponder this issue further. I put it to the Minister that there is coherence in what we are proposing. As he says, the National Apprenticeship Service is already set up, like so much that is in the Bill; it is already there in shadow form. We are being asked ex post to pass the legislation for what is already happening, and this occurs too frequently.

Having said that, I am pleased at what the National Apprenticeship Service, which has been going for six or nine months, has been doing. It is doing the right things, but I would like it to have greater autonomy. We will think more on these things, but for now I beg leave to withdraw the amendment.

*Amendment 2 withdrawn.*

*Amendment 3 not moved.*

7.15 pm

*Amendment 3A*

*Moved by Lord De Mauley*

**3A:** Clause 1, page 2, line 34, leave out paragraph (b)

**Lord De Mauley:** The amendment seeks to probe the Government on the purpose of the inclusion of the words "otherwise than for reward" in Clause 1(6). We want some clarity regarding the validity of apprenticeships for those who are working otherwise than for reward and the Government's intention in that regard. We cannot yet see why it is necessary, for example, to highlight unpaid apprenticeships in the way that this subsection does. Does it mean that those in work-based programme-led apprenticeships will be able to complete an apprenticeship but not to work under an apprenticeship agreement? I beg to move.

**Lord Young of Norwood Green:** We understand the intention behind the amendment, which is to ensure that the quality of apprenticeships and the apprenticeship brand is maintained, something that I have already committed the Government to, and which I think is demonstrated by our actions. We share that commitment, and it goes to the heart of why we are legislating on apprenticeships now.

An apprenticeship is a job. We see employment, particularly the apprenticeship agreement between the employer and the apprentice, as a central and fundamental part of the system of apprenticeships that we are establishing through the Bill. However, we think it is important, without in any way lowering the bar, to allow a degree of flexibility for apprentices who are working under alternative working arrangements in certain exceptional circumstances.

Clause 1(6) provides some examples of the kinds of working where regulations may provide for alternative completion conditions. It is intended to provide examples and a guide to where such flexibility may be needed. For example, we recently had some problems with redundancies in retail apprenticeships. One of the ways in which those apprenticeships could have been completed might have been by working in a voluntary capacity in a retail shop.

I reassure the noble Lord that in no way do we want to use this as a back door for programme-led apprenticeships, but there are circumstances where we believe that a degree of flexibility is both necessary and desirable. They will be exceptional and we will ensure that they are specifically described. We are not granting this as a general opportunity, and certainly not one that would allow the widespread creation of programme-led apprenticeships where there was not a clear employment connection.

**Lord De Mauley:** I thank the Minister for his explanation. I said that this was a probing amendment, and I can certainly see attractions in flexibility. I beg leave to withdraw the amendment.

*Amendment 3A withdrawn.*

*Amendment 4*

*Moved by Baroness Walmsley*

4: Clause 1, page 2, line 34, at end insert—

“( ) as part of a recognised programme of training for an apprenticeship framework”

**Baroness Walmsley:** I shall speak also to Amendments 62 and 207. Before I get into the substance of the amendment, I should point out that our support for Amendment 1 did not preclude this group of amendments, simply because that amendment was so broadly drawn. Had the noble Lord, Lord Hunt, said in his proposed subsection (a) that the person had to be employed and paid by an employer, we may not have been able to support it, but since it said, “an agreement with an employer to train a person”, we found ourselves able to support it.

The purpose of these amendments is to take account of the needs of those young people who have been out of education or employment for a while but who nevertheless are capable of benefiting from work-based training. They may not have the expected qualifications because they dropped out of education some time ago, nor a conventional background because they may be somewhat older than the average apprentice, but these are some of the young people whom we know the Government want to help and we must make sure that the Bill that leaves this House does not exclude them.

A number of organisations, training providers and charities, such as Barnardo’s and Rathbone, provide such work-based courses and pay employers to take on the young people for the work-based part. They often run events in your Lordships’ House and many of us have had the pleasure of meeting many impressive young people who have succeeded for the first time in their lives on these programmes and as a result have gained in confidence. These amendments seek to include those young people. The problem with the Bill is that it does not make adequate allowance for them.

Rathbone has given us the case history of a young lady, Amina Begum, who is 19 years old and lives in Denton. Amina left secondary school with no qualifications and felt that she had nothing and could achieve nothing. Connexions advised her to go to a training provider. She went to Rathbone where she successfully retook her GCSEs and began an apprenticeship in childcare. Amina also suffered from crippling shyness, which she overcame with the help of an inspirational teacher at Rathbone. She now works full-time in Alphabet nursery in Denton, which is where she did her training, after which she was taken on. In the future, she hopes to own her own nursery. She said:

“I never really spoke to my family about doing an apprenticeship. As soon as I saw the opportunity I just went for it. I just thought, ‘yes, I’m getting somewhere, just go for it’. When they found out, they were really happy about it”.

We have a second problem in that there are, as my noble friend Lady Sharp said earlier, not enough employers offering apprenticeships. We agree that apprenticeships would normally be where a young

person works normally in the workplace while receiving on- and off-the-job training. However, if we find a way to accommodate the young people I have just mentioned, many of whom are the most disadvantaged, we can kill two birds with one stone. We can provide a route to apprenticeships which avoids cutting out a whole raft of people, while ensuring that those who can fulfil the usual conditions do so.

The third sector is willing and able to continue doing its good work and take part in this important programme for young people. These amendments ensure that it can do so. Subsections (5) and (6) of Clause 1 offer an opportunity to start to put things right. The first of these probing amendments asks how far regulations may be extended to cover programmes of the sort offered by Rathbone and other learning providers, which offer the concept of an apprenticeship as a work-based programme by a recognised provider meeting recognised standards. That is very important. Is this covered by Clause 1(6)(b), which refers to,

“otherwise than for reward”?

Or do we need to be very clear, as suggested in our amendment, and add the words,

“as part of a recognised programme of training for an apprenticeship framework”?

Amendment 62, to Clause 30, pushes this a little further. Clause 30(2) states that an apprentice must undertake “work for another”, who is called “the employer”. Can that person be de facto a registered charity or a learning provider when it is offering the majority of the training in a workplace or do we need to specify clearly by putting in our new definition, which includes registered charities? Amendment 207, to Clause 91, goes one step further. It suggests that an apprenticeship place may be obtained either by employment or by,

“arrangements with a recognised charity or training provider which involve preparation for employment under such a framework”; that is, an apprenticeship framework.

Noble Lords may have a few questions about the apprenticeships I am talking about. For example, are these apprenticeships real? Yes, they are. Young people on these work-based programmes do everything that a paid apprentice does. They obtain the same qualifications at the same levels. They get the same learning on the job and they acquire key skills et cetera. They get experience of doing a real job under full working conditions. The only difference is that they are not paid.

That brings me to the second question, which is why do not employers pay them if they are so good? These young people have chaotic backgrounds. When an employer takes on a young person, they always take a risk of some sort. These young people represent an increased risk for employers. Therefore, employers are reluctant to recruit and pay them as employees. Earlier today in the Bishops’ Bar, I heard someone say, “Well, should they not be on pre-apprenticeship programmes”? No, they should not. They have already done programmes designed to overcome their disadvantage, whether it is an academic or a social disadvantage. They have overcome those difficulties and are now ready to start a real apprenticeship. However, finding an employer prepared to take them

on with their chaotic backgrounds is very difficult. But these programmes allow the employer the opportunity to see the young person in the job without a financial risk. Once the employer sees a young person like Amina in action, they take them on.

We have talked about the definition of apprenticeships. I do not believe that the core of an apprenticeship has anything to do with being paid. It is about whether the apprentice is learning from and working alongside a skilled man or woman in a real work setting and doing a real job. For many years, apprentices were very much accepted by society, but they were not paid. I am very glad to say that that has changed and that we now have paid apprentices, which is a good thing. However, employers might be happier to have apprentices undertaking a Rathbone or Barnardo's training programme who they do not have to pay, rather than take on ordinary apprentices who they do have to pay. That situation would not occur if measures are taken to restrict either the organisations which can offer this type of apprenticeship or the types of individual who would qualify. That situation would be very easily dealt with.

We are sure that the Government do not want to exclude the disadvantaged from apprenticeship opportunities. I hope that the Minister will either accept these amendments or let the House know how the Government will include these groups of young people. They deserve the same opportunity to have apprenticeships as all young people, but the Bill does not make that clear. I beg to move.

**Baroness Garden of Frognal:** I support my noble friend in these amendments and I welcome the comment made by the Minister in response to the previous group as regards being keen to ensure flexibility and finding alternative methods of work. These amendments would apply particularly to people who need additional resources to help them have access to work opportunities if they are disabled or disadvantaged in some way and to prevent them from getting caught in the benefit trap. That perhaps is an aspect of these amendments which could be addressed. People with little experience of learning or success, either at work or in education, would be helped to gain confidence and self respect if these amendments were added to the Bill.

**The Earl of Listowel:** I strongly support the amendment. Clearly, there is a lot of concern about this, from Rathbone in particular. I hope the Minister can offer a clear assurance that these important work-based programme-led apprenticeships are valid. It is estimated that in excess of 12,000 young people could be affected. I look forward to the Minister's reply.

7.30 pm

**Baroness Howe of Idlicote:** I support the amendments because the issues raised are important. I feel sure that the Government will be able to reassure us on these points because a lot of what was said earlier indicated that these are some of the routes down which the Bill is pointing. I hope that I shall be satisfied along with many other Members of the Committee.

**Lord De Mauley:** I support in particular the widening of access and the emphasis on a majority element of training in the workplace.

**Lord Young of Norwood Green:** I add my voice to the many who have praised the excellent work of Rathbone and Barnardo's in helping young people who have sometimes chaotic backgrounds, as eloquently described by the noble Baroness, Lady Walmsley, and who might otherwise have trouble persuading employers to give them a chance into work. The benefits that many young people have derived from these schemes are beyond doubt.

Our aim in legislating on apprenticeships has been to ensure a high-quality experience for apprentices and employers alike. We have rightly been scrutinised closely in this House and in another place so that we do nothing to dilute the apprenticeship brand, which is critical for maintaining the credibility of apprenticeships in the eyes of young people and business. At the heart of the statutory framework that we are proposing is a requirement for an apprenticeship agreement between the employer and apprentice which will set out the responsibilities and expectations on both sides. Paid employment is a fundamental part of this agreement. If I had to part company with the noble Baroness, Lady Walmsley, it was perhaps when she said it did not matter about paid employment—I might be paraphrasing slightly. We would say that it does, but I shall return to why I understand her reasons for saying that. We see paid employment as a fundamental part of an apprenticeship agreement. If we depart from that principle, we should be clear about the circumstances and why we are doing it.

Any derogation from this central requirement risks undermining the strong employment relationship between apprentice and employer which we see as being key to providing a high-quality, transferable, on-the-job experience. Indeed, the previous group of amendments focused on concerns about the sections of the Bill which provide for regulations to be made so that an apprenticeship can be recognised for those working otherwise than for reward.

However, we have listened to the debate. I am sympathetic to the intention behind the amendments. I recognise that many young people engaged in the programmes offered by Rathbone, Barnardo's and others progress to an employed apprenticeship part way through their training. I understand the intention behind the amendments to ensure that young people in this position are issued with an apprenticeship certificate under Clause 2. We would not wish further to disadvantage those young people or to discourage them from aspiring to take up an apprenticeship place. The noble Baroness, Lady Garden, said that the last thing that we would want is for people to be left in a benefit trap, which does not benefit the individual or society. We are motivated strongly to do something to help those young people, especially when, as the noble Baroness, Lady Walmsley, described to us, apprenticeships prove to be such a life-changing opportunity for so many disadvantaged young people already. Like her, I have encountered numerous cases that demonstrate that.

[LORD YOUNG OF NORWOOD GREEN]

I want to ensure that we strike an appropriate balance. My officials are already in discussion with representatives from Rathbone and Barnardo's. With noble Lords' agreement, I should like to give this issue more detailed consideration and to come back to it on Report. That is a genuine commitment. We share the concerns expressed on all sides of the Committee that we have to do something about this situation. With that assurance, I ask the noble Baroness to withdraw the amendment.

**Baroness Walmsley:** I am grateful to the Minister, particularly as he said that he would give the matter consideration and come back on Report. I am grateful also to other Members of the Committee for their support.

I was a little concerned by the Minister's opening remarks, because he seemed to suggest that these programmes are not high quality. I can assure him that they are of high quality and that the various measures elsewhere in the Bill to ensure that all apprenticeship schemes—

**Lord Young of Norwood Green:** It was not my intention to suggest that they are not high-quality programmes. I am saying that we have to be careful in whatever we do not to undermine the quality of the apprenticeship brand. I have no doubts about the quality of the programmes; I know that they are effective and of high quality.

**Baroness Walmsley:** I agree with the Minister that it is important that the quality is maintained, but perhaps he will bear in mind that elsewhere in the Bill is a whole raft of arrangements to ensure that standards are maintained in whatever apprenticeships are finally included in the framework. If such arrangements as I have described did not come up to those standards, they would simply not be allowed to be called apprenticeships.

I do not believe that there is any reason why there should not be an agreement with the employer such as makes clear the responsibilities of the employer and of the young person in the arrangements that I have described—that could easily be done. Nor do I believe that it would dilute the brand. Does it dilute the brand of a university degree to have the various financial and other support mechanisms for university undergraduates which the Government have in place? I do not believe that it does. Therefore, I do not think that the kind of support that we are talking about would dilute the brand of apprenticeships.

However, as I have said, I am grateful to the Minister for having said that he will consider before Report how we can reassure those organisations which provide such a valuable service that their programmes can continue and can somehow be included in the framework. I beg leave to withdraw the amendment.

*Amendment 4 withdrawn.*

*House resumed. Committee to begin again not before 8.38 pm.*

## Parliament and the Public

### *Question for Short Debate*

7.38 pm

*Tabled By Lord Renton of Mount Harry*

To ask Her Majesty's Government what steps they are taking to increase the connection between Parliament and the public.

**Lord Renton of Mount Harry:** My Lords, this short debate arises from a Question that I tabled some months ago asking the Government what steps they were taking to increase the connection between Parliament and the public. Given the vitriol that has poured over Parliament in the past few weeks, noble Lords reading this Question today may well indulge in mirthless laughter. They may, for example, have heard the speaker on "Thought For The Day" two weeks ago speak of, "the anger and dismay that many feel about Parliament and politicians".

But surely that is what we have to work to change. I hope that the Leader of the House, who I am delighted is taking part in this debate, will present some positive proposals from government as to how they will act to rebuild a bridge of understanding between Parliament and people. In the mean time, we must surely ask ourselves, as Members of the House of Lords, how we help restore the confidence and belief that are so necessary for the strength and purpose of Parliament.

We all know why the anger and dismay are now so prevalent—the press has been telling us for the past 30 days—but the problem goes further than the expenses catastrophe. Regular polls have shown us for a long time that only a minority of the population is interested in politics or in the legislative work that is the backbone of parliamentary work. This is reflected in the number of those voting in general elections, which has fallen over the past two elections from around 70 per cent to 60 per cent. In the MEP elections two weeks ago, the average figure was a mere 34 per cent. This is a devastating and damaging trend for democracy.

It is against that background that our Information Committee, of which I am proud to be chairman, decided to hold an inquiry into the relationship of people with Parliament. We could not have done this at a better or more suitable time. We set out to find what worked well in our relationship with the public—with the ordinary man and woman in the street—and with children at school, and what was misunderstood or not listened to at all. We have tried to catch the eye of those who do not listen to "Today in Parliament". We were the first domestic Select Committee to hold a formal inquiry to which, in addition to written submissions, we invited broadcasters, the Hansard Society, the UK Youth Parliament, news editors and sixth-form students. We have used the internet and the web extensively. Members of our committee as Lords of the Blog have talked on the internet about our inquiry and we have put videos on YouTube.

Let me quote briefly three comments following my last video on YouTube. Marie Sheldrake replied on 12 June. She said:

"Parliament is so far removed from normal life I doubt anything I say they will understand".

Alex on the same day said:

“Bring ordinary people into Parliament. Select a group of 100 members of the public at random, on the same basis as the jury system, and pay them to spend a year in parliament talking to MPs and Lords, reading Bills, whatever, and blog about it. Ideally give them the right to vote in the Lords”.

Then James Clarke, a day later, added:

“Make anything promised in the manifesto a legal requirement to put to a vote in order to try and enact it once in parliament as the first order of business. This would stop issues like EU referendum and Lords Reform from dragging on and making MPs look like liars”.

I am no Minister and I cannot make any promises today, but we will take regard of the many comments that we have received in our committee. Tomorrow we are meeting to consider what should go into our report on our inquiry, and we plan to publish this in July.

We can divide our recommendations into two parts. The first is the easier. It will cover the outreach work in which the Lord Speaker has given a great lead by her numerous visits to schools and the development of our education service. We very much welcome an extension of this outreach work and consider that Peers themselves are the greatest ambassadors for our House. We would like to see more Members participating in the Peers in Schools programme.

We also welcome the many improvements in the parliamentary website and fully expect there to be a growing use of the internet for political information, parliamentary data and contact between interested individuals. The second part of our recommendation may be more delicate. We have received many requests that the House should provide better information about the particular interests and expertise of Peers. Should we create a database in which Peers themselves specify the topics on which they are experts and are ready to answer questions, either to the press, on the internet or at meetings? Would Peers appreciate having that amount of public visibility? Questions could then follow about whether there should be greater access to Parliament for filming. Should we review the rules of coverage for broadcasting Lords’ proceedings with a view to making them more user-friendly?

Then we come to the vital question of what the Government can do to improve the openness, clarity and transparency of what happens at Westminster. Obviously, there is a great need for this since much of the ancient system and language that we use is incomprehensible to many who have to be cajoled into listening to us. A start would be to modernise the language in which Bills are presented at Westminster, simplify the procedure by which they are passed, add a short explanation at the front of the Bill about what it is all about; and then continue to explain on the Bill as it got changed in Committee just how it was being changed and why. Do we suggest that members of the public answering personally via the internet could influence the content of Bills? That is a \$64,000 question. A Government, in my judgment, have to give a lead, and, so far, that has been missing. I hope that we will be better informed by the end of this debate.

I was delighted to serve on the Puttnam commission four years ago, and I am very pleased that the noble Lord will follow me this evening. I think it is fair to say

that that is where the argument started that Westminster was not for Members only. I believe that we can carry this point further. I hope it will become clear that the Lords are listening and aim to make their work better and more broadly understood. In this context, I think that the recommendations of our committee will help create closer relations between Parliament and the people.

Despite the clock up there, I know that my time is up. I end by saying that I know that I am lucky to be part of a large family. I look forward with keen anticipation to the day when one of my grandchildren, aged perhaps 10 or 12, turns to me at breakfast and says, “I was listening to Parliament yesterday; it was very interesting”. At that moment, I will know that we are moving forward.

7.46 pm

**Lord Puttnam:** My Lords, as noble Lords have just heard, along with the noble Lord, Lord Renton, who we have to thank for this evening’s short debate, I had responsibility for delivering to Parliament in 2005 a report entitled *Parliament in the Public Eye*. That report concluded with the following words:

“We want to see a Parliament which is an accessible and readily understood institution, which people know how to approach, and when and where to make their voice heard, a Parliament which relates its work to the concerns of those in the outside world. This is the challenge”.

The report stressed that the essential prerequisite to any possibility of an enhanced sense of connection between Parliament and the public it serves can only occur against a background of renewed trust and respect. If this were true in 2005, I think we would all agree that it is even more the case today. By way of example, respect for the working of Parliament is at present being seriously undermined by what I see as the inanity of the debate over the future of your Lordships’ House.

Personally, I have a very catholic attitude to what we wear, what we are called, and at what age we are required to retire, even in respect of our place of work. Against that, I have a very clear view of the manner in which an improved second Chamber can add to the effective working of Parliament and, in so doing, contribute to the enhanced levels of respect and engagement that we all seek. In a sense, my position is summed up by my favourite line from Proust:

“We do not need new landscapes, we only need new eyes to see those which already exist”.

That 2005 report set out a comprehensive series of initiatives, which could and should have led to improvements in the way that Parliament is viewed by the public. There can be few in either House who do not now wish that those recommendations had been taken a little more seriously, but there is no point in jogging backwards.

I want to offer two suggestions, one old and one new, and then to finish by making what I hope will be seen as an altogether broader point. The well-rehearsed idea is to embrace the concept of post-legislative scrutiny as a timely and important role for a second Chamber, which could, over time, refine, improve and rationalise the whole of our statute book. That may sound like a big ask, but the long-term benefits to the way in which our law is improved and understood could be enormous.

[LORD PUTTNAM]

The relatively new idea revolves around embedding and legitimising one of the few obvious improvements that I have witnessed in my 12 years in this House.

It would take a pretty cynical and extremely partisan Member of your Lordships' House not to have noticed the dramatic improvements to the business of the House brought about by the introduction of Peers in government positions with reputations and experience of the subjects on which they speak. Watching the performance and hands-on expertise demonstrated on the Front Bench by, for example, my noble friends Lord Malloch-Brown on foreign affairs, Lord Darzi on health, Lord Carter on broadcast and communications policy, and Lord Adonis on education—this is a far from exclusive list—has been the cause of a great deal of satisfaction. Surely, on the evidence, this represents a serious and visible improvement in the way this country is governed.

That being the case, my suggestion is simple. Lords Ministers, following their recommendation by the Prime Minister, should be required to subject themselves to a form of confirmation hearing by the appropriate Commons Select Committee. This would have the effect of re-engaging the principal Chamber with these appointments and, to an extent, democratically legitimising them. The confirmation hearings could be time limited, and, of course, the Government of the day would have the majority of members on the appropriate Select Committee. Yes, it would slow things down a little, but, in my judgment, the benefits would significantly outweigh any inconvenience.

Lastly, I have a more general point. I cannot be the only person who views much of the rhetoric surrounding Lords reform as coming from the same shop that gave us the present expenses debacle. The position of successive Governments would appear to have been, "We do not have the courage to face the electorate and pay you properly, so we will make it up by means of expenses". In the case of Lords reform, the equivalent thinking appears to be, "We do not really want a second Chamber at all, but we dare not admit that, so we will try to claim legitimacy by electing a Chamber with no, or at least severely limited powers".

That leaves me with a simple question. Does anyone think it likely that respect for Parliament will be enhanced by removing from parliamentary scrutiny of, for example, issues affecting climate change, the noble Lords, Lord Turner, Lord May, Lord Rees, Lord Stern, Lord Oxburgh, and others who have devoted half a lifetime to this specialist subject area? Of course, I could have chosen any number of other crucial policy areas, such as health, education, foreign affairs, defence, agriculture, energy or infrastructure. In each of these areas, and many others, the collective wisdom and experience of this House is not only unmatched in another place, but would be difficult to replicate on a consistent basis in any second Chamber in the world.

In conclusion, I suggest to the usual channels that we have a proper discussion about re-engagement and trust; one that is based rather more on what might be in the best long-term interests of the country, and rather less on posturing and theocracy.

**Baroness Crawley:** My Lords, with respect, when the clock reaches three, our time is already up.

7.51 pm

**Lord Roberts of Llandudno:** My Lords, I very much appreciate what the two noble Lords have said; but I suggest that the problem is far deeper. It is the problem of making people think again—and think constructively—that this is their Parliament, that their vote counts, and that their influence can be felt in Parliament itself. I suggest, first, that we have to look—of course, I speak from the Liberal Democrat Benches—at the electoral system. At the 2005 general election, 52 per cent of the votes cast did not elect a Member. Therefore, fewer than half those who voted feel that they have some representation in this Parliament. We must look at that. When half the people feel disenfranchised, we are in trouble. I would look at the system used in the Welsh Assembly and the Scottish Parliament to keep the link between constituencies and a Member. You have that with the alternative vote, with at least 50 per cent of the electors in a constituency represented, and then a top-up list, which evens things out into some sort of proportionality.

A week today, the House of Commons will elect its Speaker. I am told that there are as many as 12 candidates for the post. If they had the first-past-the-post system, would Members of the House of Commons be satisfied? When the Conservative Party chooses a leader, he or she must have at least 50 per cent of the votes. When the Labour Party chooses a leader, that leader is elected only when he or she represents at least half the electorate. Why do we treat ordinary electors differently? They, too, deserve to be listened to, and to feel that they have a stake in Parliament. It should not be "them and us"—we have somehow to make people feel that this is their Parliament.

Secondly, and very briefly, there was a disgraceful situation last night when some Members on the government and Conservative Benches wanted to allow the continued representation in Parliament of people who do not pay taxes in the United Kingdom. This would take us back to rotten boroughs, where you can buy a seat and influence. It is the wealthy who take this opportunity. Ordinary people who do not have the wealth feel, "Gosh, this is not our Parliament, but a Parliament in the hands of those who want to keep an undemocratic electoral system, a Parliament of those who can afford to buy seats". I urge all noble Lords to think very widely on this matter.

7.54 pm

**Baroness Coussins:** My Lords, we must of course update and improve our communications mechanisms and processes, but I hope that our inquiry will also say how important it is to communicate our purpose. If the public do not know who we are and what we are for, their interest will be hard to capture. Even well-informed people are often ill-informed about the structure and purpose of your Lordships' House—not realising, for example, how many independent Cross-Benchers there are, or that our principal role is not representative, but that of holding government to account by scrutinising legislation.

Terminology can give the wrong idea. We should not be surprised if some people think that a place called the House of Lords admits only male aristocrats in ermine. Perhaps if “House of Peers” were the name in common usage, it would be a small step towards conveying our diversity and accessibility.

One of the most inspiring sessions of the Information Committee’s inquiry was with groups of sixth-formers. They wanted more information about who we were and how to get to us, and were intrigued to discover that we did not have noble Lords for particular areas, in the same way as Members of another place have constituencies, but might usefully be approached according to subject or interest area.

It is no coincidence that the All-Party Group on Modern Languages, which I chair, held one of its best meetings a couple of weeks ago, also when sixth-formers came to talk to us. It was a win-win experience. We got a huge amount of insight from them, and they were excited to visit Parliament and to know that Members of both Houses were genuinely interested in what they had to say. Thinking about both these meetings made me realise that we have, right under our noses, a vast communications network of untapped—or undertapped—potential in the dozens of all-party groups that exist. We should invite them all to consider how they might contribute to outreach and education work, with particular reference to young people. With groups on everything from aerospace to the wood panel industry—I could not find one beginning with Z—it will not always be relevant or appropriate; but I am sure that many of them could benefit from connecting with young people, in person or online through YouTube or schools.

We should go to them, as well as inviting them here. We should not forget that one-third of adults are not on the internet, so personal contact is still important. In the commercial world, it would be called “brand building” and PR. We call it outreach and education. Either way, it is no surprise that most people start out feeling that Parliament is hard to connect with. They probably feel the same way about their GP, their child’s head teacher or their bank manager—but at least they have a clear idea about what these people are for, which is not necessarily true about their understanding of Parliament, and in particular of your Lordships’ House. We have much brand building to do, and I am sure that the Information Committee’s inquiry will be an important catalyst in moving forward.

7.57 pm

**The Lord Bishop of Bradford:** My Lords, I, too, thank the noble Lord, Lord Renton, for this—as he said—very timely debate. I fear that much of the discussion is trying to adjust the deck chairs on the “Titanic”. I support what the noble Lord, Lord Roberts, said, and join him in arguing for proportional representation, in particular STV, as a way of building a closer bridge between Parliament and the people.

I declare an interest: one of my assistant bishops is president of the Electoral Reform Society, and another, my neighbour and colleague, the right reverend Prelate the Bishop of Ripon and Leeds, is also a champion; and I wish to maintain their friendship. As the pig said

to the hen when discussing the English breakfast, “I have more than an interest: I have a commitment”. So does the Church of England. We have been using the single transferable vote since 1920—first for the General Assembly and now for the General Synod. In 2003, the General Synod voted by 225 votes to six in favour of the introduction of the single transferable vote in this country.

We all know that first past the post gives disproportional representation—and if it is disproportional, it is misrepresentation. Some of the alternatives are little better. I am from the Yorkshire and Humberside region and, sadly—many feel—only one Labour member was elected. Who chose which Labour member it should be rather than one of the other two, three or four? Was it done by an electorate? No. Perhaps it was Buggins’s turn; perhaps it was a toss of the coin; perhaps it was a secret group somewhere. But it was not the voters. We are very often getting, as has already been mentioned by the noble Lord, Lord Roberts, poor representation.

However, single transferable vote is used in parts of the country with great success. It has been used in Northern Ireland. While people there take politics seriously, there were no serious objections to the use of STV. As has been suggested, it prevents Northern Ireland having three Ian Paisleys in Brussels. Again, more recently, in Scotland, the hegemony of one party dominating local politics has been swept away in half the councils by use of a better way of representing the opinions of the people and being able to represent them more subtly than can be carried out by first past the post.

I agree with the noble Lord, Lord Roberts, that we would not want to elect our leaders of particular parties individually by first past the post. Why inflict it on the electorate?

8.01 pm

**Lord Willoughby de Broke:** My Lords, there are three essential measures that will go a long way towards achieving the aims of the debate of the noble Lord, Lord Renton. The first is to repeal the 1972 European Communities Act. Seventy per cent of our law is now handed down from Brussels to Westminster by the unelected and unsackable European Commission. It has been rubber-stamped by a parliament impotent to change so much as a single syllable of any of the legislation that it has to pass into UK law.

Without that, any reforms are rather like a facelift on an ageing actress: I am afraid that they change the face but not the substance. As the right reverend Prelate the Bishop of Durham so aptly said in the debate on constitutional reform last week:

“Tinkering with bits and pieces of the system will not do”.—*[Official Report, 11/6/09; col. 764.]*

The second essential is to follow the Swiss lead in holding binding referendums at national and local level. That single measure would more than anything else to take power away from the Executive and put it back where it belongs: with the electorate. I hope that the noble Lord, Lord Roberts, would agree with me that that would give people a stake in politics. Local referendums would, at a stroke, remove the widely

[LORD WILLOUGHBY DE BROKE]

disliked, costly and unaccountable Rural Development Agencies which routinely override local people's wishes. At a stroke, those expensive bodies would be consigned to the scrapheap, which I believe to be a very good thing.

The third essential is a much smaller Parliament, with no more than 300 Members of Parliament in the other House and 300 Members of your Lordships' House, sitting no more than 100 days a year. Their initial duties, at least, would be to repeal laws and not dream up new ones. Far from being banned from taking outside jobs, MPs should be actively encouraged to hold, or at least to have held, jobs. The aim should surely be to discourage career politicians and encourage, let us say, "citizen legislators"—people who have a stake in business and understand what goes on outside Parliament rather than simply being enclosed in the Westminster bubble, which I am afraid is what seems to be happening now. After all, that is why Parliament is so discredited.

All these sensible proposals are in my constitutional reform Bill, freely available in the Printed Paper Office. I commend that Bill to your Lordships.

8.04 pm

**Baroness Shephard of Northwold:** My Lords, I congratulate my noble friend Lord Renton of Mount Harry on securing the debate and on the way in which he has introduced it. Given the truly amazing variety of contributions so far, we await the report of his committee with great interest. He is, of course, quite right and so are other noble Lords. It is currently vital that Parliament seeks ever more to explain and justify itself in the light of recent events.

I will make a few brief points about what is already being done with the outreach programme encouraged and launched by the Lord Speaker to inform the public. First, on the professionalism and enthusiasm of the Parliamentary Education Unit, it has been absolutely transformed in the past couple of years. The materials being used are marvellous and the enthusiasm of the staff is a miracle to behold. They are doing what I always think is necessary when launching an educational initiative: training the teachers first. All of those things are being achieved by the education unit, and I hope that all noble Lords speaking in this debate will make time, if they have not already done so, to look at those materials.

Secondly, I commend the outreach work done by noble Lords. More than 200 have taken part in outreach work since the programme was launched just two years ago. They have made visits to schools and addressed large adult audiences. I think that the record so far is held by the Lord Speaker herself, who addressed something like 6,000 members of the Women's Institute in the Albert Hall, with—and I am of course making no comparisons—a very good reception.

Others of us have addressed Rotary, large church groups and adult education groups, quite often with the view expressed after we have spoken: "Well, I didn't really understand about the House of Lords". Also, in my experience, such groups often reveal an underlying and strong respect for this House because

it is seen as less political than another place, and because of the expertise of Members of this House and the thorough nature of the scrutiny that we give legislation. Indeed, suggestions have been made as to how we might get closer to the public, and the Women's Institute itself has suggested that Peers might be shadowed by a Women's Institute member in regions throughout the country, which is a marvellously practical idea. You would expect that from the Women's Institute, and I think it could work.

Finally, I commend the first-class lecture series that has been organised—particularly those with Queen Mary, University of London, with five lectures last year on women's roles in the House of Lords. I can give some publicity to a similar lecture being held on Thursday, with a starring role being played by the noble Lord, Lord Rees of Ludlow. A lot is being done. We should not get too depressed.

8.07 pm

**Lord Soley:** My Lords, one of the strengths of the British political system and its protection of freedom has been its ability to adapt over the centuries. In a three-minute speech I am not going to persuade everyone of the necessary adaptations, but I commend some of the comments of the noble Baroness, Lady Shephard, and the noble Lord, Lord Renton, as well as his work and his appearance on YouTube. When I started my blog, originally as a Member of the House of Commons, seven or eight years ago, it was regarded as slightly weird. When I came here and suggested that we create a group "Lords of the Blog", I was accused even by bloggers of being slightly weird, which I thought was a step in the right direction; I was getting ahead of the game.

There must be major change in how we do our politics. It is not just down to quick fixes like the PR system. I do not want to get into an argument about PR here but, frankly, it is not the answer in itself. There are many countries with PR systems that have low turnout and low voter interest, and countries like ours with first past the post also have a similar problem. It is much wider and deeper than that and we need to make the changes.

First, like the noble Baroness, Lady Shephard, I commend everyone for the work that has already been done, which is great. My second point is about something we could do as a next step: to recognise that until about 30 years ago, newspapers would carry stories about what MPs and Members of the House of Lords said. That was killed in the late 1970s and early 1980s. We need to get something of that back, which people can look at and read either online or in paper form. One way of doing that—and here is another shock-horror suggestion that startled some of my colleagues in the other place when I first made it a few years back—is to allow an edited version of *Hansard*. The fear has always been that if we allowed editors to get their hands on the speeches that we make, they would distort them in some way. I am convinced that we can do it well enough so that—whether it is edited television footage or edited *Hansard* extracts with photographs, and so on—it enables people to engage. One of the lessons of Lords of the Blog, from the people who

wrote in to say what they liked about it, was that it was more informative and easier to read. Please can we have an edited version of *Hansard*, with pictures, that is easily available online and, preferably, on paper?

My final point echoes something that the noble Lord, Lord Renton, said about language. This place should be held in respect, but not in awe. Much of the language and behaviour here dates from the 19th century and it shows. You make new traditions only if you create new traditions. You can test this if you talk in a school. If you say “the right reverend Prelate”, most kids will not know who you mean, as I am sure the Bishops will agree, but they know who a bishop is. If you say “the learned gentleman”, some of us would quibble about whether all barristers are learned anyway. Whether they are or not, do we really need that? Do we really need—and I say this as an ex-serviceman, not particularly gallant, of many years ago—“gallant”? We need more ordinary language. Certainly, such phrases as “the other place” just do not make sense. They sound embarrassing to many kids if you talk to them about it. We can start making those changes without changing very much. We do not need grand Acts of Parliament. Let us just get on and talk normally and people will understand and relate to us better because of it.

8.11 pm

**Lord Norton of Louth:** My Lords, I too congratulate my noble friend Lord Renton on securing this short debate and on the excellent work that the Information Committee is doing on this subject. As my noble friend Lady Shephard has said, part of the work being undertaken by this House to increase the connection between Parliament and the public is the Peers in Schools initiative, part of the Lord Speaker’s outreach programme. I have spoken at a number of schools. I spoke at Shoeburyness High School last Friday. A question from one of the pupils was, in essence, “How do we find out about what you are doing?” Another came to see me afterwards to ask how he and his friends could go about influencing a local issue. There is an interest in politics and the making of public policy, but how do we ensure that people are able to find out what Parliament is doing, and how they can have some input into our deliberations?

I refer to a school visit because it is very relevant to the key point that I wish to make to the Minister. The Question asks what steps Her Majesty’s Government are taking to increase the connection between Parliament and the public. I suspect that the Minister will say, quite rightly, that much of what can and should be done is primarily a matter for Parliament itself. As we have heard, there is certainly much that we should be doing. There is one crucial step that the Government can and should take, and that is to increase the resources available to citizenship education in schools. It is through the educational route that young people can learn about our political system and, as part of that, about Parliament.

Citizenship education is something that I very much welcome. The problem is that it requires greater commitment, on the part both of Ministers and schools. There have been some improvements since the then

Education and Skills Committee in the other place reported on it in 2007, but it needs to be given greater priority. Through citizenship education, pupils can learn about our parliamentary process. The problem is that citizenship teaching is underresourced. That is something that we can exploit at a parliamentary level, given the excellent material freely available through the parliamentary education service and the Information Office. There needs to be more systematic support and commitment of resources by the Government. There also needs to be a sharper focus on the political process. There is not time available to expand the point. I hope that the Minister takes the point on board and pursues it. It is something that I hope we will return to in the not-too-distant future.

I conclude briefly by identifying the criteria that we and the Government should have in mind in seeking to increase the connection between Parliament and the public. We need to ensure that what we do is accessible; interactive, because we want to hear from the public and not simply push material out to them; targeted, because not everyone is interested, but different publics most certainly are; and that we emphasise substance over process. Our procedures are relevant, but most members of the public are likely to be interested in what we are saying, rather than the mechanisms by which we say it. If we can keep those criteria in mind, our attempts at connecting can be both effective and efficient.

Since I have a few seconds left, I invite the Minister to reject the flawed arguments advanced by the noble Lord, Lord Roberts, and the right reverend Prelate. Ten per cent of the votes equals 10 per cent of the seats does not then equal 10 per cent of the negotiating power in the House of Commons; it is not proportional.

8.14 pm

**Lord Alton of Liverpool:** My Lords, Winston Churchill got it about right when he said:

“Democracy is the worst form of government except for all those others that have been tried”.

As we cast our eyes towards Tehran, Burma and North Korea, we can understand why Churchill believed that our imperfect system of government was worth fighting for and dying for. This theme of an imperfect but cherished democracy was captured well by EM Forster in *Two Cheers for Democracy*. Forster said:

“I believe in the Private Member who makes himself a nuisance. He gets snubbed and told he is cranky or ill-informed, but he does expose abuses which would otherwise never have been mentioned, and very often an abuse gets put right just by being mentioned ... So two cheers for Democracy ... Two cheers are quite enough: there is no occasion to give three”.

During the 30 years since I first came to Westminster, the disappearance of too many of these dogged constituency MPs and their belief in public service has weakened Parliament. If Parliament has become detached from the people, it is because of the culture of politics itself. Too much time is spent worrying about image, in honing rent-a-quote soundbites and learning the dark arts of spinning. More time should be spent by Members of Parliament in their constituencies and they should live there. They should be chosen after a process like the American primaries. By contrast, the frenzied taint of the Westminster village too often produces a

[LORD ALTON OF LIVERPOOL]  
 self-serving form of politics. Parties come to resemble cults and sects, rather than broad churches. For example, making party policy of issues that were traditionally conscience questions, such as abortion, euthanasia, embryo experimentation and human cloning, makes it impossible for many people who have conscientious objections to such policies to join or vote for such parties.

When mainstream parties become narrow cliques, they drive away supporters. When they disappear from the day-to-day lives of neighbourhoods and communities, it opens the way for such groups as the British National Party, the heirs of Oswald Mosley and the Brown Shirts. The success of the BNP in such regions as the north-west—where I live—is also, in part, because of a voting system that concentrates power in the hands of small political elites. I spoke and voted against the introduction of the closed party list form of proportional representation for European elections precisely because it was bound to open the way to groups like the BNP and because it offends a fundamental principle of our parliamentary democracy: the right to vote for an individual candidate, rather than a party or list.

If there is to be a change in our voting system, let it have as its first requirement that an MP will represent a defined geographical area and that votes will be cast for people, not parties. A move to a single transferable vote—which I have always supported—or the alternative vote would need to command widespread support and should not, under any circumstances, be steamrollered through as a last-gasp political fix, or as part of a political deal.

Despite its manifest imperfections, the immediate crisis of confidence in our political system and the political classes has been the expenses debacle. It is not a crisis of faith and democracy. If we wish to renew Britain's political life, we need to address the disconnect between politicians and the people whom they are supposed to serve.

8.17 pm

**Lord Selsdon:** My Lords, I am extremely grateful to be able to serve under the noble Lord, Lord Renton, who reminds me of so much of the best of our political system. He pats you on the shoulder, you feel good, you look down and six months later your arm has gone.

I ask some simple questions that I have been asked. Why are we here? What do we do? Why do we do it and who do we do it for? When I came to this House, 45 or 46 years ago, I was one of those chinless wonders: a hereditary, Conservative, merchant-banking Peer who ought to be put down. I have been attacked all my life. I find and feel now a great opportunity for your Lordships' House to take a lead. The question is, who do we represent?

When I first came here, I was told that, if anyone wrote to you from a constituency, you did not reply. Of course, you did not have any writing paper or stamps, so it was a costly business to reply. You passed the letter to the representative of the people, the elected Member of Parliament, with a little note, and he would reply. You were told that you did not communicate

outside with people; you did not represent them. You represented certain ideas. Then you say, why has it all changed? Now we are looking at outreach and reaching out to people. The interesting thing is that they want to hear from us.

Your Lordships, I am told, have great expertise and experience. I happen to have one of those databases that demonstrates that. Let us take a few subjects. Defence is very important at the moment. Among the 174 people in your Lordships' House who served in the Armed Forces, we have two former Secretaries-General of NATO and goodness knows how many Chiefs of the Defence Staff. I am not trying to say that there are not so many in the Commons.

Let us move on to health, which is pouring out of your Lordships' House. There are 124 or more experts. Go into business or the media. As the noble Lord, Lord Puttnam, knows, the lists of people in the media are enormous. There are so many former Secretaries of State for foreign affairs and so many ambassadors that we do not even know who they are; we have to scratch and look them up, and they change their names. We have all the expertise that anybody could wish for. The question is, how do we deliver it and to whom?

I took a simple view. I said I will represent somebody and decreed myself in the mirror one day—if you have an oval or convex mirror, you can look good or bad, I was told in hotels. I looked and said, "I am going to represent the 19 million people who did not vote in the last election, the 20 or 18 million British subjects who live abroad and I would represent everybody in Her Majesty's Realms and Territories". I asked if they would please write to me. Of course, nobody wrote to me; not many people write to me, but they send me e-mails and jam up my system.

I would like to relate to people; I would like to meet people. I think your Lordships' have a lot more to offer than they realise. However, our role above all must be complementary to the House of Commons and not a replacement.

8.21 pm

**Lord Greaves:** My Lords, it is a privilege to start the winding-up speeches on behalf of the Liberal Democrats to this very impressive and enjoyable short debate. It is an impossible job in three minutes. I thank the noble Lord, Lord Renton, for promoting what I think is an appetizer, or perhaps a commercial, for his report. No doubt we will all meet when it comes out and, I hope, have an opportunity to discuss it in much more detail. We look forward to that.

My only response to these speeches is to say to the right reverend Prelate the Bishop of Bradford how wonderful it is to hear people, who do not sit on these Benches, like the noble Lord, Lord Alton, who has a history of these things, extolling the merits of the single transferable vote. Nevertheless, it is very welcome indeed to hear that. These matters are on the agenda now but, as the noble Lord, Lord Alton, said they must be debated in a proper context and not as a knee-jerk reaction to the present political situation.

We have discussed widely in this debate a range of problems, from the problems of the present collapse of confidence in Parliament, particularly in the House

of Commons, right through to practical matters of promoting greater understanding of what we do. I want to touch on two issues that I and other noble Lords raised when we last debated these matters last December.

First, it is true that the educational work that is taking place on behalf of Parliament, and the outreach work on behalf of this House, is a great advance. However, the single big lack is a proper parliamentary visitor centre. Everybody who comes to London comes to this building. The vast majority never get beyond the pavement outside, and that is wrong.

Secondly, the parliament channel is a journal of record, like *Hansard*. The explanatory information that is provided as part of the parliament channel is entirely inadequate. People do not understand what they are watching or listening to. That needs to be improved.

I finish with a quotation from John Keats:

“Was it a vision, or a waking dream?  
Fled is that music:—do I wake or sleep?”.

I believe that this House at least is waking up to the need to communicate with people and to encourage their involvement in what we do. Let us continue doing it and give a lead to the rest of Parliament.

8.24 pm

**Lord Bates:** My Lords, like all other Members, I pay tribute at the outset to the noble Lord, Lord Renton, for initiating the debate and for the way in which he introduced the subject. It has been a sparky debate; there have been lots of issues that people agree with and disagree with, but that is in the best traditions of parliamentary discussion. It is timely; the noble Lord put his finger on the issue when he said that there was incredible anger among the public about the sense of a breach of trust that they have with this place. We should take their anger as something complimentary about this place—that they actually care about their parliamentary system, contrary to what some would let people believe. I was told when I came into this place at the other end that there were only two types of parliamentarian—those who came in to be something, and those who came in to do something. In these times, people are interested in what this place does rather than what it is and the processes that we undertake.

We need to balance that in our debates so that we do not get carried away like trainspotters. We are obsessed about our quaint procedures while the people out there are passionately concerned with many issues. If you ask people whether politics is relevant, they would probably say that it was not very relevant to them. In the evidence given to the committee on 18 March, it was pointed out that only 19 per cent of people agreed that Parliament was working for them. Yet if you say to people, “Are you interested in issues such as the environment, knife crime, the quality of school exams, animal cruelty, student loans, animal testing, abortion, the war in Iraq and Afghanistan?”, they would of course say, “Absolutely. We’re passionately interested in all those things”, which all channel themselves in one shape or form through this place. From that point of view, we need to focus very much on what we do.

I offer two brief suggestions. First, in addition to the very noble people who have been before the committee so far, we have thousands of highly qualified researchers and other people working in the Palace of Westminster— young people who are in touch with the outside world. We recognise that their opinions need to be garnered and brought into the process. Finally—I do not want to finish on a poor note, but it is important—the people in the country will start to take Parliament seriously when the Government start to take Parliament seriously. I hope that the Minister will acknowledge that.

8.27 pm

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** My Lords, I, too, congratulate the noble Lord, Lord Renton, on securing the debate and on his thought-provoking introduction. I thank him and other members of the Information Committee for the effort and time that they have put into their work in this vital area on behalf of the House. I look forward to studying the committee’s report when that work is concluded. I am proud of the work that the Information Committee carries out.

This has certainly been a wide-ranging debate. I have to confess that I was not expecting a discussion on electoral reform, and certainly not on electoral systems in the Church of England. Neither was I expecting a debate on the powers of the European Union, but such is the strength of this great House.

The Question is a particular and specific one about what steps the Government,

“are taking to increase the connection between Parliament and the public”.

It is for Parliament as the legislature to increase its connection with the public, rather than for the Government as the Executive to take steps to improve that connection. That is the position based on appropriate separation of powers and has traditionally been the position that successive Governments have taken, but we have seen significant shifts in it over the last few weeks as the Government have intervened with proposals for Parliament in the wake of the revelations about allowances in the other place. Such an intervention is highly unusual. Government do government and Parliament does Parliament. Where the two meet, the conjunctions are complex and careful. Proposals for change in the voting system or in the powers and composition of this House, for example, can be brought forward by the Government, but it is ultimately for Parliament to decide on them. Parliament is not beyond government proposals, but all Governments tread warily in this area.

However, in the judgment of the Government, recent events have required this greater and different intervention. For example, it was the Government who referred MPs’ expenses to the Committee on Standards in Public Life, which took its first evidence earlier today. However, it will be for Parliament, not the Government, to take final decisions on any proposals brought forward. That is the right division of responsibility and the correct separation of powers. Parliament, not government, must remain sovereign. So there is a limit to what steps this Government—indeed, any Government—can and should take to increase the connection between Parliament

[BARONESS ROYALL OF BLAISDON]

and the public, but that is not to say that there is not a strong communality of interest between what the Government and Parliament want to see: great involvement, greater participation and democracy working better. I would still give three cheers for democracy.

In the modern world, both the Government and Parliament face the challenge of ensuring that we continue to engage with the public and increase transparency and so build and maintain the trust that we need to work on the nation's behalf. The noble Lord, Lord Renton, my noble friend Lord Puttnam and others are right to draw the link between information, transparency and trust. Both the policies and programmes of the Government and the decisions taken in this House affect the lives of millions of people, so the Government need to ensure that citizens have an accurate and impartial understanding about government policies, activities and services. Parliament needs to ensure that citizens have a full understanding of the scrutiny and work that it is doing on their behalf to hold the Government to account and to make legislation that sets the framework for our society, our economy, our public services and our place in the world.

That is the crux of tonight's argument. The committee's work builds on the excellent foundations laid by the work of the Hansard Society commission chaired by my noble friend Lord Puttnam and on which the noble Lord, Lord Renton, served. Rereading the work of the Puttnam commission, which was a delight, I was struck by how appropriate for both the Government and Parliament their fundamental vision remains four years on. I quote:

"We want to see a Parliament which is an accessible and readily understood institution, which people know how to approach, and when and where to make their voice heard, a Parliament which relates its work to the concerns of those in the outside world".

That is what Parliament wants and should want and it is also what Governments, regardless of their political stripe, should want for their Parliament, too. It is certainly what this Government want for Parliament.

The Puttnam commission's vision was not just about how we communicate but about how we listen. These days, people expect to be able to find information where and when they want to know it rather than to be told when we want to tell them. People expect to be in control rather than to be controlled. They expect to have information in terms of their everyday lives and interests, not in terms of the institutions that provide it. What is more, if we listen well, both the Government and Parliament can harness the knowledge and skills of citizens to help us in our work and to help us to improve public services. The noble Lord, Lord Bates, referred to the many young people working in this institution. We should be listening to them. By increasing engagement and participation, we can win broader consent and inclusion in our democratic processes. I believe that information is a prerequisite for democratic empowerment.

There is, therefore, a high communality of interest. There is also a communality in the challenges that we face as government and as Parliament: the challenges to connection are now unprecedented. But so, too, are the opportunities for us all in government and in Parliament: in communication, in engagement and in

involvement in the way in which people now live and will live their lives in the 21st century. This debate is especially timely, given that the Government have today published their White Paper on Digital Britain, about which my noble friend Lord Carter of Barnes repeated a Statement to the House earlier. The challenges and opportunities of digital technology are not the only ones that we face, but they are of a scale that many of us are only beginning to comprehend and at which many of us marvel.

As the White Paper puts it, the changes that digital technology brings require us to develop a new level of participation for a competitive digital knowledge economy and a modern democratic and fair 21st century. The digital big bang will transform how we participate in a modern democracy, how we learn, how businesses operate, how we find jobs and how we do them, how we access our public services, how we develop our creativity and how we make the most of our free time and network with friends.

Both the Government and this House need to grasp the opportunities being offered up by the mass take-up of the internet. Good work has already been carried out to improve Parliament's website, as noble Lords have said, both with more information and by making it more usable and accessible. Similar work is being done in government through the creation of *direct.gov* and *businesslink.gov*, which focus on the needs of individual citizens and businesses, and through the introduction of minimum standards of usability, accessibility and accountability for all government websites.

However, the internet is no longer a one-way medium. It is a powerful means of engaging directly with the public and obtaining their views. In government, the e-petitions function of the No. 10 website has now had nearly 10 million signatures on 25,000 petitions. We have started to open up policy documents for open consultation online, such as the science White Paper, and we are making regular use of YouTube and other social media. We are determined to do more in this area. We have recently published and accepted the recommendations of the Cabinet Office's Power of Information Task Force on how to move forward. My right honourable friend the Prime Minister has appointed Sir Tim Berners-Lee to help us to move forward on the openness of government data.

Many noble Lords mentioned the ways in which this House has been experimenting in this field. I warmly welcome the many innovations, such as Lords of the Blog and the YouTube video, which I watched with the noble Lord, Lord Renton. I also welcome the fact that Parliament Labs has published several trial versions of the Equality Bill online, bringing together the clauses and the Explanatory Notes side by side. That is a fantastic innovation.

For many young people in particular, the internet is now not just a way of life but a normal way of life. One of the recommendations of the Puttnam committee was that Parliament should do more to engage with young people. This House has made excellent progress. I pay tribute to the Lord Speaker for her role in developing and championing the outreach programme. The Peers in Schools programme has been fantastic,

and I thank the many Members of this House who have already given their time to it and to the other outreach initiatives. I am grateful to the noble Baroness, Lady Shephard, for her new ideas—thanks to the WI—and I share the enthusiasm expressed by the noble Baroness, Lady Coussins, for bringing sixth-formers in here. The more young people we see, the better. The Lord Speaker has personally sponsored an annual competition for schools every year since her appointment, and this year's competition, about young people's representation in the media, is currently under way. Young people are the future of our country and our democracy. Last month, I was in Oldham talking about the building of a new youth centre. The young people were involved in the decisions, which made them passionate and switched on to debate and democracy. They were also interested in the House of Lords.

We in government and in Parliament have made great progress, but there is still a long way to go. No one knows all the answers or what is consistently best, but in government and in Parliament we need to try things out, innovate and learn to know that some things will not work or will have unexpected consequences. We need to manage them and not be afraid of them. We need to open up our information so that others can find ways of using it. We need to use the skills of those outside Parliament who want to help.

Many of the proposals emerging from the work of the Information Committee will be matters for this House, rather than the Government, to decide and implement. Noble Lords will take a view about the pace of change and about how to open up our processes and information. On behalf of the Government, I can give the House an undertaking of support for its work. The newly appointed director for digital engagement in the Cabinet Office will work with the officers of this House to share knowledge about best practice and best technologies. We will look to how the needs of the House can be incorporated into the work that Sir Tim Berners-Lee has agreed to lead for us and we will work with the House to ensure that where information passes from the Government to the House and vice versa—for instance, on Bills or in Questions—it does so smoothly and in ways that support the open information objectives of the House.

I have greatly enjoyed this debate. I am sure that I have not answered all the questions. In response to the question about citizenship, I firmly support citizenship education and will take the question about future financing back to the department. I look forward to many future debates on this terribly important issue.

## Apprenticeships, Skills, Children and Learning Bill

*Committee (1st Day) (Continued)*

8.40 pm

### *Amendment 5*

*Moved by Viscount Eccles*

5: Clause 1, page 2, line 35, leave out subsection (7)

**Viscount Eccles:** Clause 1(7) states:

“An ‘English apprenticeship agreement’ ... is an agreement under which a person undertakes to work wholly or mainly in England”.

As no reference was made in the Explanatory Notes to this restrictive condition, I wondered why it was there.

If it were not there, and an amendment had been tabled to put it in, the proposer would risk being told that such an amendment was unnecessary. How about Scotland? Are the Welsh to be confined to Wales? Things may be more serious than that. It is not in our interests to be any more restrictive or controlling than we need to be. All skills initiatives should be welcomed.

If I were running a United States textile company with subsidiaries in the United Kingdom and in three or four other European countries—perhaps a textile company interested in supplying Italian design fabrics to George Davies—I would not welcome this subsection. What does “mainly in England” mean? Is my budding apprentice capable of giving me an undertaking that I do not really want? Who would enforce it if the undertaking were not kept? Is it lawful anyway? I thought that there was freedom of movement and employment in Europe. In our proceedings so far, the Minister has given us well argued examples of top-down control whereas we need bottom-up diversity with the minimum of so-called coherence.

Subsection (2)(e) of proposed new Section 63E on the subject of study applications states that study, “would be undertaken within or outside the United Kingdom”.

Why the difference? I beg to move.

**Baroness Walmsley:** I thank the noble Lord for moving his amendment. There are those who think that the Welsh should be confined to Wales and the Scots to Scotland. I am not one of them, I hasten to assure the House.

I live in Wales, not very far from the border, and am aware that many young people live on the border. We go to one side of the border or another for various public services, including our local hospital, which although it is in Wales gets a lot of people from across the border in England. That happens in this part of the country. I should be grateful for the noble Lord's clarification on the position of someone living near the border in England who may wish to carry out apprenticeship requirements just over the border in Wales.

**Lord De Mauley:** I agree with my noble friend Lord Eccles that the purpose of subsection (7) is opaque to say the least. We very much look forward to the Minister's explanation for its purpose.

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green):** Let us hope that I can shed some light.

The noble Viscount, Lord Eccles, raised an interesting point about the location of work and training that is undertaken as part of the apprenticeship arrangements that we are putting in place for England. We have been clear that this legislation is intended to create a statutory

[LORD YOUNG OF NORWOOD GREEN]

framework for England, and a separate statutory framework is being created for Wales. We have to recognise devolution. This subsection and the Welsh mirror in Clause 5(8) are intended to take account of the different apprenticeship systems that will be operating in England and Wales, and there are some differences. These are set out in the *Specification of Apprenticeship Standards for England—SASE*—and the *Specification of Apprenticeship Standards for Wales—SASW*. Although both countries will have an apprenticeship agreement with the same prescribed terms, there will be slight variations in the apprenticeship being undertaken.

This subsection is intended to reflect the fact that the English certifying authority should issue certificates only to apprentices working wholly or mainly in England. Clause 5(8) provides that the Welsh certifying authority should be issuing certificates only under the same circumstances in Wales. Therefore, we need to retain this clause to avoid any overlap of responsibilities.

I understand the noble Viscount's concern about companies that operate globally and that may want to deploy English apprentices overseas for some of their employment and training. There is no reason why they should not do that. However, in practice, I suspect that very few apprentices will be deployed in this way. The vast majority will be working under an apprenticeship agreement which will be covered under employment law of England and Wales, and we need to be clear about where the responsibility lies. In answer to the noble Baroness, Lady Walmsley, we recognise that there will be across-the-border activities. We would not rule that out, but we must recognise that different authorities are involved. We do not rule out some flexibility; we recognise that there might be circumstances when, for part of the time, employment and training might be across the border in Wales or, the other way round, in England—and, possibly, part of the time it would be overseas. But we think that there is sufficient flexibility, and hope that on the basis of that explanation the noble Viscount will feel able to withdraw his amendment.

**Lord De Mauley:** The Minister said that there would be slight variations between England and Wales. Can he expand a bit on that? What sort of variations does he expect, and why?

**Lord Young of Norwood Green:** I cannot give the noble Lord a specific example, except to say that they are a different authority and we have devolved that power to them, so there will be variations in the apprenticeship framework. I am sorry that off the top of my head I cannot give a specific example, but the fact that there are two authorities, that we have devolution and there are devolved powers, means that inevitably there will be those variations. It could be an English-based or Welsh-based apprenticeship, which is why we put in the phrase to which I referred. We expect that the majority of the time, if it is an English apprenticeship framework, the apprenticeship will take place in England—I say the majority; we are not ruling out that some of the time it will not be. If it is a Welsh apprenticeship framework, the majority of the time it will take place in Wales.

**Baroness Sharp of Guildford:** Am I right in thinking that at present the certifying authorities are sector skills councils? Do they operate across these national borders within the United Kingdom? Do they operate in Wales and in Scotland?

**Lord Young of Norwood Green:** Yes, they do.

**Baroness Sharp of Guildford:** So at the moment, since they are the certifying authority, the apprenticeship certificates are issued on a cross-border basis.

**Lord Young of Norwood Green:** As I said earlier, this subsection is intended to reflect the fact that the English certifying authority should be issuing certificates only to apprentices working wholly or mainly in England, and vice versa. That will be in the *Specification of Apprenticeship Standards for England* and in that for Wales. Although the sector skills councils may operate in that way, that is where we are in terms of issuing the certificates and what the authority should be. We believe that there is enough flexibility, as defined. It does not rule out some movement. We are saying that they should be working wholly or mainly in England. My experience of apprenticeships, and others' more current experience, suggests that that will serve the vast majority of cases.

**Baroness Howe of Idlicote:** I find this rather confusing. Could it be that some difference of fee structure is making clarification between the two nations difficult?

**Lord Young of Norwood Green:** It is not the fee structure, it is that we have devolved powers. The differences between England and Wales include: key skills in Wales instead of functional skills in England; no personal learning and thinking skills in the Welsh framework; and a Welsh baccalaureate qualification. We cannot ignore the fact that it has the devolved powers to do that. It is not about fee structure; it is the fact that we have devolved powers, and that we have defined the authority that is going to specify the apprenticeship standards—one for England and one for Wales.

**Baroness Wall of New Barnet:** As somebody who is very heavily involved in the sector skills councils, I support the final statement made by my noble friend; there are differences across the four nations in NVQs and other elements that sector skills councils deal with. I will make the arguments when moving my own amendment, but as regards a passport for employment, the certificate should be able to be read right across all the countries. People do not just get an apprenticeship in England and then work forever in England. There are other arguments about where the sector skills councils' logo should be on the certificate, but I should like to reserve those. There are differences in how the sector skills councils have to work across four nations—Scotland has different NVQs and Wales, as my noble friend has said, has a baccalaureate, which we do not have here—but that does not necessarily mean that they have to manifest themselves across the certificates as well.

**Lord Elton:** The House has accepted a definition of an apprenticeship which includes a mixture of on and off-the-job learning, and we have heard the example of a community which goes across the Welsh border to a hospital in Wales. What happens if those same people in that hospital do their off-the-job learning in England and their on-the-job learning in Wales, or vice versa? The subsection says “wholly or mainly”, but does the certificate have to emanate from the authority in which the greater amount of time is taken, or is there some other criterion? I think there will be real cases like this; we are not just talking hypothetically.

**Lord Lucas:** What ill would befall, if this section were left out, and it were merely left to the good sense of the people running the system? What possible iniquity do the Government imagine that this subsection is preventing?

**Lord Young of Norwood Green:** It is not a matter of iniquity. We are addressing the fact that, first, we have devolved powers in this area, and, secondly, we have two different apprenticeship standards authorities; one for England, one for Wales. With due respect, we are discussing hypothetical cases and that is part of the problem. We are discussing the case of whether somebody might be with a training provider in England and carrying out some of their training in Wales. I believe that that is a hypothetical case.

To a certain extent, who will take responsibility for learners on the Welsh border will depend on where the particular learner lives. I thought the major concern was whether there would be some flexibility in where the apprentice carried out their learning or their work experience. We say that there is some flexibility, because we have said that the work must be “wholly or mainly” in England, so there is a bit of flexibility there. We think that that is sufficient.

**Lord Elton:** The Minister said that we were discussing hypothetical cases. He also said that there would be occasions on which this happened. He then said in an aside—I merely ask him to confirm that he said this—that it would be decided according to the authority in which the learner lived. Is that the criterion, because it is not apparent from the Bill?

**Lord Young of Norwood Green:** I was simply trying to respond to a question about who would take responsibility for learners on the Welsh border, and merely made the point that that would depend on where the learner lived. I want to come back to the main point of concern, which was articulated by the noble Viscount, Lord Eccles, about the need for flexibility. I think that I have responded to that.

**Baroness Sharp of Guildford:** I might point out to the Minister that subsection (7) makes it quite clear that the key issue is that, “a person undertakes to work wholly or mainly in England”. The key issue is where the work experience is, not where the learner lives.

**Lord Lucas:** Yes, indeed. A lot of jobs, after all, involve being outside the United Kingdom, let alone being in different parts of the United Kingdom. If you are trying to train in many leisure-related activities,

the company for which you work may well have activities abroad. Many English people are sent to work abroad to look after English people who are holidaying there. I imagine that we still have something approaching a small Merchant Navy, which might well consider that its training took place offshore some of the time. If you work in the oil industry, you might well work offshore or in different countries as part of a good apprenticeship. This is a totally unnecessary restriction, and we will keep on at the Minister until he says that he will take this away and think about it. He is not getting much help from his officials in the Box. I imagine that they have run out of ideas. Why not give them some time to think about it better?

**Viscount Eccles:** Perhaps I could decide what to do about my amendment. It is after the dinner hour, and I thought that I was engaging in a leitmotif overture, but it seems to have turned into Act 1 of a Wagnerian drama. We are back almost to Hans Sachs and his apprentice David.

I introduced Scotland and Wales only because it seemed to me that no one was going to suggest that you could not move freely across the boundaries to Wales and to Scotland, and that “mainly”—I asked what that meant—would not be applied to people who moved between Wales and Scotland. The Minister will be surprised to hear that I was once a premium apprentice. I did part of my apprenticeship in Glasgow, but I suppose that I was not really supposed to do that; I should have stayed in England. This is my problem; I do not understand why we have to have these restrictions.

I also asked a couple of other questions which, with due respect, the Minister has not quite dealt with. How can an apprentice be enforced to give this undertaking? I was 23 when I got my premium apprenticeship; I must have had special educational needs to have waited so long.

How can we expect somebody who undertakes an apprenticeship to give an enforceable undertaking? They might give an undertaking, but it is not enforceable, that is for sure. The Minister did not answer the question about Europe. I wonder whether Clause 1(7) is okay under European law. I would guess that it is not, but I am not a lawyer. I was grateful to the Minister for mentioning that we lived in a global economy because that was my central point. A lot of employers operate in England and are not English: perhaps they are German or from the United States. Faced with this clause, they would say, “I don’t want to be any part of this system if I’ve got to get into the bureaucracy of what’s in Clause 1(7)”.

The Minister should take this matter back and think about it. What I said at the beginning is entirely right. This is entirely unnecessary, so why not drop it so that we have one less restriction?

9 pm

**Lord Young of Norwood Green:** To address one point, having met a number of BMW and Porsche apprentices, I assure the noble Viscount that they undertake the majority of their apprenticeship training in the UK, which is not to deny that there may be

[LORD YOUNG OF NORWOOD GREEN]  
other examples. I think that they undertake some exchanges with their German equivalents. I will take this away to consider it because I fear that I have not totally convinced the noble Viscount of the efficacy of this particular clause.

**Viscount Eccles:** I am grateful to the Minister and all those who have taken part in a debate that I did not anticipate. Meanwhile, I beg leave to withdraw the amendment.

*Amendment 5 withdrawn.*

*Clause 1 agreed.*

**Clause 2 : Power to issue apprenticeship certificates:  
England**

*Amendment 6 not moved.*

*Clause 2 agreed.*

*Clauses 3 and 4 agreed.*

**Clause 5 : Duty to issue apprenticeship certificates:  
Wales**

*Amendment 7*

*Moved by Lord Elton*

7: Clause 5, page 3, line 20, leave out “prescribed manner” and insert “manner prescribed by the Welsh Ministers”

**Lord Elton:** In moving Amendment 7, I shall also speak to Amendment 8, which is consequential to it. I will also use this opportunity to apologise for tabling so many amendments without speaking at Second Reading. I did send the Minister an explanatory note saying that I had to be at a funeral that day, which was quite unavoidable, but I apologise none the less. Since everyone else is declaring interests, I declare an interest which is perhaps tangential, but will become less so in the Bill, as an honorary fellow of the City and Guilds of London Institute.

I revert—in much better heart than I expected before this afternoon began—to the question of definitions, because the Committee has decided to start the Bill with the definition of apprenticeship. There is an established principle that a definition should always come as early as possible when you are talking about anything. My amendment is aimed at the definition of the term “prescribed manner” which appears in Clause 5(1). You have to go to Clause 6(2) to get the definition of it. That is a quite unnecessary separation of the use of the word and its definition. My amendment simply substitutes for “prescribed manner” the definition that is in Clause 6, which is “the manner prescribed by Welsh Ministers”, because that is the bit that deals with Wales.

I was not intending to look at that aspect of the Bill at all, but one reads through before one comes to the patch that one is concerned with. I perhaps did so too quickly, because I skimmed over the very beginning of the Bill when we have the same phrase used in Clause 1(1). If the Minister finds that he has the information to hand, it might be helpful for him to tell me where the definition of that is; I cannot find it in this end of the Bill. That may be relevant.

All I am trying to do is use fewer words, which we are all encouraged to do; take out a subsection, which one should always do if it is unnecessary; and let the reader know what he is reading when he reads it instead of having to turn over a page or two and find the definition later on. I beg to move.

**Baroness Walmsley:** I strongly support what the noble Lord, Lord Elton, is trying to do. It is bad enough, when you have a Bill that amends a lot of Acts, to require a pile of those previous Acts on your desk to find out what is being amended; it is even worse when you have to look forward several pages in the same Bill to find out what is being talked about. I hope that the Minister will take that back to those who draft these Bills and make it general practice. When people talk in acronyms, the first time that one appears, *Hansard* helpfully gives the full title. The same sort of principle should apply to the drafting of a Bill.

**Lord De Mauley:** My noble friend explained his amendment with his usual clarity. Like the noble Baroness, Lady Walmsley, I agree with him, and I cannot imagine how the Minister could do otherwise.

**Lord Young of Norwood Green:** Imagination is a wonderful thing. This is definitely one for the connoisseurs. I am grateful to the noble Lord, Lord Elton, for the time and attention he has given to the Bill and to how it could be simplified and made straightforward.

Clauses 5 and 6 give the Welsh Ministers the power to issue certificates, provided that the Welsh completion conditions have been met. While I appreciate the noble Lord’s desire to reduce the length of the Bill, Amendments 7 and 8 would instead reduce the level of clarity that we seek, which is to be certain that the Welsh Ministers’ powers are prescribed in a manner that is by regulation. Removing Clause 6(2) would mean that the “prescribed manner” referred to in Clauses 5 and 6 was not defined, and it would not be clear that it means prescribed by regulations by Welsh Ministers. I told you that this was one for the connoisseurs.

Clause 256 provides a definition of “prescribed” for the Secretary of State as meaning “prescribed by regulations”, which is why Clause 1 does not need the same definition. On the basis of those explanations, I therefore ask the noble Lord to withdraw his amendment. If there is any doubt in our minds that we have not addressed this issue properly then naturally we will look at it, but we believe that there is a distinction between the two, which I have just defined. That is why the word “prescribed” is used with regard to the regulations by Welsh Ministers.

**Lord Elton:** I cannot withdraw my amendment until I have understood the reason why I am being asked to do so. Let us set aside my parenthetical question about Clause 1, which I do not think impinges on this; I am happy simply to read what the Minister said before the next stage. On the amendment, though, I understood him to say that if we took out Clause 6(2) there would be no definition of the prescribed manner. That, however, is only on the assumption that we had not substituted the words in subsection (1) that I propose, which would make it clear. I do not follow his reasoning here. I may have misheard him, and maybe other noble

Lords have heard him better than I have, but, for my own benefit, could he tell me slowly and clearly whether there is anything that he said, beyond what I have repeated, that I could possibly accept as a reason for withdrawing my amendment?

**Lord Young of Norwood Green:** Our view is that these amendments would reduce the level of clarity, which is to be certain that Welsh Ministers' powers are prescribed in a manner that is by regulation. Removing Clause 6(2) would mean that that prescribed manner referred to in Clauses 5 and 6 is not defined and it will not be clear that it means prescribed by regulations by Welsh Ministers. I am also advised that the amendment does not mention the words "in regulations".

**Lord Elton:** I am obliged to the noble Lord for that. It seems to me that I must come back with the word "regulation" in my back pocket and put it where it needs to be put. I hope that I will have the noble Lord's sympathy in trying to get clear English at the beginning of a Bill and shorter phraseology. With those cheerful nods along the Front Bench, I will happily withdraw this amendment.

*Amendment 7 withdrawn.*

*Clause 5 agreed.*

**Clause 6 : Power to issue apprenticeship certificates:  
Wales**

*Amendment 8 not moved.*

*Clause 6 agreed.*

*Clauses 7 and 8 agreed.*

**Clause 9 : Contents of apprenticeship certificate**

*Amendment 9*

*Moved by Lord De Mauley*

9: Clause 9, page 5, line 22, at end insert—

- “( ) the qualifications that have been successfully completed, and
- ( ) the employer or employers with which the apprentice has been trained”

**Lord De Mauley:** Amendment 9 proposes that the apprenticeship certificate must state that the qualifications "have been successfully completed" and identify the employer. We want to see adequate details of an apprenticeship included in the relevant certificate. That is important for two reasons. First, it would give employers, principally future employers, greater ability to see what lies behind the certificate. Secondly, it would ensure that the highest possible standards are achieved and maintained in apprenticeships. I look forward to hearing the explanations of those noble Lords proposing the other amendments in this group because I expect that I will sympathise with them. I beg to move.

**Baroness Garden of Frognal:** I shall speak to Amendment 10 in this group. It is somewhat surprising to find such detail about the wording on the certificates to be enshrined in law, but, if it is to feature, we need to consider what is appropriate. Too much information

leads to confusion and too little is obviously not helpful. I like the description of the purpose of a certificate given by the noble Baroness, Lady Wall, as a passport for employment. Certainly, one of the purposes of a vocational qualification is to provide public recognition that agreed standards have been met and to offer assurances of transferable skills that will help potential employers to identify suitable candidates for employment or further training. It is essential to have on the certificate—as stated in the Bill—the name of the candidate, as well as the apprenticeship framework and sector, which would include the trade, craft or industry of achievement, and the level of achievement. Presumably, there also would be a date.

During my time working with City and Guilds, which has awarded many millions of certificates over the years, it was established practice for further education colleges to feature on vocational qualification certificates. This had and has the full support of the Association of Colleges. The college would normally have been responsible for ensuring that training standards had been met, as well as for the administrative registration of candidates. As educational institutions, they gave quality assurance of objective standards, took responsibility for the trustworthiness of the certificate and gained the credit for having done that. The college may also stand as an official employer if it is working with SMEs through a group training association.

However, other training centres would not automatically be included on the certificate if it was considered that they might in any way restrict the acceptability of the qualification. For instance, qualifications gained during military service in engineering, construction and catering normally would not state that the training provider was in a military context. The skills and achievement were, after all, assessed against national standards and there was a possibility, however remote, that civilian employers would think that the skills would not transfer to a civilian workforce. By way of an example from a different situation, certificates awarded to those in prison would not name the place of training and assessment but would give credit for the proficiency demonstrated. They could be shown to a potential employer without incurring possible discrimination.

The noble Lord, Lord Hunt, flagged up in his first amendment putting an employer's name on a certificate—the noble Lord, Lord De Mauley, did the same. There are arguments against this which also centre on transferability, acceptability and quality assurance. Employers can, as we know, change their names; they can go out of business; they may be recognised only locally or regionally—I shall not reintroduce the debate on the Welsh-English borders at this point. An employer's name might be a barrier to future employment. For instance, an apprentice to a builder in Tyneside might find that his certificate was less well accepted if applying for a job in Devon, where the employer's name was simply not known. A few years ago, an apprentice with Woolworths, for instance, might have considered that they had the backing of a nationally recognised, well established employer, but they might find the relevant certificate a little more questionable today. If an apprentice was applying to a competitor organisation, they might be

[BARONESS GARDEN OF FROGNAL] challenged on a conflict of interest, as well as on whether there were variations in standards between companies in the same business.

None of those doubts would apply for an FE college. Naming colleges would continue a long-established practice. It would give credit to colleges for all the work and quality assurance that they do. It would give added security to employers and an ingredient of transferable employability to apprentices. I hope that the Minister will respond positively to this amendment in the group. I look forward to his reply.

9.15 pm

**Baroness Wall of New Barnet:** I shall speak to Amendment 11 in my name. Before doing so, I congratulate all noble Lords who have so far contributed to this important debate. The quality of contributions, as ever from this Chamber, has been of a high calibre. It was fascinating for me as someone who spent many years working in the chemical industry, where apprenticeships were the norm, to listen to the debate around Amendment 1. It would never have been necessary to have the definition of “apprentice” written down anywhere. Employers knew what apprentices did and their value to the organisation, and the apprentices knew what their role was and what opportunities an apprenticeship offered them.

The Minister has a background of training as an apprentice and as a long-standing trade union official and leader, and he has spent many years dealing with apprenticeships. In congratulating him on his role, the noble Lord, Lord Hunt, said, “Yes, my Lords, but it was a long time ago and things have moved on”. Things have indeed moved on and for the better, but it is as important as it ever was to remember that an apprenticeship is worth the name only if the content of the training, on and off the job, is of high quality, the individual is well supported and the apprenticeship brings with it value not just to the apprentices, who receive the awards with great pride, but to the employer who recognises the skills of the individual and exactly what they can expect from each other.

I declare an interest as having worked with Semta Sector Skills Council in putting forward my amendment and supporting its work with employers. SSCs are employer-led—my noble friend recognised that in his response to Amendment 1. Including them on a certificate is an indication that employers still have control over the content and quality of the framework. Explicit employer engagement is not mentioned in the apprenticeship elements of the Bill. If employers are truly to own apprenticeships, and if the name of the employer is not to appear on the certificate—there is mixed value in that, one disadvantage being the cumbersomeness of having several employers on the certificate as people move around—the SSC logo is a useful indicator to all employers of the nature of the programme.

As my noble friend said earlier, the role of the SSC in developing frameworks was endorsed by our Government. That was stated clearly at Second Reading. There is an argument that the SSC should have responsibility publicly acknowledged, for both good and bad. If the framework is not up to much—and we

hope that it never is in that state—why should any SSC get away without their name being associated with it and taking responsibility for it? I think that I heard my noble friend say when responding to Amendment 1 that the SSC name would appear on the certificates. If I heard correctly, I am delighted and I thank my noble friend for announcing this. If I did not, then I urge him to take on board the arguments put to him during this debate and to reconsider the Government’s position.

**Baroness Perry of Southwark:** I support these amendments. It is difficult for us to realise how confusing the world of education can seem to employers, particularly small and medium enterprises. We move the goalposts and the names and nature of qualifications far too fast for the average busy and preoccupied employer to understand. When a young person presents themselves for employment, the employer will look at the information that they provide and the certificate that they have achieved. If they can recognise something that gives them confidence—from the sector skills council, the previous employer, the further education college or whatever piece of information it is—they will say, “Yes, these people have said you are okay, so I know you are okay”. That is important. Just a basic statement that you have achieved an apprenticeship is not enough for the average employer. They need to have something that explains to them exactly what it means, so I strongly support all three amendments in the group.

**Lord Young of Norwood Green:** The amendments raise some important issues that we grappled with in developing the requirements for the contents of apprenticeship certificates, which are set out in Clause 9. Indeed, we considered both the suggestions in Amendment 9. Our aim has been to strike a balance between setting a clear statutory framework and avoiding placing unnecessary burdens on individuals, providers and employers. To include qualifications that have been successfully completed on the completion certificate would duplicate existing information. For the apprenticeship certificate to be awarded, the apprentice must have completed the qualifications set out in the framework. The awarding bodies will provide certificates for the qualifications for which they are responsible. Indeed, I have in my possession somewhere at home a range of City and Guilds certificates, if I could ever find them again.

The name of the employer with which the apprentice trained will be available on the individual’s CV. It will be a piece of information routinely included in application forms for jobs. It was interesting listening to the eloquent contribution of the noble Baroness, Lady Garden, when she pointed out some of the problems with including employers’ names on apprenticeship certificates. Similarly, I recognise that there might be some interest in knowing with which provider an apprentice undertook their learning, but I should point out, as did the noble Baroness, Lady Garden, that this would not necessarily be a college of further education. She gave a number of interesting examples of why providing that information would not be appropriate.

Details of the institution and awarding body may be provided on the certificates issued for each of the qualifications attained during the apprenticeship. To include these details again on the apprenticeship

completion certificate would be unnecessary duplication. Perhaps the most important point for me is that we should ensure that there is parity of esteem for apprenticeships. If somebody has an apprenticeship certificate and makes it clear that they have undertaken an apprenticeship where the standards have been clearly defined to a high set of criteria and have been validated, that is what an employer would specifically be interested in.

There is a concern about identifying, for instance, FE colleges. There are FE colleges and FE colleges. Do we really want that to be associated with the apprenticeship certificate? We do not want to in any way undermine the fact that the individual concerned has been through that apprenticeship and has met the requirements of the apprenticeship standards. We have concerns about FE colleges in that respect.

If, despite that, these matters are important to an employer, the information will be available to them through the other routes that I have described. I recognise that there is a debate on this issue and I assure the Committee that if, in the light of practice and experience, it becomes clear that it is necessary to make regulations specifying other matters to be included in the certificate, Clause 9(2) provides this power.

Turning to Amendment 11, I pay tribute to my noble friend Lady Wall for her intervention. I am happy to reiterate the importance of sector skills councils to the apprenticeship programme. They are the bodies that, in consultation with employers, will help to derive the apprenticeship framework; they are the bodies that will make sure that it aligns itself with certain standards. I am happy to confirm that the apprenticeship certificate will state the name of the apprenticeship framework and the sector to which it relates and will carry the branding or logo of the sector skills council that issued the framework.

There may be occasions when the issuing authority is not a sector skills council—for example, when the framework covers an occupation that is not within the footprint of a sector skills council. In such cases, temporary alternative issuing arrangements will have to be made and it would not be appropriate to include the branding on the certificate. However, that is an exceptional circumstance.

While we expect the National Apprenticeship Service to include the sector skills council branding on apprenticeship certificates, we do not consider it appropriate to require that in the Bill. Wales will have its own arrangements for the issuing of apprenticeship certificates—I am frightened to mention the word “Wales” in case it encourages another debate—and I understand that Welsh Ministers, too, will expect their issuing authority to include sector skills council branding.

I hope that the noble Lord and the noble Baroness will be willing not to press their amendments and recognise that what we need to ensure is that, when an apprentice produces their apprenticeship certificate, it does not matter, with due respect, whether it has been obtained with the help of a certain FE college or another training provider; what matters is that we have provided a quality experience for that apprentice and validated it, so an employer can say, “With that certificate, I can be confident when I employ that apprentice”.

**Lord Lucas:** It would be a fascinating principle to apply to universities. The proposition that we should know that someone has a first class degree but not know which university it came from would startle us all. It is immensely important that the name of the FE college should be on the certificate—it is the motivation for the FE college to do its job well. An FE college is known by the quality of the people who have been through its apprenticeship schemes—this is the way many FE colleges work. They are immensely proud of the quality of their graduates, maintain a strong relationship with the industry and are known to be great places to train as this, that or the other. That sort of reputation is the motivation for FE colleges to do well, and to continue to do well. It is essential that the FE college brand should be on an apprenticeship certificate; that someone should be known by the FE college that they have been to; and that the FE college should be known by the quality of its graduates.

Something else that appears to be missing from the certificate is a date. If the certificate is to be of any value, it must be something that can be checked. If you present a certificate that just says, “Ralph Lucas has this apprenticeship”, where does it get you? There are plenty of Ralph Lucases in the world. You do not know where it comes from, there is no one obvious to check it with—and even if you did, they would ask, “When?” and you would not be able to answer. There must be something on the certificate that enables it to be validated by an employer. A date and the name of the FE college would do it. If the sector skills councils are going to keep records, fine—but the certificate must still have a date.

However, I come back to where I started: it is of immense value to have the FE college on the certificate. It is good for the person who has done the apprenticeship, particularly if they have been to an FE college with a good reputation. Many of these colleges have nationwide reputations in particular sectors. It is very good for FE colleges to be able to be known by their students in this way.

9.30 pm

**Baroness Perry of Southwark:** I strongly support what my noble friend has just said. I found it extremely upsetting that the Minister was dismissive in saying, “Well, there are FE colleges and FE colleges”, as if somehow there were accredited and publicly financed FE colleges which were somehow inferior, whose names would be a disadvantage on a certificate. I find that extremely concerning. I would have thought that the name of any accredited British educational institution on a certificate ought to be an absolute guarantee of its quality. If that is not true, I ask myself what the Government have been doing for the past 12 years.

**Lord Young of Norwood Green:** Perhaps I could have phrased that more carefully. I certainly did not mean to impugn the quality of FE colleges. I was trying to say that I do not want us, as the noble Lord, Lord Lucas, was suggesting, to start distinguishing between FE colleges. That makes the point. Why do we need to do this? I recall that my City and Guilds certificates probably contain the name of the college, but they are not the apprenticeship certificate. That is

[LORD YOUNG OF NORWOOD GREEN]

not the only thing that an employer will be requesting of a potential employee, as I am sure that noble Lords are well aware.

I do not accept the analogy with HE. Of course the employer can be aware if they want to see the individual's actual qualifications. However, first, not all apprentices, as we have heard the noble Baroness, Lady Garden, tell us, will do their training in FE colleges. So, what are we saying? That we will leave a blank space in some cases, so that some certificates will contain that information and some will not? We are trying to create a situation where we acknowledge the fact that the individual concerned has been through a properly accredited and validated apprenticeship scheme where the standards have been clearly defined and inspected. Surely that is the number one consideration of any employer.

**Baroness Garden of Frogmal:** The Minister was implying that this was an unnecessary additional piece on the certificate. There would be some certificates without a training provider on them; that is normal practice. We—including noble Lords on the Conservative Benches—are saying that it would be an additional benefit to those who gained apprenticeship certificates if there were the name of an FE college to show that that was an additional form of accreditation and guarantee of standards on the certificate.

**Lord Young of Norwood Green:** I was rightly accused by the noble Baroness, Lady Perry, of implying a differentiation in standards in FE colleges. On the other hand, we are told that we have to display them. Do we really want to do it in that way? The most important thing that we can do is to establish that the individual concerned has been through a properly validated apprenticeship programme. That is surely the most important thing that an employer would want to see. The number one thing that the certificate needs to establish is that they have been through that particular apprenticeship framework.

It is appropriate that the sector skills council should be acknowledged, as they were after all the group that helped to determine the particular framework and are representative of the employers. If employers want other information about the FE college, they are quite capable of seeing that from certificates. In response to the noble Lord, Lord Lucas, you will see the name of the university on the degree, just as you will see the name on the qualifications provided by an FE college. The debate that we are now having is to do with whether we need to include all that information on the certificate. In some circumstances, as the noble Baroness, Lady Garden, identified, it would be unhelpful for this information to be there. Perhaps I misunderstood the context. I thought that the noble Baroness referred to prisons, for example, and employers that had gone out of business.

**Baroness Garden of Frogmal:** Let me correct any misunderstanding. I was saying that there were some forms of training provider or employer that might reduce the value or transferability of the certificate by being on the certificate. Not for one moment was I suggesting that an FE college's name on a certificate would in any way hinder transferability.

**Viscount Eccles:** I wonder if the Minister would accept that, whatever is on the certificate, the question that anybody will be asked is, "Where did you serve your time?". That is the question. There is absolutely no way that anybody can avoid being asked that question and answering it. The question then becomes one of how open you are before the interview.

**Baroness Sharp of Guildford:** On a point of information, what appears on the certificate issued by the sector skills council at the moment?

**Lord Young of Norwood Green:** If somebody is capable of providing the answer to that question, we will do so. This debate is, I believe, still missing the main point. The main point for an apprentice is whether they have something to demonstrate that they have been through a properly validated and accredited apprenticeship programme. Surely that is the main point. Are we seriously saying that, today, anybody who employs someone does not ask them who their previous employer was and where they undertook their courses of study? It seems to me that it is an inherent part of any application for employment. That information is not going to be concealed from any potential employers, so it has nothing to do with openness and transparency.

The core of this argument is whether we want an apprenticeship certificate—regardless of the FE college or training provider—to demonstrate that the individual has the core competencies to carry out the type of work. If I have qualified in electrical work or plumbing, the employer wants to see that I have been through that apprenticeship framework and have a certificate, properly validated by the particular sector skills council. The additional information is available, if that is what the employer feels is most important. I accept the point of the noble Viscount, Lord Eccles, about knowing where they did their workplace experience and who their previous employer was. That is normal employment practice. It does not have to be on the apprenticeship certificate. I give way.

**Baroness Walmsley:** I thank the Minister. He encourages me again to try to make the point that I was going to make a moment ago. The noble Lord relies, in his approach, on his hope that, in the future, the credibility and understanding of what an apprentice means will be so general that there will be no need to put the FE college, or almost anything else, on the certificate. That is a hope. It may well be that, in time, employers and anybody else will understand sufficiently what the standard of an apprenticeship certificate means. Until that time, it would really be helpful to employers to know where training took place.

**Lord Elton:** I can help the Minister a little by pointing out that we would be quite happy to accept his definition of what is the most important thing about the certificate. It is that the apprentice has completed a course that has been regulated and is of quality. That does not have to be the only information. I am sure that we would be happy to accept that if he would accept that an important supplementary piece of information is the place where the work was done. Then we would all be satisfied.

**Lord Young of Norwood Green:** I feel that this is becoming a circular debate—we are reiterating the points. Perhaps I ought to at least have another look at the points that are being made in the interests of time.

**Lord De Mauley:** I am grateful to all the noble Lords who have spoken on these amendments, and indeed to the Minister for trying so valiantly to respond. However, we feel that inclusion of this information will encourage employers, and others involved, to aim for higher and higher standards. I detected an element of agreement from the noble Baroness, Lady Wall, on that point.

We also think that the very least that can be expected is that the certificate should say, on its face, that the qualification has been successfully completed. My noble friend Lord Lucas spoke about university degrees. It is proposed that these certificates will not even say that the qualification has been successfully completed. Because I have not heard a satisfactory answer from the Minister, I would like to test the opinion of the Committee.

9.41 pm

Division on Amendment 9.

Contents 38; Not-Contents 40.

Amendment 9 disagreed.

## Division No. 2

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9.52 pm

### Amendment 10

Tabled by **Baroness Garden of Frognal**

10: Clause 9, page 5, line 22, at end insert—

“( ) the name of the further education college where the course of training has been completed”

**Baroness Garden of Frognal:** I will not be moving this amendment, but in the light of the Minister's remarks we believe that this is an important principle. We are proud of our further education colleges. Having their names on certificates is an important issue. The Minister said that he would consider the matter and bring it back. We reserve the right to raise it again on Report.

Amendment 10 not moved.

Amendment 11 not moved.

Clause 9 agreed.

### Clause 10 [Apprenticeship frameworks: interpretation]:

### Amendment 12

Moved by **Baroness Walmsley**

12: Clause 10, page 5, line 37, at end insert—

“( ) meet the requirements of the disability access standard.”

**Baroness Walmsley:** In moving the amendment, I shall speak also to Amendment 14, which is grouped with it. The amendments were laid in another place by my honourable friend Annette Brooke, the MP for Mid Dorset and North Poole, at the instigation of the RNIB, which is concerned about putting wording into the Bill to ensure that people with disabilities are not excluded from the opportunities of apprenticeships. As she pointed out, such people may take longer than others to carry out a task and they may therefore not be an attractive proposition for employers, unjustifiably of course in many cases. However, that is the situation. It is of course also essential that people with disabilities are physically able to carry out both the work and the training parts of a programme.

My honourable friend asked how the Government were going to overcome the issue. In his reply, the Minister, Siôn Simon, called in aid Clause 101, which is now Clause 102 in our version of the Bill. He pointed out,

“the chief executive of skills funding may provide or secure a range of services to assist ‘effective participation’ of learners undertaking apprenticeships”.—[*Official Report*, Commons, Apprenticeships, Skills, Children and Learning Bill Committee, 10/3/09; col. 223.]

This, he said, would allow the chief executive,

“to include such services as would assist learners with disabilities to access apprenticeships”.—[*Official Report*, Commons, Apprenticeships, Skills, Children and Learning Bill Committee, 10/3/09; col. 223.]

[BARONESS WALMSLEY]

I have laid this amendment again in your Lordships' House because we are still concerned that that answer does not adequately address the problem. Clause 102(1)(a) states that the chief executive:

"must provide or secure the provision of such services as the Chief Executive considers appropriate for assisting persons to find apprenticeship places".

However, Clause 102(1)(b) states that he:

"may provide or secure the provision of other services for encouraging, enabling or assisting the effective participation",

and so on. Note the difference: "must" in the first paragraph—an entitlement—and "may" in the second paragraph—a pious hope. I suggest that a pious hope, however pious, is not strong enough.

Clause 112 relates to persons aged 19 or over with learning difficulties. Under subsection (1):

"The Chief Executive must ... have regard to the needs of persons with learning difficulties".

These phrases at least demonstrate that the Government are aware that special services need to be provided to make sure that those with physical or mental disabilities or difficulties have equal access to apprenticeships. That is good, but we on these Benches, along with the RNIB and other groups, feel that this aspect of the Bill needs strengthening. How can the Minister reassure us that there will be equal access for those with disabilities to the opportunities afforded by the Bill? I beg to move.

**Lord De Mauley:** We sympathise strongly with the argument for increased access, especially access to apprenticeships, for those with disabilities. The noble Baroness, Lady Walmsley, has made a powerful argument. Having said that, we feel it is important that a balance is achieved between widening access, maintaining the highest standards in apprenticeships and ensuring that already burdened employers know exactly what each level means. We look forward to hearing from the Minister how that will be achieved.

**Lord Low of Dalston:** Noble Lords will know that I am chairman of the RNIB, so it is not surprising that I welcome this amendment. It provides an opportunity to make the point that the needs of disabled people need to be given proper consideration in the design of apprenticeship frameworks. It is not quite enough to say that apprenticeship frameworks should meet a disability access standard if that means complying with the DDA, because it should apply anyway. In this context, I repeat that I have extensive interests in the disability field, including research assistance, which were fully declared at Second Reading. The Government's standard response to representations from disability organisations asking for things to be put into the Bill to address the particular needs of disabled people has been that that is not necessary because it will be taken care of by the DDA.

However, there are three problems with that. First, the DDA is too general to give the designers of apprenticeship standards specifications and frameworks a clear idea of the specific things they need to put in to meet disabled people's needs. Secondly, some of the things that disabled people need are specific kinds of provision that would not necessarily be required by the DDA, such as access to work support.

Thirdly, where specific kinds of provision are not included as a matter of course, it is not right that the individual disabled person should be left to assert their rights by recourse to the law. It is therefore highly desirable that apprenticeship frameworks should be required to meet an accessibility standard in the sense of spelling out in some detail the specific kinds of help that disabled people may need to enable them to derive maximum benefit from an apprenticeship.

10 pm

I agree with the noble Lord, Lord De Mauley, that although the Government show some awareness in Clauses 102 and 112, which have been referred to, that particular services need to be made available to address the needs of disabled people, the provision made in the Bill so far is not yet enough, as the noble Baroness, Lady Walmsley, who moved the amendment, said. It is perhaps a pity that we should have to be making the kind of point that legislation needs to be disability-proofed Act by Act as they come before Parliament, as opposed to it being a given every time someone sets out to draw up legislation. That should be standard in the legislator's toolkit, so to speak.

As the Bill has proceeded through its various stages—initially as a draft apprenticeships Bill during the previous Session, and now as a somewhat larger and more compendious Bill—I have been concerned to make the point to Ministers and officials that with proper planning and attention given to the twin principles of accessibility and inclusion, specifications and frameworks can and should be developed to address the specific needs of disabled people.

There are some very simple things that could be incorporated to help make apprenticeships more accessible. For instance, there could be flexible and inclusive frameworks that include reasonable adjustments as a matter of course, designed to support disabled apprentices and enable them to participate in an apprenticeship on a level playing field, alongside their non-disabled peers. Disability organisations would be happy to help with the necessary guidance. The Specification of Apprenticeship Standards for England—SASE—is currently out for consultation and I know that disability organisations have responded, so I very much hope that the points that they make will be taken on board as a result of this process.

There are other points along similar lines that we will be coming to as we go through the Bill, but I do not want to detain the Committee with them at this hour. However, I thought that it might be helpful to sketch out the general approach in the context of this amendment.

**Baroness Howe of Idlicote:** I echo what my noble friend Lord Low has said. It would be nice if we had reached the point when we did not feel it necessary to reiterate yet again that special needs, disabilities, and so on must have equal access. But I fear that that point has not yet arrived.

I congratulate the Government on the attention that they have given to this, but the way in which the noble Baroness, Lady Walmsley, illustrated the issue makes it clear that there is still an unevenness, and it may give rather too much flexibility on how it can be interpreted locally. I support the amendment.

**Lord Young of Norwood Green:** I thank the noble Baroness for her amendment. As I have already said this evening, I fully support the need to ensure that young people with learning difficulties have the opportunity to benefit from the life-changing opportunities provided by apprenticeships. There is nothing dividing us on that, but it is how we deal with it that we need to crack.

I shall try to keep my contribution as brief as I can. The chief executive of the Skills Funding Agency will be bound by the Disability Discrimination Act and it will be unlawful for him to discriminate in the exercise of any of his functions. In addition, as a public authority, the chief executive will be bound by the disability equality duty in Section 49A of the Disability Discrimination Act. That will require him to proactively improve equality of opportunity for disabled people and promote positive attitudes towards them. It is intended that, when passed, the Equality Bill will revoke the Disability Discrimination Act, and the Equality Act provisions will then apply to the chief executive and to the Department for Business, Innovation and Skills.

I want to be as helpful as I can. As an indication of our positive attitude, we met with the noble Lord, Lord Low, and other representatives of organisations on this issue to address how best we can address particular problems. As the noble Lord noted at Second Reading, we are ensuring that assistance under access to work will be available to apprentices. We are working with organisations representing disabled learners and potential learners to examine what practical actions can be taken to ensure that apprenticeships are accessible to those with disabilities. This includes work with Skill, representing disabled learners, and the RNIB to consider how the specification of apprenticeship standards for England could take account of an accessibility benchmark. In the light of that assurance—and obviously we shall continue those discussions—I ask the noble Baroness to withdraw the amendment.

**Baroness Walmsley:** I thank the Minister for his reply and thank all noble Lords for supporting the amendment, in particular the noble Lord, Lord Low, for the perceptive points that he made. I was a little concerned about what the noble Lord, Lord De Mauley, said. I am sure that he did not mean that access to apprenticeships by disabled people would necessarily lower standards. He is shaking his head, so I correctly interpreted that he does not mean that. However, he made another point about putting excessive burdens on employers. Of course we would not want to do that. There are many supportive organisations that can support employees and apprentices with disabilities and provide them with the wherewithal to enable them to do the work part of the job and the training part. With the help and support of those organisations, I am sure that there would not be excessive burdens on employers if apprenticeships should become equally accessible to people with disabilities as to fully able people. I know that that is an objective that we all share.

The Minister relied very much in his reply on the DDA. However, as the noble Lord, Lord Low, pointed out, there is a lot more to it than that. I am reassured by the fact that the Minister told us that there are ongoing conversations about how to reassure people about this aspect of the Bill. With that reassurance, I beg leave to withdraw the amendment.

*Amendment 12 withdrawn.*

*Amendments 13 and 14 not moved.*

*Clause 10 agreed.*

*House resumed.*

*House adjourned at 10.09 pm.*



## Grand Committee

*Tuesday, 16 June 2009.*

### Arrangement of Business

*Announcement*

3.30 pm

**The Deputy Chairman of Committees (Viscount Ullswater):** Before the Minister moves that the first statutory instrument be considered, I remind noble Lords that in the case of the four statutory instruments, the Motion before the Committee will be that it do consider the statutory instruments in question. I should make it clear that the Motion to approve each statutory instrument will be moved in the Chamber in the usual way. If a Division is called in the House, the Committee will adjourn for 10 minutes.

### Registered Foreign Lawyers Order 2009

*Considered in Grand Committee*

3.31 pm

*Moved By Lord Tunncliffe*

That the Grand Committee do report to the House that it has considered the Registered Foreign Lawyers Order 2009.

*Relevant document: 12th Report from the Joint Committee on Statutory Instruments.*

**Lord Tunncliffe:** In moving the Motion I shall speak also to the draft Legal Services Act 2007 (Registered European Lawyers) Order 2009. These orders update the regulatory framework for foreign lawyers. They extend and increase the powers of the Law Society and the Solicitors Regulation Authority to two categories of foreign lawyers: registered European lawyers and registered foreign lawyers. Registered European lawyers are lawyers covered by the establishment directive who have qualified in another EU state and who seek to practise in the United Kingdom on a permanent basis. Registered foreign lawyers are legal professionals qualified in another jurisdiction not covered by the establishment directive.

Many rules applicable to solicitors, such as the solicitors' code of conduct, are already applied to both registered foreign and registered European lawyers. These orders update and extend the application of such rules, reflecting the amendments introduced by the Legal Services Act 2007.

**Lord Jones:** Before my noble friend concludes on this densely written legalese, can he tell us how many lawyers are defined as foreign and how many as European?

**Lord Tunncliffe:** I am sure that I shall be able to do so in my winding-up speech.

Amendments made in these orders reflect the changes made to the regulation of the legal professions, in particular solicitors in England and Wales, as a result of the Legal Services Act, and bring a consistency of

approach to the Law Society's regulation of all lawyers registered with it, not only solicitors. The 2007 Act, in particular Schedule 16, introduces a number of changes to the way that solicitors in England and Wales practise and are regulated. The Government have already begun to commence the provisions in the Act. For example, 31 March 2009 saw the introduction of legal disciplinary practices which allow lawyers and non-lawyers to form practices that provide legal services. Registered European and registered foreign lawyers are both entitled to benefit from these new structures by potentially collaborating with other lawyers and non-lawyers in a legal practice. It is, though, essential that targeted, proportionate and consumer-focused regulation go hand in hand with these reforms.

Further reforms under the Act are due to be introduced in July to the Law Society's regime of practising certificates, its powers of investigation and the routes of appeal available to solicitors against decisions of the society, among others. In introducing these reforms, there is need for consistency with the society's approach to foreign lawyers. These orders achieve consistency by applying the Law Society's powers to rebuke or fine solicitors to registered foreign and European lawyers. This will enable the Law Society to impose a fine of up to £2,000 on these individuals for minor incidents of misconduct or failure to comply with Law Society rules. They also apply the powers used in investigating the conduct of solicitors to investigations of the conduct of registered foreign and European lawyers and extend to them the offences which may be committed during the course of an investigation.

The orders align the powers and jurisdiction of the solicitors' disciplinary tribunal in respect of solicitors with those for registered foreign and European lawyers. They prohibit the unauthorised employment of foreign and European lawyers who have been struck off the Law Society's register. They also align the Law Society's powers to impose conditions and to suspend solicitors' practising certificates in relation to the registration of foreign and European lawyers.

Additionally, the new regime of sole solicitor endorsement will now apply to registered European lawyers. This creates a separate applications regime and approval process for solicitors seeking to act as sole practitioners, acknowledging the greater responsibility that accompanies these powers. This regime is not applied to registered foreign lawyers who may not practise as sole practitioners.

Finally, these orders acknowledge the transfer of appellate functions from the Master of the Rolls to the High Court, which is consistent with the approach of the 2007 Act. Similarly, these instruments amend other instruments or legislation to ensure consistency with regard to appeal routes and grounds. It is proposed that these orders come into force on 1 July 2009. This is to coincide with the aforementioned amendments, under the 2007 Act, to the Law Society's powers of investigation. It will be the fifth commencement order under that Act.

These orders form just one part of the process in realising the benefits of the 2007 Act—benefits for both consumers and the legal sector itself. To maximise these benefits it is essential that a balance is struck between reforming the legal market and ensuring

[LORD TUNNICLIFFE]

proportionate and effective regulation. I am confident that these orders address this balance successfully, placing consumer confidence and consumer protection at the heart of the reforms. I commend these orders to the Committee. I beg to move.

**Lord Henley:** I thank the noble Lord, Lord Tunncliffe, for introducing the first two orders before us this afternoon. When these were debated in another place, my honourable friend Mr Bellingham made it quite clear that we had broadly supported the general thrust of the Legal Services Bill. I am grateful that I was not that actively involved in that legislation as it passed through the House, but no doubt the noble Lord saw something of it. As I say, we broadly supported it. It is important that we continue to ensure that the United Kingdom, particularly London, remains a very important centre for world-class legal services, which it has been in the past and will be in the future. We hope that these orders will make it easier to continue to attract legal practitioners, and those who make use of legal services, to London.

I want to pick up on a couple of points raised in the noble Lord's comments and in the comments of my honourable friend in another place concerning the whole question of reciprocity. Am I right in thinking that, as far as the EU is concerned, we will now have total reciprocity between lawyers in the United Kingdom and lawyers in all the other 26 EU countries, or are there differences between us as to where there will not be reciprocity? Can the noble Lord expand a little on what his honourable friend Bridget Prentice said in another place about reciprocity with other parts of the world? She referred to the negotiations which she has been involved in with the Indian Government and, more importantly, with the Bar Association of India and various regional Indian Bar Associations. However, other parts of the world are equally important. I would be grateful if the Minister could expand on the degree of reciprocity for lawyers working in one country or the other and what the Government are doing to assist that.

**Lord Thomas of Gresford:** I am grateful to the Minister for his introduction of these two orders. I declare an interest as a practising lawyer. As I have spent considerable time practising in Hong Kong, Asia and the West Indies, I have some experience of practising abroad. We welcome these orders. We think it right that foreign and European lawyers who are registered in this country should be subject to the same degrees of discipline and control as UK-approved lawyers.

The noble Lord, Lord Henley, raised the issue of reciprocity. I, too, would be interested to know whether it is possible for a lawyer from England and Wales to practise without hindrance in Scotland and Europe and the other parts of the world from which we have allowed registered foreign lawyers to come here. The noble Lord, Lord Jones, has raised the question of how many lawyers we have registered—and from what parts of the world, I would add to that—so that we can see the scope of the issue. I am most grateful to the noble Lord for his introduction of these orders.

**Lord Tunncliffe:** In reply to my noble friend Lord Jones, according to the latest statistics from the Law Society, there are currently 312 registered European lawyers and 1,780 registered foreign lawyers in England and Wales. As such, the proposed order will impact on a limited number of practitioners.

I thank the noble Lords, Lord Henley and Lord Thomas of Gresford, for their questions on Europe and general reciprocity. The establishment directive ensures that solicitors and barristers who have qualified in the UK receive the same opportunities to practise in other member states as registered European lawyers have in seeking to practise permanently in the UK. However, I would offer a slight caveat there because some minor derogations apply to European lawyers in the UK; I believe that there is one around probate. I am sure that those minor derogations must also occur in other countries where the establishment directive has been accepted. So with that slight caveat to the overall statement, the answer, relatively simply, is yes.

The Government are keen to ensure that lawyers who qualify in the UK are able to practise in as many jurisdictions as possible. In an increasingly international market, this is crucial to the reputation and development of providers of legal services.

Fruitful discussions have taken place with the Bar Association of India and the Bar Associations in some of the Indian regions about opening up their market. Slow progress is being made, although the Law Society is optimistic that opportunities for UK and Indian firms to work together will increase in the light of the recent Indian elections. Earlier this month the Law Society held a UK-India legal practice conference, and the Government look forward to hearing what progress can be made in the light of the discussions that took place.

Being among lawyers, I should like to offer a final caveat. I may have got a subtlety wrong. If I have, I shall write to noble Lords.

*Motion agreed.*

### **Legal Services Act 2007 (Registered European Lawyers) Order 2009**

*Considered in Grand Committee*

3.44 pm

*Moved By Lord Tunncliffe*

That the Grand Committee do report to the House that it has considered the Legal Services Act 2007 (Registered European Lawyers) Order 2009.

*Relevant document: 13th Report from the Joint Committee on Statutory Instruments.*

*Motion agreed.*

### **Probate Services (Approved Bodies) Order 2009**

*Considered in Grand Committee*

3.45 pm

*Moved By Lord Tunncliffe*

That the Grand Committee do report to the House that it has considered the Probate Services (Approved Bodies) Order 2009.

*Relevant document: 15th Report from the Joint Committee on Statutory Instruments.*

**Lord Tunnicliffe:** In preparing for this Motion, I discovered the hazards of being a jobbing Whip: three hours into reading my papers, I realised that I had to declare an interest. My son is some sort of certified accountant and he could conceivably be allowed to do probate work as a result of this order. I hope that the Committee is content for me to continue to take the order through.

This order is presented under Section 55 of, and Schedule 9 to, the 1990 Act. It will enable the Association of Chartered Certified Accountants—the ACCA—to become an approved body and authorise suitably qualified members to provide probate services for a fee, gain or reward. By probate services, I mean of course the preparation of any papers on which to found or oppose a grant of probate or a grant of letters of administration.

At the moment, Section 23 of the Solicitors Act 1974 restricts the provision of probate services for a fee, gain or reward to specified legal practitioners, but Section 55 of the Act provides an exception for members of an approved body. The ACCA is the third organisation to seek parliamentary approval to become an approved body since Section 55 was commenced in December 2004. Two other organisations, the Institute of Chartered Accountants of Scotland and the Council for Licensed Conveyancers, became approved bodies to provide probate services on 1 August 2008. However, only the Council for Licensed Conveyancers has begun to issue probate licences to members. To date, it has issued 18 probate licences.

The application, received in January 2008, has passed through the required statutory approval procedure set out at Schedule 9 to the 1990 Act. In doing so, it has been considered and approved by the Legal Services Consultative Panel and the President of the Family Division. The panel was keen to ensure that the arrangements the ACCA proposed to put in place in terms of training, regulation and consumer protection were on a par with those of previous applicants and existing providers before recommending approval. As a result, this application has my full support.

The ACCA is a professional body of accountants. It received its royal charter in 1974 and has more than 53,000 members in England and Wales. Members are required to meet the academic and post-qualification requirements before being eligible for membership and obtaining accountancy practising certificates. Approximately 6,400 members currently hold practising certificates.

Under the terms of the application, probate practising rights will be granted to members who currently hold practising certificates in accountancy and who wish to provide probate services in England and Wales only. Before members of the ACCA are granted practising rights, they will need to show that they can satisfy the requirements set out in Section 55 if they wish to provide probate services. These include: completing the required training course and ensuring their employees are suitably trained and satisfy the continuing professional development requirements set by the ACCA; having

satisfactory insurance and compensation arrangements in place to cover adequately the risk of any claim made against them and to protect the client in the event of them ceasing to provide probate services; and having a complaints scheme in place, including a route of appeal to the Legal Services Ombudsman.

The ACCA has demonstrated in its application that consumer protection is something that it takes seriously. As an established professional body in its field of expertise, it already has in place effective systems of monitoring and enforcement and will ensure that there are additional, suitably robust monitoring systems in place for members now providing probate services.

The potential benefits to the consumer of this application being approved include more choice of provider, more competitive prices and the opportunity for ACCA members to provide a more cost-effective and efficient service to existing clients. This is precisely what Section 55 was intended to do and is in keeping with the principle central to the Government's policy of providing new and better ways of providing legal services, with a wider choice and at more competitive prices.

Consumers who are unhappy about the way in which the ACCA has dealt with a complaint about the provision of probate services can refer the case to the Legal Services Ombudsman. The LSO's jurisdiction was extended in October 2004 to cover bodies authorised under Section 55 of the Courts and Legal Services Act, shortly before the relevant provisions were commenced. If the order is approved, it is not anticipated that the LSO will receive a high number of additional complaints per year. In the longer term, complaints about ACCA members will be dealt with by the new Office for Legal Complaints, in line with complaints about members of other legal professional bodies.

If this order is approved, a subsequent order will need to be laid amending the Legal Services Act to bring the ACCA under the jurisdiction of the Legal Services Board. This will ensure that the ACCA retains its probate rights in the future regulatory regime and that it is subject to the same oversight as other regulators, such as the Council for Licensed Conveyancers and the Law Society. I commend these orders to the Committee.

**Lord Henley:** I thank the Minister for introducing the orders. I also commend him on confessing that he has devoted three hours to being briefed on this very detailed legislation—it shows extraordinary assiduity and devotion to duty. And I commend him on declaring his interest, albeit it is a fairly remote one.

The ACCA is the third body to have applied under the Act to provide probate services. Two previous bodies have done so, and the Minister has stated that one of them has so far granted 18 licences. I should be interested to know whether he can offer any predictions on how many more licences are likely to be granted in the light of the Association of Chartered Certified Accountants also being able to provide such services, and whether the Government have made an estimate of what sort of percentage of the probate services market this might involve. My honourable friend Mr Bellingham spoke in another place about this market being worth some £440 million annually, and

[LORD HENLEY]

he reckoned that about 5 per cent of it might migrate to new providers. Obviously, we always believe in competition. However, this might have an effect on some of the small solicitors who are often dependent on these services. Having said that, we believe that it is right that they should face competition. But I should be very interested to know whether the Government have estimated whether the figures provided by my honourable friend are accurate. No doubt the Minister can tell us when he responds.

**Lord Thomas of Gresford:** I also express my gratitude to the Minister for introducing this order. We have been through this mill before in relation to the Institute of Chartered Accountants of Scotland and the Council for Licensed Conveyancers, and I am very interested to note how little take-up there has been. As I understand it, there has been nil take-up from the Institute of Chartered Accountants of Scotland. Presumably they have found that it is not possible to make any money out of it. Only 18 certificates have been issued by the Council for Licensed Conveyancers. I would like the Minister to spell out in detail, if he can, how the licences which have been granted are monitored. I do not think that such schemes should be monitored only at the beginning of their introduction, nor should it be for the consumer or client to have to raise matters by way of complaint. There should be a way in which the Ministry of Justice carries out some oversight of how the system is working.

It is an extremely vulnerable area, of course. People who go to solicitors with probate papers seeking probate are generally the bereaved family, who are at a very delicate time. They have no way of knowing that they can trust the solicitor unless there has been a lengthy solicitor-client relationship over a period of time. I think that the public generally rely on the good reputation of the legal profession, but that does not always help. I can give one instance of a solicitor who was dealing with a will in which the Polish community was the residuary beneficiary. Having paid out substantial sums to clients, he failed for 12 years to pay the residuary beneficiary, the Polish organisation that looks after the Polish community in London. It was only when the police became involved that it was discovered what had happened. That, of course, leads to the very important question of compensation.

The conditions for anyone wishing to practise in the probate field in the organisation which we are concerned with in this case are actually quite large hurdles to get over. They have to ensure that there is proper training. They have to ensure that there is a compensation scheme that must be no less than the compensation scheme that applies to solicitors. It would be quite wrong for there to be any competitive advantage by those seeking work in this field who are not solicitors in having to pay less in premiums and so on. All these things require considerable oversight, as I said. It is not enough to make this field of potentially difficult legal work open to all without a proper consideration of how the consumer can be best protected.

Having said that, I raise no further objections to the order going forward. I simply require assurances on the safety of the provisions for consumers.

**Lord Tunnicliffe:** On licences, it is difficult to quantify exactly the numbers. However, the Association of Chartered Certified Accountants does not estimate that many will take up the opportunity initially. The CLC has issued 18 licences but 89 of its members are working to gain qualification. ICAS has not yet awarded any but it is waiting to see what happens in Scotland.

I shall deal first with the market and the policy direction. Clearly the policy direction has been developed over a number of years, and it is to open up legal services to competition. However, legal services are pretty efficiently delivered at this level in the UK. Frankly, what we are now doing is in practice likely to relate to the current customers of chartered accountants. As one noble Lord mentioned, some families have a family lawyer and, if a bereavement occurs, it is natural for them to contact that lawyer. Other families have a long relationship with their accountant, who may deal with their tax every year and look after their affairs.

4 pm

Reading from my script, the primary market of the Association of Chartered Certified Accountants for probate services will be existing clients with whom it already has long-standing relationships, resulting in an intimate knowledge and understanding of their financial affairs. A high level of trust will have been established and therefore members of the ACCA will often be a natural choice for clients or their families to act as executives or administrators of success. The ACCA also considers that having members with probate rights will allow it to provide continuity of service to clients. Its members' knowledge of clients' financial affairs will also make the process of obtaining a grant of probate more efficient, less stressful and less expensive for clients.

A full regulatory impact assessment was completed for the implementation of Section 55 of, and Schedule 9 to, the Courts and Legal Services Act to open up the market for the provision of probate services. It provided details of the costs and business implications for the new providers and the impact on solicitors' firms, and it showed that commencing Section 55 was expected to have little impact on the probate market. The potential impact of new providers on the market was estimated to be less than 5 per cent over the decade, although, in practice, the impact could well be much less than that. Although not relevant to this application, Bridget Prentice has undertaken to look at the RIA to consider whether it needs further updating in view of the expected impact of allowing new providers on to the market.

On the matter of vulnerable clients, only members authorised to engage in public practice work—those holding practising certificates from the ACCA—will be eligible to apply for authorisation to provide probate services. Members must also comply with the ACCA's code of ethics and conduct and its fundamental principles, which set out the obligations placed on all members. In particular, members are required to demonstrate professional competence and due care, and they have a continuing duty to adequately maintain professional knowledge and skills to ensure that clients receive

competent professional services. Members must act diligently and in accordance with professional standards when providing professional services.

The ACCA has a rigorous regulatory function, which includes monitoring practice members in regulated areas, including the probate service, which will clearly be a regulated area. Such monitoring includes investigating complaints, regulating hearings and applying stringent regulations under a code of ethics. At any monitoring visit, a compliance review is carried out to check a member firm's compliance with the ACCA's practising regulations and code of conduct. In particular, members are required to demonstrate professional competence and due care, and they have a continued duty to maintain their professional knowledge and skills to ensure that clients receive competent professional services. Only members authorised to engage in public practice work—that is, members who hold practising certificates from the ACCA—will be eligible to apply for authorisation to provide probate services.

Practising certificates are annually renewable. All applications for authorisation, including applications for renewal, are subject to approval by the ACCA's admission and licensing committee. Part of the authorisation procedure will be to assess the training and practical experience obtained by ACCA members relevant to the provision of probate services.

The other questions from the noble Lord, Lord Thomas of Gresford, were based on the equivalence between the regulation of probate services provided by the ACCA and the regulation of probate services provided by solicitors. I went into this issue carefully at my briefing. Essentially, the system works like this: a solicitor would have regulation under the Law Society; an accountant would have regulation under the ACCA. Before this power is grantable to the ACCA it has to prove itself, under the processes in Section 55 of the previous Act, as competent to exercise that power. If there is concern among either the Law Society or the ACCA about the exercise of that power then a common, more senior body will decide. That body is about to change, I believe, under the 1997 Act. I cannot remember the name of the current body or what the new one will be, but they will converge in a current body.

The Legal Services Consultative Panel was consulted on whether this would be the appropriate body. As I understand it, the panel addresses similar questions. It is a very high-status body which is well respected by the legal profession. For this investigation, it was headed by a Lord Justice of Appeal, Lord Justice Moore-Bick, and its membership included three QCs, a number of solicitors and so on. It is the statutory body that Section 55 of the Act, or the order commencing that section, requires to consider whether the ACCA has put in place satisfactory arrangements. It conducted a number of investigations, inquiries and discussions. Key among those, as has been quite properly alighted upon, was the matter of compensation—I think that “run-off” is the term—and so on and so forth.

As I understand it, lawyers have a joint scheme approach through the Law Society. That is not a very good technical term, but, as I understand it, it is a kind of pay-as-you-go scheme. Accountants have various professional insurers and so on. The Legal Services

Consultative Panel was concerned about that and wished to be assured that the accountants' insurance arrangements were equivalent in the comfort they gave clients to those that lawyers offer. After an alteration in the amount—I believe the amount moved for the smallest practitioners from £50,000 to £100,000; I shall write if those figures are wrong—the panel concluded, and advised the Secretaries of State, that the application from the Association of Chartered Certified Accountants to become an approved body to authorise its members to provide probate services under Section 55 of the Courts and Legal Services Act 1990 should be approved.

**Lord Thomas of Gresford:** Does the Minister agree that “run-off procedures” is perhaps not an appropriate phrase?

**Lord Tunnicliffe:** I am sure that I meant something intelligent by that. I shall perhaps send a note with a better term. Or perhaps the noble Lord could use in his mind the phrase that I should have used.

*Motion agreed.*

### **Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2009**

*Considered in Grand Committee*

4.09 pm

*Moved By Lord West of Spithead*

That the Grand Committee do report to the House that it has considered the Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 2) Order 2009.

*Relevant document: 15th Report from the Joint Committee on Statutory Instruments.*

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** The Crime (International Co-operation) Act 2003 streamlined and modernised the United Kingdom's mutual legal assistance relations with the rest of the world. Today, in an effort to further improve international co-operation, we are seeking to designate Switzerland, Iceland and Norway for the purpose of various sections of that Act.

The order reflects the fact that the European Union has concluded two agreements with other states: on 26 October 2004, a co-operation agreement against fraud was signed between Switzerland and the European Union, and on 19 December 2003, the European Union concluded an agreement with Norway and Iceland allowing them to accede to certain articles of the 2001 mutual legal assistance convention and its protocol.

As a result, it is now necessary for the United Kingdom to delegate these countries as participating countries for certain sections of the Crime (International

[LORD WEST OF SPITHEAD]

Co-operation) Act 2003. Designation of the three countries for the purpose of Sections 32, 35 and 43 to 45 of that Act will allow for requests for locating bank accounts and providing banking information relating to criminal investigations to be executed in England, Wales and Northern Ireland, and for such requests to be made to Norway, Iceland or Switzerland by the United Kingdom.

Norway and Iceland will also be designated under Sections 31, 47, 48 and Paragraph 15 of Schedule 2 to the Crime (International Co-operation) Act. This will allow the United Kingdom to execute requests for witnesses to be heard by telephone in criminal proceedings and allow for prisoners in the requesting country to be temporarily transferred to the requested country to help with domestic investigations.

**Lord Jones:** Paragraph 4.8 of the Explanatory Memorandum states:

“This is subject to the consent of the prisoner”.

Does my noble friend know how often such travel occurs? Will he be able to answer that question later in the debate?

**Lord West of Spithead:** I cannot answer it right away, but I am sure that my team will look at that and I am sure that I will be able to do exactly as my noble friend asks.

We also propose to designate Switzerland under Sections 4 and 4B of the Act in order that process documents should be sent directly from the United Kingdom to the individuals affected. The United Kingdom is determined that criminals will not escape justice simply because the evidence required is located overseas, and equally determined to improve the United Kingdom's ability to achieve justice for British victims of serious crime. Accordingly, I commend the order to the Committee.

**Lord Henley:** I thank the Minister for his explanation of the order. As always, I had some problems with the drafting of the statutory instrument and started trying to use what I think are called Venn diagrams to indicate which bits applied to Iceland and Norway, which bits applied to Switzerland and which bits applied to both. I then tried to make use of the Explanatory Memorandum, which is, despite improvements in Explanatory Memoranda over the years, not as clear as it could be.

However, I offer a deep expression of thanks to the Minister for making it clear in his speech, so that my Venn diagrams became unnecessary and I think I now know exactly which bits apply to which countries: that is, that telephone evidence can be taken in relation to Iceland and Norway, but that does not seem to apply to Switzerland; whereas in Switzerland, there is a process relating to documents under Section 4B. When he comes to wind up the debate, perhaps the Minister can explain why there should be a difference between Iceland and Norway on the one hand and Switzerland on the other. Other than that, I thank him for his explanation; I have no further questions.

**Lord Thomas of Gresford:** The Minister will know that we have particular problems with Swiss banks and their secrecy laws. Those Swiss banks have in the past failed to co-operate with requests for information made to them. I would like to know whether the protocol which has now been entered into, and which is envisaged in this order, means that the Swiss banks are likely to be more co-operative. I recall that in the BAE investigation it was the desire of the Serious Fraud Office to obtain details of accounts from Swiss banks that really caused the whole thing to blow up. One hopes that this agreement will make the procedures a great deal simpler than has been the case in the past.

As for the Norway and Iceland agreement, all we can say is that the Iceland banks have enough problems on their plates and it may not be too difficult to obtain information from them. However, I respectfully suggest to the Minister that a major hindrance to international crime is bank secrecy, whether it is in the European countries which are the subject matter of these orders or in offshore banks where money can be laundered and can disappear for ever. The assistance of the noble Lord in these areas would be very acceptable. I am grateful to him for proposing the order, to which we have no objection.

4.15 pm

**Lord West of Spithead:** I thank noble Lords for their various comments and I thank the noble Lord, Lord Henley, for his kind words about my exposition at the beginning of the debate. I had to get that spelt out to me by the team because I was a bit confused myself, so I am glad that it was useful. I appreciate the views expressed.

I shall run through various points. As regards the consent of the prisoner, I am unaware of the exact total. The team is not aware of that but we will write on that specific point. The noble Lord, Lord Henley, asked why different countries are designated for different sections. This reflects the terms of the international agreements to which the order gives effect. I hope that that is a good enough answer. If it is not, I am very happy to explain more expansively in writing, if that would help.

The noble Lord, Lord Thomas of Gresford, was absolutely right about banking in Switzerland. As I understand what we are doing now, under the terms of the agreement between the European Union and Switzerland, Switzerland has agreed to provide such evidence. We think there is no reason to believe that it will not fulfil its obligations under that agreement. We will have to watch very closely and see that that happens. I agree entirely that this has not always presented a very good picture in the past and that it has been an area of great difficulty. As regards BAE, I will not speak on an individual case but I know the sensitivities and issues that surround that. However, as I say, I will not talk about an individual case today.

One thing I did not mention, which I think I probably should have talked about, is Scotland. Scotland brings forward its own secondary legislation, and has done so. It is being debated and should pass into law. Then the whole of the United Kingdom will move forward from there.

I think that that covers the points raised. I believe that this order is necessary to allow the United Kingdom to continue to fulfil its international obligations and ensure that we can successfully prosecute international crime and achieve justice for British victims of such crime. As such, it is a good thing to happen. I commend the order to the House.

*Motion agreed.*

## **Intelligence and Security Committee: Annual Report 2007–08**

*Considered in Grand Committee*

4.19 pm

*Moved By Lord Foulkes of Cumnock*

That the Grand Committee do report to the House that it has considered the Intelligence and Security Committee Annual Report for 2007–08.

**Lord Foulkes of Cumnock:** I have had the great privilege of representing your Lordships' House on the Intelligence and Security Committee since 2007. This is, however, the first opportunity that we have had—and that I have had on behalf of the committee—to report on its work to the House in a Grand Committee debate opened by the Lords member of the committee under the new arrangements agreed earlier this year. I hope that noble Lords will agree that this is a great step forward.

First, however, I pay a tribute to my predecessor, the noble Baroness, Lady Ramsay, who represented the Lords on the committee with great distinction for two years. She brought her particular expertise to the committee. On my behalf, and on behalf of the other members of the Intelligence and Security Committee, I put on record our thanks to our current chairman, the right honourable Member for Pontypridd, Dr Kim Howells, and his predecessors, the right honourable Member for Torfaen, Paul Murphy, who was chairman until January 2008, and the right honourable Member for Derby South, Mrs Margaret Beckett, who was chairman until October 2008. We are grateful to them for their wisdom and the excellent leadership that they provided. In some ways, it is a pity that they had to move on.

**Lord Jones:** I am grateful to my noble friend; he is, quite rightly, in an expansive mode. Does he agree that Mr Jonathan Evans, the head of MI5, is a dedicated public servant and is a successful head of the Security Service, and that the Security Service is a complex team that has served Britain well at a time of grave challenge?

**Lord Foulkes of Cumnock:** I agree with everything that my noble friend has said and I shall elaborate further on that later in my speech.

As my noble friend Lord Jones knows, the Intelligence and Security Committee has as its statutory duty a remit to examine the administration, policy and finance of the UK's security and intelligence agencies. We report on these annually to the Prime Minister, and we

meet with him to discuss the details of our report. The report that we are discussing today covers the period from December 2007 to November 2008. During that period, the committee held 26 formal meetings and 25 other meetings—51 in total. It also undertook a number of visits. All of its members attended the vast majority of those meetings—well over 90 per cent. I commend to this Committee the hard work and constructive approach that each member brought to our committee's work. Never before, in all my time in the other place and here, have I served on a committee where attendance has been so high or its members have been so expert or diligent in their work—an issue to which I shall return.

Our most time-consuming task during the period that the report covers was the completion of our review of the intelligence on the London terrorist attacks of 7 July 2005. I understand that the noble Baroness, Lady Park of Monmouth, may wish to say a word about that review; I am sure that that would be welcome in our debate.

This issue has been the subject of a separate and detailed report which we sent to the Prime Minister in July 2008. It could not, however, be published at that time for legal reasons. The trial that was ongoing at the time has concluded, and the reporting restrictions have been lifted. To reflect recent developments, the committee updated the report. We did not rewrite it, as some have suggested, but we produced a separate additional annexe. We sent that update to the Prime Minister on 6 May 2009, and the report and update were published together on Tuesday 19 May.

This was a very long inquiry and the report contained a huge—I repeat, huge—amount of information. Many people who had previously been sceptical were pleasantly surprised to see how detailed the report was. I shall not go into its detailed findings here as we are not debating that particular report, but I reiterate and reinforce the comments that Kim Howells made at our press conference. He said that there will be those who do not like our findings because they do not reflect their own assumptions, but we reported the facts as we found them after painstaking and detailed investigation, and we cannot alter those facts just to fit a story or just to please some people.

As the annual report makes clear on pages 44 to 49, during 2008 the committee also began investigations into a number of other areas that were still continuing when this report was published in March. Some of those investigations have now concluded and we will report on them in our next annual report, on which we are already working, and then they will be covered and discussed in the second of these annual debates.

Quite properly, the annual report deals with the nuts and bolts of the agencies' operations, their administration, policy and finances. That may be of less interest to some than the more controversial issues that we cover in our ad hoc reports, but as my noble friend Lord Jones rightly said, they are essential, and today I will provide a short overview. I refer first to the threat which Jonathan Evans spoke about. A wide range of threats, both terrorist and non-terrorist, continues to be posed to the United Kingdom. The current

[LORD FOULKES OF CUMNOCK]

threat to the UK from international terrorism is assessed as “severe”. This means that there is a continuing high level of threat to the United Kingdom and a high likelihood of a further terrorist attack in this country.

The threat of international terrorism comes from a diverse range of sources, including al-Qaeda and its associated networks and those who share its ideology but do not have direct contact with it. Al-Qaeda and related terrorist groups have shown exceptional ambition and willingness to carry out indiscriminate terrorist attacks, and the threat they pose is likely to persist for a considerable time. That places great and growing pressure on our intelligence and security agencies, together with the police, Government departments and other key partners, all of whom are working together to find those who are planning such attacks and to prevent them carrying them out.

Counterterrorism work is both demanding and dangerous for those involved. It is no exaggeration to say that many of those who work for our agencies put their lives at risk to protect our country, as the noble Baroness, Lady Manningham-Buller, knows better than anyone. They have achieved notable successes over the past year, with plots disrupted and individuals brought to trial and convicted. I record our thanks to them for all their hard work, not only for the successes that we know about, but equally—if not more important—for those that can never be publicised.

All three agencies, particularly the Security Service, have over the past year continued to receive increased resources dedicated to counterterrorism work. However, while discovering plots and pursuing terrorists is vital, the Security Service can never guarantee to stop every plot; it continually plays catch-up. It is therefore essential that high priority is given to preventing individuals turning to extremism in the first place, and that is why we must not forget that work on the “Prevent” strand of CONTEST is crucial if we are to tackle the longer-term threat.

Although the primary focus of the United Kingdom’s intelligence and security agencies is necessarily on international counterterrorism work, they also dedicate resources to countering threats posed by the proliferation of weapons of mass destruction, regional instability, espionage and other challenges. What I find really impressive is that, in addition, the agencies continue to provide exceptional and unprecedented operational support to United Kingdom military operations in the field.

However, the committee also expressed concern that the necessary focus on counterterrorism work has resulted in a reduction of the proportion of effort allocated to non-counterterrorism threats, possibly to our future detriment. The Government’s response to the committee acknowledges that the proportion of work on other intelligence and security requirements has been reduced as a result of the continuing focus on international counterterrorism work. It remains a source of great concern to the committee that we may be storing up problems for the future if we neglect other areas of work, and we are pursuing that to ensure that more will be done over the next few years in these areas.

As well as examining work on counterterrorism and other threats, the report also looks at expenditure issues, at how the agencies allocate their resources and how we can ensure that they provide value for money. The National Audit Office audits the agencies’ accounts, as it does for all government departments, and we then question the heads of the agencies in detail about aspects of the accounts, including any priority issues that the NAO has raised with us. I am glad to tell the Committee that as of this year, the NAO will be providing our committee with a financial investigator, who will provide expert advice to us on specific issues concerning the agencies’ budget plans, to ensure that they have effective business continuity plans effective security procedures, such as vetting, in place. The committee and I welcome that development.

Although the committee’s formal remit covers the Security Service, the Secret Intelligence Service and GCHQ, it is clear that those agencies cannot work in isolation. Given the challenges that they face, constructing close partnerships with the wider intelligence community is essential. In overseeing the security and intelligence agencies, we in the committee also examined the work of the wider intelligence community. As we are the only parliamentary body whose members are subject to Section 1 of the Official Secrets Act, only the ISC can hold to account all the agencies and bodies dealing with secret material. These include the Defence Intelligence Staff, some areas within the Office for Security and Counter-terrorism in the Home Office, the intelligence structure in the Cabinet Office, including the Joint Intelligence Committee, which the noble Baroness who will speak for the Opposition, knows well, and the assessment staff, the Joint Terrorism Analysis Centre and the Centre for the Protection of National Infrastructure.

The committee also addresses issues that affect the intelligence community as a whole. For example, we have expressed our dismay—that word was chosen very carefully—that phase 2 of the SCOPE IT communications system has been scrapped. That is a matter that we were still investigating when our report was published, and our next annual report will include that in great detail, so noble Lords can look forward to discussion about that.

Similarly, this annual report covers our findings of the Privy Council review of intercept evidence, led by the right honourable Sir John Chilcot—he is being kept busy these days, one way or another. We welcome the review’s conclusion that intercept evidence should be introduced only if the intelligence and security agencies’ capabilities are properly protected by the provision of the nine key conditions and tests. It is not an easy issue; it is complicated—far more complicated than some who comment on it sometimes realise. We have continued to consider the issue carefully and have been briefed in great detail on the work being done in the Home Office, by my noble friend Lord West’s department. We in the committee have debated the matter at length and, again, we will report our further and fuller considerations in our annual report, although I can tell your Lordships that, having been privy to the evidence to the facts behind the misconceptions, as a committee, we remain wholly unconvinced of the overall benefit of using intercept product in evidence.

I assure the Committee that the ISC takes its job of holding the agencies to account very seriously. If we cannot always provide the full detail of our work in public, that does not mean that it is not being done. In the debate in the other place—a lively one—comments were made about the redactions in our reports. Some of those comments were quite amusing. There is, however, misunderstanding about the nature of those redactions.

It may be helpful to your Lordships if I briefly explain the process. The committee produces its initial report in full. It always contains a great amount of detail, a lot of it secret and sensitive information, so we invite the agencies to highlight what information they believe would cause damage were we to publish it. That is my first point. They cannot request the redaction of any material on grounds other than potential damage to national security. Also, when they make a request for a redaction, they must give a clear, detailed explanation of exactly what damage would be caused. We consider each of their requests individually on a case-by-case basis and evaluate their explanation.

In some cases, we agree with them—where, for example, to publish details of how they are tackling a specific threat would give valuable information to our enemies. However, in some cases, we do not agree with them and we reject their request. Your Lordships will, I am sure, be reassured to know that nothing has ever been redacted from a report against our wishes where we have not agreed that to publish it would damage national security. Some here may highlight the asterisks to criticise the fact that information is being withheld from them. However, I am sure that Members of this House do not expect us to publish secret material—I know that we all take the security of the UK rather more seriously than that. If others thought about it objectively, they would see that the existence of asterisks was in fact a positive sign. They show that we in the committee have full access to all the information and that we undertake full and proper oversight. That is why the committee publishes the report with asterisks, rather than taking what might be an easy way out and producing a seamless but bland report.

The ISC is objective in its deliberations and each of its members brings to the deliberation something additional and, in my view, something especially relevant. All my colleagues are experienced, long-serving and well respected Members of the Commons. Often, but not always, they have served as Ministers or shadow Ministers, and sometimes, but not always, they have served in departments or in committees that have given them first-hand experience of intelligence, security, defence and policing matters. Without exception, they bring with them the benefit of diverse experience both within and outwith Parliament.

There is a tendency for some of those who favour conspiracy theories to assume that the ISC is part of a cover-up—those who call our reports a whitewash before they have even read them, for example—so let me follow the example of our chairman in the debate in the other place. I speak as someone who was a Minister for five years, who was a member of the Foreign Affairs Committee in the other place and who spent nearly 15 years on the opposition Front

Bench—I can tell the noble Baroness opposite that it is a hard grind being on the opposition Front Bench, but I hope that she is looking forward to 14 or 15 more years there. However, having done those 15 years, I can say that I have never encountered a more rigorous, tougher or independently minded investigative committee than the ISC.

Of course, like any organisation, the ISC has its weaknesses and limitations—not least the fact that it has been under-resourced. However, it is served by a superb, small, hard-working secretariat, which is frequently tested to the limit in undertaking its duties. We on the ISC have argued that we need more money and more staff, especially if we are to continue to undertake additional investigations of difficult and complex issues, such as the London bombings of July 2005. I am pleased to say—particularly thanks to the noble Lord, Lord West—that that need has now been recognised and some additional resources have now been provided through the Cabinet Office, which means that the committee will employ independent investigative resources. I am sure that when the noble Lord, Lord King, hears about this, he will be pleased that his calls have been heeded, including on specific administrative issues, legal matters and, as I said earlier, expenditure issues.

These changes are welcome as the committee develops, and it has changed considerably since it was first established by a Conservative Government in 1994. It is right that our work continues to evolve, as the agencies themselves and the wider intelligence community have evolved, and the threat that they are tackling has also expanded and evolved. Much has changed since 9/11 and even more so since 7/7.

One of the welcome changes is this opportunity to enable us in this House to debate, at least annually, the important—indeed, the essential—work that our security and intelligence agencies do for us. I welcome this change and I hope that the House does also. I look forward to hearing contributions from the wealth of experience that there is here, and I look forward to further such debates in the future.

4.39 pm

**Baroness Park of Monmouth:** I must begin with a profound apology. I have read and written about the wrong report. I read *Could 7/7 Have Been Prevented?* with great care, but I have only just been able to read the major report that we are considering today. So I deeply apologise. My comments will necessarily be very fragmentary, but perhaps the Committee will allow me to make them just the same.

I would in any case have said that the existence of the committee, and the reports that it produces on the basis of full access to knowledge of secret operations, is in itself a guarantee of good government and the protection of the population from serious threats from our enemies. That is true of the committee to a high degree. It goes far with its authoritative reports, based on real knowledge, to prevent the use of intelligence as media fodder. I quote from the Hutton report—a discussion between persons with no status in the intelligence hierarchy, or indeed in government, discussing a draft by e-mail. The writer comments in the e-mail:

[BARONESS PARK OF MONMOUTH]

“Ownership, the foreword is good but whose voice is it? Do we need a minister to sign it off? Probably not. Who will issue the text? Us? The Cabinet Office? Why don't we issue it in the name of the JIC? Makes it more interesting to the media”.

The existence of this committee has gone far in making it much more difficult than it was for people who are not in a position to speak, and do not represent anything, to do so.

I also believe very strongly that the existence of the committee itself makes it highly undesirable that we should pursue the further suggestion that there should be open meetings of the committee. There is no way in which that can be done without a threat to sources. It seems to me that the degree of knowledge and detail that the committee produces is enough. We should not allow a situation in which anyone can come to ask questions and have to get answers. From that point of view, I again commend the committee and its existence.

In my very brief reading, I have noted with great pleasure the 10 per cent of SIS officers who are working in joint operational teams with the Security Service. I had experience of this in the IRA context, and it is extremely valuable. I notice that there is some concern about the SIS spending too much time and diverting resources to tackle the current terrorist threat, and therefore perhaps neglecting long-term challenges. I suggest that jihadism is a long-term challenge, and it is an international one. Therefore, it is entirely proper and necessary to devote the resources.

Other than that, I can only say with great apologies that there are many other things that I should have liked to have said. One thing I will say which will not surprise the noble Lord sitting opposite me is that I commend very strongly the position that the committee has taken on the question of intercept. I hope that note will be taken of that when we discuss it again, as I believe we are due to do at the Report stage of the Policing and Crime Bill.

I shall not waste noble Lords' time by trying to produce a hasty comment on an admirable and deeply interesting document. I am very sad not to be able to do more, but I look forward to what everyone else will say, particularly perhaps my neighbour, the noble Baroness, Lady Manningham-Buller.

4.43 pm

**Baroness Manningham-Buller:** I should declare an interest in that the report covers some of the time that I was director-general. I did not retire until April 2007. I am not entirely certain, therefore, whether it is proper for me, rather unexpectedly, to be in the position of responding to a report which is partly about my performance. However, if the Committee will forgive me, I should like to make some comments. For example, we established the ethics councillor while I was director-general. I congratulate the committee on its industry. There were times when we in the service would have preferred it to be a little more dilatory and idle, because meeting every week—despite the view that we were not put under pressure—actually required all the intelligence organisations to do a lot of work to prepare and to make sure that their state of knowledge was sufficient to give the committee full and proper answers to its questions.

If the Committee will indulge me, I should mention something about the committee's history, which is important and may not be in the public domain. Before 1989, my service, the Security Service, sought legislation to put itself on a statutory basis, which culminated in the Security Service Act 1989. We strongly argued for a parliamentary committee at that stage, because we felt that not having that sort of scrutiny meant that there was a democratic deficit that needed to be filled.

The Prime Minister of the time was not in favour of this subversive notion from the Security Service and the committee was not created until 1994. I very much welcome its evolution. As the noble Lord, Lord Foulkes, mentioned, the legislation says that it is confined to policy, administration and finance of the agencies, but that is absolutely no longer the case. It is entirely right that I, my predecessors, my successors and the heads of the other agencies have responded to the committee's very understandable wish to extend its remit beyond what is, strictly speaking, the letter of the law. I think that that is in everybody's interests.

Although we are not going to discuss the 7/7 report, I hope that the Committee will allow me to make just two or three general points before I sit down. The 7/7 report, the details of which are absolutely scarred on my memory, is a very helpful account of an extremely complex situation. I remember saying to my staff when I addressed them on 8 July that they should brace themselves because by the end of the week the attack would have been our fault. I was wrong on the timing; it took about 18 months for it to be our fault. The report represents a much more detailed account than has ever been given of how the Security Service and the police work. The fact that it was possible to put that in the public domain safely is very commendable, and I am glad to read it.

At the risk of stating truisms, I remind the Committee that there is no such thing as complete security. The Government, the police and the Security Service cannot “ensure” the safety of all our citizens, but I know that my former colleagues and others will do their best to make it as complete as it is possible to be. Equally, in a country of 60 million-plus people—the Home Office will probably tell us there are many more—you cannot anticipate what everybody is going to do. The remark of Jonathan Evans that you can know somebody without knowing what they will do is worth remembering because you cannot always get into everybody's heads, and their interest is in concealing what they are planning to do.

At the time of 7/7, the service of which I was then the head was two years into a major expansion because of its appreciation, which was accepted by the Government, that it was far too small to cope with the threat that it faced. It may never be large enough to cope with all the things with which it would wish to cope. There are other calls on public expenditure and prioritisation will always be necessary, however painful that may be.

I would like briefly to comment on two other points. Suggestions have been made in the press that the service blackmails young Muslims to make them work for it. This is utterly untrue. I think we would all hope

that members of communities would come forward to assist the authorities. We must work as hard as we can towards achieving an environment where that becomes more normal and standard. However, there is no substitute for the recruitment of secret agents with direct access to terrorist networks—access which is tightly held and which they do not wish the authorities to discover. No amount of community information is likely to deliver that key, detailed stuff.

There is not time today to go into the complex subject of intercept as evidence. I will merely say that in 1988, to my certain knowledge, my service proposed to the Government of the day that we should raise this question as a policy discussion to see whether it would be possible to achieve it. The fact that it has not happened since then is not because of objections from my service or, indeed, objections in principle from the others, were it possible to do it safely and securely.

Finally, I mention asterisks. I have no current knowledge. When I left the building my pass was removed, I signed the Official Secrets Act, and the noble Lord, Lord Foulkes, knows far more about current secrets than I do. As others will have done, I have had fun trying to imagine what lies behind the asterisks and felt a little frustration that I do not know, but I acknowledge and remember that this was exactly the process that is described. If you wanted something not to go in for national security reasons, you had to argue strongly. During my service I took a policy decision of trying to suggest as few changes as possible. Many of the asterisks have to come from the other two services because of foreign policy implications, but obviously it is in the interests of the entire intelligence community that as much as possible is included in the report.

4.50 pm

**Lord Thomas of Gresford:** I congratulate the committee on its hard work and on the production of this report, and I congratulate the noble Lord, Lord Foulkes, on the way he has presented it to us today. It is clear that the committee was not asterisked out, and I do not regard this as an asterisked whitewash, as people might think. Having looked at the asterisks, it is obvious that they deal with resources that are not of a great deal of interest. A number of points raised by the committee makes me confident that it takes its task seriously and is critical when that is justified. Perhaps I can put the points that concern me in the hope that the Minister, the noble Lord, Lord West of Spithead, will be able to answer some of them, subject of course to any asterisk that may be necessary, but those are probably asterisks that he uses in a naval capacity.

The first issue is that of recruitment. Paragraph 42 points out that GCHQ has long-term problems in recruiting and retaining specialists, including linguists, analysts, technologists and internet network experts. In 2007 it introduced a new policy to ensure that it paid the market rate to its operatives. However, the report records that the director remains concerned about the retention of these specialists because people drop out after five to eight years, when they have become experienced, because the rates of pay are

simply not comparable with the earnings they can achieve in the outside world. The noble Baroness, Lady Manningham-Buller, pointed out to me the other day that there is no shortage of information. Indeed, the services are overwhelmed with information, so analysts who are highly trained should be encouraged to stay. If it requires more pay to do that, they should receive it.

As part of the Government's implementation of the recommendations of the Butler review, a new post called the professional head of intelligence analysis was created, and Miss Jane Knight was appointed to be the champion—a favourite word of the Government—on behalf of analysts and to establish a distinct career specialism for this group. In the earlier report we learn that the committee had taken evidence from the professional head of intelligence analysis. Her team promulgated an analytical competence framework for professional development and conducted a survey of analytical capabilities across the intelligence community—developing courses, filling in perceived gaps in training and so on. This is a critical issue and could go very much to the future effectiveness of the security services.

I see also from the report that the Defence Intelligence Staff suffered a cut of 20 per cent of posts based in Whitehall. The committee was concerned about that and commented on it at paragraph 157. I see that the Government's response to the committee's criticism of the cut in these services states that:

“Analytical effort will be carefully prioritised”,

with regard to the cuts being imposed. When one hears from the Government about the security of this country, I wonder whether it is appropriate that specialised and experienced people of this kind should be lost to the service by reason of what they do. I am grateful to the committee for raising a very important point.

The committee states that the focus of the Joint Terrorism Analysis Centre is on current and immediate threats based on secret intelligence, and its purpose is to analyse the threat from international terrorism and to use those assessments to set the UK threat level. However, it appears to have been given an additional task in March 2008 with quite a different remit. The noble Lord, Lord Foulkes, emphasised that it is crucial to implement the Prevent strategy, which is a strand of the Government's counterterrorism strategy. I am grateful to the committee for setting out in paragraph 117 what it considered to be the important features of the Prevent strategy, which are:

“challenging the ideology behind extremism and supporting mainstream voices; disrupting those who promote violent extremism and those who support the institutions where they operate; supporting individuals who are vulnerable to recruitment by proponents of violent extremism; increasing the resilience of communities against violent extremism; and addressing the grievances that ideologues are exploiting”.

To my mind, that is the long-term solution for terrorism and the threat of terrorism in this country. The noble Lord, Lord Foulkes, was right to say how crucial it is that that service should be given priority.

The committee felt that it was wrong that the task of investigating the path to violent extremism had been handed to a small department of the Joint Terrorism Analysis Centre, which seems to have a completely different remit. It made a recommendation

[LORD THOMAS OF GRESFORD]

at paragraph 137 of the report to the effect that consideration should be given to moving the new team to a more appropriate location such as the Office for Security and Counter-Terrorism in the Home Office. It is a complete mystery to me what goes on inside the Home Office—I have my darker suspicions and your Lordships have very often heard me voice those suspicions—but the committee may have hit on something important. A small department in, I have to use the phrase, JTAC—this is like appearing in a military case where one is surrounded by initials of this kind—is not the way to put forward an extremely important part of the counterterrorism strategy.

The noble Lord, Lord Foulkes, and the report referred to SCOPE. A major cross-government programme aiming to improve the intelligence community's secure communications, it was apparently subject to constant delays. Phase 1 crept in but phase 2 has been scrapped with tens of millions of pounds thrown away. He said that we will hear in the next annual report what happened to the tens of millions and why phase 2 was scrapped. I hope that we might have a little more transparency in that regard. At this stage, I think that it would be appropriate for the Minister to explain to us what went wrong and what is to be put in its place. I look forward to that.

I turn to the subject of intercepts—a favourite topic. I note that the committee was unconvinced that intercept evidence should be heard in court, but it is very interesting that the Chilcot review agreed with the principle that intercept as evidence should be introduced. We heard a short time ago from the noble Baroness, Lady Manningham-Buller, that the point was first raised in 1988 and that there has been no objection to it in principle either from the department that she headed or from the other agencies. Therefore, we continue to plod towards what I am sure we will ultimately be given—that is, some access to intercept evidence in the courts, which of course I know a little more about.

The Chilcot review set out nine requirements. I do not know whether there was a criminal lawyer on the review but those requirements, or recommendations, which had to be satisfied before intercept could be used as evidence, rule it out completely. Let us look at the first requirement:

“The intercepting agency shall decide whether a prosecution involving their intercepted material shall proceed”.

All of a sudden, the Chilcot inquiry takes away from the Director of Public Prosecutions—or, in the ultimate, the Attorney-General—the right to decide whether a prosecution should proceed. That is a very interesting and unusual introduction into the criminal justice system of this country.

The second requirement was:

“Intercepted material originating from the intelligence agencies shall not be disclosed beyond cleared judges, prosecutors, or special ... advocates, except in a form agreed by the originator”.

Therefore, MI5, MI6, GCHQ or whoever can carry out their own redaction of material that they have and that apparently binds everyone. It will not even go before a judge to decide whether the redaction should be kept secret or made more public.

The third recommendation or requirement was that material intercepted using sensitive Sigint, which I understand is signals intelligence techniques—

“shall not be disclosed unless the Secretary of State is satisfied that disclosure will not put the capability and techniques at risk”.

Therefore, we have the agency determining whether a prosecution will proceed, how much intercept evidence should be disclosed and in what form and how it should be redacted, and the Secretary of State having an overall responsibility to decide whether material intercepted using these techniques should be disclosed at all.

At the end comes requirement nine, which makes me think that a criminal lawyer was not involved in the Chilcot inquiry:

“At trials (whether or not intercept is adduced as evidence) the defence shall not be able to conduct successful ‘fishing expeditions’ against intercept alleged to be held by any agency”.

Presumably it can conduct unsuccessful fishing expeditions but it is not allowed to conduct successful ones. That is paranoia about the way in which criminal lawyers go about their business. Fishing expeditions have never been allowed. Disclosure of documents does not depend upon fishing expeditions, whether successful or not. The judge controls a trial and he controls what disclosure is necessary. If disclosure is objected to, the judge will control what can and cannot be disclosed. There is a paranoia about lawyers, echoed yesterday by the Prime Minister, when he said that to hold the inquiry into Iraq in public would mean “lawyers, lawyers, lawyers”—echoes of Tony Blair’s “education, education, education”. That is the paranoid approach to the way in which we lawyers go about our business.

I will not pursue the intercept argument any further, but simply note that the committee is unconvinced—and remains to be convinced, I am sure—of the value of intercept evidence in trials. After all, we want people who are guilty to be convicted. That is the important point. All parties in Parliament want the guilty to be convicted. That depends on evidence and on proof. If intercept evidence can make the difference between proving and not proving things, it should as a matter of public policy, as it is everywhere else in the world, be part of the trial process.

I have probably spoken for too long. I again congratulate the noble Lord on the report.

5.06 pm

**Baroness Neville-Jones:** This afternoon we are debating what is, compared with some of its earlier reports, one of the more detailed and informative reports that the Intelligence and Security Committee has produced. I follow others in the Committee in congratulating the committee on its work. I need no convincing that the committee does important and very detailed work. I am not fooled by the notion that asterisks mean that something has not been gone into seriously.

However, I am sad that more of the committee's work does not get into the public domain because I believe that, were it to do so, that would help public understanding of the agencies and the important work that they do. I think that that is necessary. Although I have to disagree, I congratulate the member of the committee who introduced the debate—it is a great

innovation that he is doing so—on the ingenuity of his argument that asterisks are a guarantee of the probing nature of the work done by the committee. Having said that, I think that important work is done.

The committee has arrived at a number of notable conclusions and recommendations. The Government have in some cases responded to them in a rather cursory fashion. Of the 17 recommendations and conclusions of the committee, 11 of them get just a one-line response. I hope that the Minister will take that observation away to see how the Government could increase the level of response to the committee's work. That is particularly necessary for a number of the findings that point to some problems or weaknesses in the central intelligence machinery. I want to consider some of those in greater detail but, before I do so, I want to say that I share the opinion of many others in this House in valuing the probity and integrity of the work done by the intelligence agencies. It is extraordinarily important to our national security.

The committee criticised the decision to subsume the role of the Professional Head of Intelligence Analysis within the role of the chairman of the Joint Intelligence Committee—a point made by the previous speaker. It is an important issue. The committee stated:

“given the importance of the Professional Head of Intelligence Analysis post, we are very concerned by the plan to subsume the role within the Joint Intelligence Committee Chairman's post as this may actually lessen the priority given to this crucial role. The Committee is disappointed that the post has not been maintained as a distinct and separate role”.

That was a recommendation of the Butler report and we take it seriously. We think that the post should exist and that it is important. As the Minister is here today, I hope that he will be able to tell us when a separation is going to take place again and when a proper career specialism in intelligence analysis will be recreated.

Secondly, I turn to another point mentioned by the noble Lord, Lord Thomas. A related finding of the committee concerns the Defence Intelligence Staff. We know from the Butler report that the DIS was described as a critical part of the intelligence community—indeed it has one of the larger intelligence analytical capabilities in the UK—and yet we know that efficiency savings which resulted in staff cuts have taken place in this capability despite the fact that the Butler report recommended extra funding to allow DIS to have a greater influence on national intelligence assessment. We know why because we know what happened in the case of the Iraq intervention. I should like to know from the Minister, if he can tell me, how these two considerations are reconciled. This is a matter of concern.

The committee's third finding also relates to a recommendation made in the Butler review concerning the role of the chairman of the Joint Intelligence Committee and the Head of Security, Intelligence and Resilience in the Cabinet Office. These two roles have correctly been separated, although I have to say that the grades of both posts are now lower than they were when they were combined. On a point of note, we on these Benches would look carefully at the role and grading of the JIC chair and the security adviser. In our view, they must have the necessary authority to carry out their important roles, and of course they have to deal with the heads of the agencies. There is

also a new line management role for the Cabinet Secretary, so I am quite confused about the central arrangements. It is clear from the committee's report that the Government have not taken it seriously in so far as this could negatively affect the functioning of the central intelligence machinery and the UK's analytical capability, and I hope that we can be given some reassurance on that point.

There is one other problem I want to raise which relates to the centre. The committee placed a question mark over the value of the Government's National Security Strategy, saying:

“We have questioned whether the strategy will achieve any benefits in real terms or whether it is simply a paper exercise ... The National Security Strategy does not create new areas of responsibility for the Agencies or the wider intelligence community. The Heads of the Agencies have indicated that they were consulted about the strategy and are broadly supportive of it, but that they do not envisage that it will result in any significant change in direction for them”.

I want to make a number of comments about that. People will have differing views on whether the National Security Strategy as it exists at the moment is an operational or primarily a descriptive document, but I find it surprising that even if it would not result in a change in the roles of the agencies, it does not provide for them. These days the agencies seem to be absolutely central to the national security of this country and I believe that they should be part of the debate. I hope that in the future—we do not know when the Government will create it—the Prime Minister will finally, having proposed a Joint Committee of both Houses on national security, cause it to come into being; that these issues will be debated and that the agencies will be a part of that debate. I am aware that my noble friend Lady Park of Monmouth does not think that the committee should ever meet in public but I am afraid I disagree. There are occasions when it would be right and appropriate for the world to know how important the agencies are to our work and to take part in those aspects of their work which are perfectly capable of being open to scrutiny. Their contribution to the National Security Strategy is one of them. We are not asking for and should not receive operational information, but the strategy is something the public should know about, understand and be supportive of. It is much harder for them to do so if they are kept in the dark.

I wish to raise two or three points on strategic direction. The committee rather worryingly calls into question the issue of intercept evidence. This was dealt with in detail by the previous speaker and I shall not go over it again. The only point I wish to bring out in this discussion is that there is a tension between two public goods: the need to protect sources, national security and the operational capabilities of our agencies on the one hand, and the need for the evidence necessary to put people behind bars on the other. In the end, that is the greatest deterrent against terrorism. Two things will enable us to overcome the terrorist menace. One of them is putting people behind bars, and the other, as has been correctly said, is a fruitful, positive Prevent strategy. Putting people behind bars is important for the public good and I remain unconvinced that it is not possible to find a way to add to our ability to do that—I know that it is no silver bullet—by using intercept evidence in criminal trials.

[BARONESS NEVILLE-JONES]

My second point concerns the Prevent strategy. The committee rightly said, and its members are not the only people to feel this, that it is difficult to measure its real success or outcomes. This is partly because of the inherent nature of the strategy itself. Nevertheless, it is important because significant money is being poured into it and we on these Benches have called for—and in office, if we get there, we will conduct—a review of the Prevent strategy as a matter of urgency. We support its objectives and we want to see it operating effectively.

Thirdly, the committee expressed the opinion that there remains “scope for improvement” in the resilience and business continuity planning of the agencies. Perhaps this is also a matter for Ministers to make a priority. I do not need to go over it in detail, but it is certainly the case that we need to safeguard the operational activities of the agencies and their staff, but it does not seem necessary as a result of that to cover quite so much of the information about financial expenditure in asterisks. For example, I cannot see that great damage would be done to national security for us to know how much money is being spent on capital expenditure. While I accept the need for safeguarding information that is really important to national security, I hope that over time the line can be drawn in a different place from where it is at the moment.

It would be helpful for us all to have more financial information about the way in which the intelligence account is being spent. After all, it now stands at £2 billion and is going up—it is double what it was in 2002-03—and is, frankly, about the same as the cost of a small government department. We do not know even in broad terms how the sums are divided between the agencies, what is spent on operations and what is spent on capital. I know that the agencies are operating in a challenging environment, but it is legitimate and right—and there will be increasing pressure, as the sums of money are now so big, for there to be adequate information coming forward on value for money. It is very helpful, as the noble Lord, Lord Foulkes, told us, that the NAO will be offering help to the committee in its investigations of that issue. I hope also that the public can learn more as a result of what the committee discovers.

Mention was made earlier of the problems of the IT programme, SCOPE. We on these Benches feel that this is the kind of issue where aspects may need to be kept confidential but, nevertheless, why it went wrong and what the management problems were do not seem to be matters of national security and should be discussed in the open so that everyone can learn the lessons. As was rightly said, “tens of millions of pounds” have already been spent on it, and I assume that there are likely to be cost implications in abandoning the project. That needs to be in the public domain.

Closed forum discussion carries penalties, which is not to question people’s commitment. The inquiry into the 7/7 attacks was conducted in private and led to those involved and the families of the victims attacking it, not accepting it and feeling that ultimately they had not been given reassurance. That is a pity. I do not question the seriousness with which the investigation was conducted, but it is a pity that the last stage of what one hoped this work would produce—

trust and reassurance—was not achieved because too much was kept back. We have the committee’s conclusions but we do not have enough of the reasoning that led it to those conclusions. Therefore, the conclusions tend to be disputed by those who are unable to see why the committee reached them. I could name a number of other instances of that kind, but I urge the committee to think hard, when things happen in the future or indeed generally, about the extent to which there is value of another kind in allowing the public to know more about what happened, not least with regard to the great achievement of the services, and in being frank when things go wrong.

I have one last question. The committee does not see everything in a timely manner, and its members have made one or two comments about that. I think that it has still to see some of the material on SCOPE. As I said, there is also the subsequent problem of what the public see. I hope very much—this is really a question of trust—that the committee’s further report on the alleged complicity of the agencies in torture or in cruel, inhuman or degrading treatment, which was submitted to the Prime Minister in March, will be published and not suppressed. I am sure that it is a serious report; this is obviously a serious matter of public concern. There will be significant interest in it and I hope very much that it will be allowed to see the light of day. It obviously affects the reputation of our agencies, so I hope that it is a reassuring report. The failure to publish such things after an investigation adversely affects the reputation of the country. I hope very much that we will be allowed to learn more about this matter. I shall be glad to know, if the Minister is able to say, when it is intended that the committee’s report will be published. It relates to one aspect of the rather peculiar position of the committee. It is not a full-blown parliamentary committee and the Prime Minister has the last word on what is published.

The final set of issues that I want to talk about concerns the committee’s operations. Your Lordships will be aware that in March last year, as part of the White Paper entitled *The Governance of Britain—Constitutional Renewal*, the Government proposed a number of reforms to the Intelligence and Security Committee, which I assume have the support of the committee itself. These included public briefings where they can be achieved without compromising national security or the safety of individuals. Certainly the committee has presented some of its reports in more detail, and I hope that we shall see more of that.

There is also a proposal to reinstate the investigative capacity of the committee, in particular by giving consideration to creating a pool of individuals on whom it could call. I am glad to hear about the extra muscle that the committee will be given, but this recommendation seems to go a bit wider. Another reform is to explore alternative accommodation in order to emphasise the committee’s independence. It would be interesting to know where it meets now and where it may meet in the future. Is it getting other premises? A further reform is to make sure that the debates on the committee’s reports take place in your Lordships’ House. That is a welcome innovation and I hope that we will do so more thoroughly in future. It is

regrettable that so few people are interested in debating this important report today, but I hope it is an activity that will also grow.

I would be grateful to know from the Minister what progress has been made on these various recommendations, particularly whether there is to be a move to different accommodation or a major increase in investigative capacity. We would like to feel that the committee, which does hard and diligent work, is adequately provided for in every sense. Indeed, in our view, the committee should be upgraded. It should have the authority of Parliament behind it and Parliament should take the decisions on what is published. There will be special procedures appropriate to the sensitivity of the subject matter, but other democracies manage it without prejudice to security, so I am sure that this country and these Houses of Parliament can do likewise. Although safeguards will need to be put in place to prevent genuinely damaging disclosure of matters such as operational detail, that in no way contradicts the ability to hold more committee meetings in public, and for the committee to have a staff of its own with a power to call for papers.

As I said at the beginning, this is a good and helpful report, and the detail in it is very welcome. It is a tribute to the hardworking members of the committee. As I also said, however, I would like to see even more. I am sure that as intelligence work has now become central to national security and commands so sizeable and growing a budget, it is right and necessary to have adequate accountability to Parliament and public understanding of this part of national security. As I said, we need less mystery and more open discussion, and Parliament should be at the centre of this. We on these Benches look forward to strengthening the arm of the ISC in its important work.

5.28 pm

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** I am pleased to have the opportunity to speak in this debate. I am sure that we all join together in welcoming the reforms. Noble Lords have not touched on this matter, but we are debating the report for the first time in the House of Lords and that is a great move forward. The other place had a similar debate on 7 May and it is good that we have this opportunity. I thank the noble Lord, Lord Foulkes, for opening the debate so ably, and I thank all those who have contributed and made important points today.

I pay tribute to the sterling work of our security and intelligence agencies, an issue on which a number of speakers have touched. These agencies are staffed by men and women who work day and night—in fact, I was at a briefing in Vauxhall Cross at lunchtime today with someone who had been debriefing an agent for more than 18 hours solid over the weekend—to protect our country and its interests both at home and overseas, and they often put themselves at great risk. I know that we all admire them for that.

The agencies are rightly recognised as world-class organisations. They have had major successes since 2001. With the help of the security and intelligence agencies, more than a dozen attempted terrorist plots

in the United Kingdom alone have been disrupted, and almost 200 people have been convicted of terrorist-related offences. The diligence of our agencies is crucial in helping us to tackle some of the most difficult security challenges that we face, both overseas and across the board, in large areas of national security.

By necessity, of course, an awful lot of this work is invisible but, given what crosses my desk every day—a number of the speakers in today's debate have been in the same position in the past—I can assure noble Lords that that does not mean that the work is any less important. I am very glad to agree with those who have spoken and, like them, I admire the efforts that are made in this regard.

I add my thanks to those of other speakers to the members of the Intelligence and Security Committee for their hard work over the past year, which is very impressive. I share the view of a number of speakers that the product coming out of the committee and its oversight have got better and better, which is good. My final note of thanks goes to those who undertake the necessary judicial oversight of the agencies—the Intelligence Services Commissioner, the Interception Commissioner and the president and members of the Investigatory Powers Tribunal. The challenge that they help us to uphold is striking the right balance between protecting the most important of human rights—the right to life—and protecting the other rights that we in our democracy hold so dear. I am convinced that the right balance of mechanisms is in place—legislative, ministerial and parliamentary scrutiny—and that it is provided by the committee and the honourable Members of both Houses to ensure that the agencies fulfil their lawful duties.

The tragic events of 7 July 2005 are etched on the memory of the British people. The noble Baroness, Lady Manningham-Buller, told of the impact they had on her when she was in her previous post. We all express our regret and condolences to those whose family members were killed and to the survivors of the bombings, some of whom were very badly injured. I am very grateful to the ISC for conducting a very thorough and comprehensive review of the intelligence relating to that attack. I accept the committee's assessment that decisions made by the Security Service and the police in 2004 and 2005 were understandable and reasonable. The noble Lord, Lord Foulkes, said that some people did not want to accept that. I am afraid that that is in the very nature of things. I know from my own experience when my ship was sunk that, when people look at things later in the cold light of day, it is very easy to be wise after the event. I remember one young man who had been in a compartment that was on fire with dead people around him, and one of the people on the board—I was allowed to sit in on all this—on a lovely quiet sunny summer's day in Devonport asked, "Why did you switch such and such a valve to such and such a position?" I felt that he had no understanding at all of what actually happens at such times, with the pressures on people and so on. We must always remember those things. These are the sorts of pressures that some of these men are under. Given what they knew at the time and their resources and priorities, there is no doubt that MI5 and the

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police made very understandable and reasonable decisions, and I thank the committee for coming up with a very good outcome on that.

However, things can be learnt from the report and the committee was quite right to point them out. The main criticism was about information flows between MI5 and the police in 2003-04, which should have been better. We always have things to learn, but we have made enormous strides in that area and we picked those up very quickly. The police counterterrorism network has now been established containing CTUs—for example, in Manchester, which I visited very recently, and Leeds, Birmingham and the Thames Valley. I went to the one in South Wales on Monday when I was doing a counterterrorist launch down there. The Security Service now has offices across the United Kingdom. I could not help noticing that most of the people who work in them during the day seem to wear trainers. However, they are working very hard and provide local intelligence direction through daily contact with the police.

The noble Lord, Lord Foulkes, mentioned the importance of Prevent, as did a number of other speakers. That is absolutely correct. It was quite clear to me when I came into post—I discussed it with the Prime Minister and others beforehand—that we cannot arrest and protect our way out of this problem. That is just an impossibility. I can think of a nation that has tried to do exactly that and it does not work. We have to reduce the number of people who become radicalised and become violent extremists. That is why we have put so much effort into the Prevent agenda over the past two years. We have a very comprehensive and good Prevent agenda, to which I shall come back a little later.

The noble Lord also mentioned dismay over SCOPE. We take this issue very seriously. There is a large loss of funds, and there have been cases like this in the past. When I was chief of defence intelligence I found that the big computer system that was being set up was not fit for purpose and was not working. I had to make the very difficult decision to pull the plug and say no. We have to learn from these things. The Cabinet Office has given the ISC a memorandum dealing with all aspects of that programme, although the financial details have yet to be finalised. Commercial sensitivities are involved because of the negotiations going on between the Cabinet Office and the firm involved at the moment. What is good is that SCOPE 1 is up and running and gives a good link at top-secret strap-2 level. However, we are looking at other options for interactive working and chat-room working and so on, which we will have to do in the future. It is not a good story, but it was absolutely right that we stopped the system where we did and we are looking at all the options. I cannot say much more on that because of the commercial sensitivity of some of those issues.

The noble Lord and a number of other speakers mentioned intercept evidence. I do not want to go into huge detail; all I will say is that the Chilcot report was produced and Chilcot felt that nine tests had to be met. That was touched on by the noble Lord, Lord Thomas of Gresford. A Privy Council advisory group is looking at this. The Chilcot study group was a

cross-party group. The Government are very open to using intercept as evidence as long as we can protect the crown jewels and the things that we need to protect. There is a feeling that this is a silver bullet, but it is not. Having spent many years—probably going back to the 1970s—listening to intercepted material, I know that you do not get clear-cut answers. Normally, you do not get the answer in court. Where we have looked at this issue in a number of cases, that has not always been achieved.

Even so, the Government are very content to go down this route as regards intercept evidence and would like to do so for reasons of openness and so on. However, we have to meet the tests. There is no doubt at all that the people whom we are chasing and running down are very cute, and they learn very quickly when we give anything away. When something is given away, you can see, almost within a matter of weeks, how it permeates out through their organisations and we begin to find that we cannot use that evidence again. We need to be really careful in that area. We will have many more debates about this issue, so I do not intend to go into it any further. I understand the strength of feeling on it, but Chilcot set nine tests. We have to go through each hoop to see whether we will meet them, and we will move forward on that basis.

Perhaps I may say how delighted I am to see the noble Baroness, Lady Park, back and in such good form. That is good news. I understand her point on open meetings, and we will debate and look at this issue further. There are arguments on either side, and it will be interesting to see where that debate goes. The joint operations between the SIS and the Security Service, which she mentioned, are without doubt working much better than they were when compared with the situation at the end of the 1980s, when I first did a lot of work with the agencies. That includes GCHQ. I am sure that the noble Baroness, Lady Manningham-Buller, would agree. The linkages are quite amazing, and in the areas involving working abroad—for example, in Afghanistan or Pakistan—or in this country, the work of those teams together is quite incredible, as is the amount of interchange. It is very satisfactory and gratifying.

The noble Baroness, Lady Manningham-Buller, touched specifically on the evolution of the ISC. I agree entirely with her that it is very healthy that it has gone beyond the policy, admin and finance area to a much wider look at things, and that should be encouraged. We perhaps need to look at extending that remit even further. She is absolutely right to say that there is no such thing as complete security. We are under a threat level of “severe”. I am afraid that, although only a tiny number of the population who want to do us serious harm is involved, what some of them are trying to do is quite horrible. I am afraid that, as an IRA person said some years ago, they only have to be lucky once and we have to be lucky all the time. That is a daunting prospect. We could easily spend our entire national wealth on counterterrorism, and, without a doubt, we still would not be absolutely sure of stopping all terrorism. We would then, of course, be doing the job of the terrorists for them. We must be extremely careful about that.

On the noble Baroness's point about recruiting agents, I believe that the British public would be appalled if they thought that we were not trying to do that. However, there is no pressure put on them in the way that the media have tried to suggest. People think that recruiting agents is exactly what we should be doing. I think that I have covered all of her points on that issue.

The noble Lord, Lord Thomas of Gresford, talked about GCHQ's recruitment problem, and he was right to raise that. An issue that affects the agencies across the board, the armed services and indeed industry is the fact that high-calibre linguists, expert analysts and IT specialists are really important assets. They are valuable to the nation and it is difficult to hang on to them. In the Royal Navy, we would train up our nuclear panel watch-keepers for the nuclear programme, but their pay goes nowhere near what they can step outside and get straightaway. That is a real problem with trained people. The average rate of drop-out at GCHQ is around 3 per cent, which is not bad, but it is something on which we have to focus. The noble Lord is right to raise the issue and it was commented on in the report. We will have to put a considerable amount of effort into it, but we cannot just go on increasing pay. Instead, we have to look at how it should be dealt with.

The noble Lord also touched on the post of Professional Head of Intelligence Analysis, while the noble Baroness, Lady Neville-Jones, referred to the DIS. As noble Lords can imagine, having been Chief of Defence Intelligence and before that Director of Naval Intelligence, each for three years, I believe in the importance of analysis. The DIS, after changes were made to the Foreign Office some 18 years ago, has the biggest pool of analysts. Raw intelligence without analysis, unless you are very lucky and get a crown jewel, does not help very much; it is the analysis that is so important. There is a problem in terms of the DIS, and no doubt the pressure on defence when looking at numbers at head office has meant that the DIS has had to take a cut. It has been a much smaller cut than those made in other areas of the MoD, and the DIS has tried to make cuts among administrative staff rather than the analysts themselves. We need to look at this carefully because we must look after such a scarce resource. That is what we are trying to do.

I touched on the importance of the Prevent strategy earlier. The cell within JTAC is not the whole picture. Within the Office for Security and Counter-Terrorism in the Home Office, a chunk of Prevent work is going on, and we outsource certain research projects. We have the Research, Information and Communications Unit which focuses specifically on Prevent activities. If the noble Lord, Lord Thomas of Gresford, and other noble Lords would like to have a briefing about this area, I would be happy to provide it. It is important, which is why we have taken it right down to the community level through community cohesion and community policing, and right up to the national and international level with outreaching to Pakistan. I can say that there is no doubt that our Prevent strategy is the best in the world. People come to look at what we are doing, while we take things from other nations. The Americans, who until recently were not interested

in this area of endeavour, now see it as a very important effort. I am proud of where we have gone with it and I would be happy to give a briefing to noble Lords. I think that they will find it very interesting.

The noble Baroness, Lady Neville-Jones, also mentioned the Professional Head of Intelligence Analysis. It is interesting to note that after taking up his role as chairman of the JIC at the beginning of 2008, Alex Allan reviewed the future purpose, structure and leadership of the PHIA post in consultation with the analytical community and decided to take up the title of Professional Head of Intelligence Analysis in recognition of the importance of the role and the desirability of Permanent Secretary-level oversight of it. He is a Permanent Secretary, while Robert Hannigan, the security adviser to the Prime Minister, is just one grade below that. We do have senior civil servants locked into that area.

The noble Baroness mentioned the National Security Strategy, and of course we did not have one before last year. There were a number of gaps and perhaps it was not as refined as it should have been. We will produce a revised version in, I hope, the next month or so. Reference was made to not specifically talking about the agencies. We have to be a little careful about this. They are of course fundamental to the national security strategy in so many areas, as are so many of these other forces.

On the outward face, this is the only national security strategy that does not have a classified chunk. We published it uncut, so that the British public could for the first time get a flavour of it, and we also published a national risk register. That was never done before: in the past there was the NRA, which was confidential and hidden away. Now we have a national risk register that goes out right down to local resilience forums, where local people can see what are the risks to their local area and population and what they can do about it. We have done a lot in that area and I am rather proud of what we have achieved.

On how it is monitored in Parliament, the Prime Minister has committed to establishing a new joint parliamentary committee, which will consider reports and updates to them. The people in it will be established shortly, as I understand it, and they will consider the next iteration of the national security strategy when it is produced this summer.

On the single intelligence account, as the noble Baroness, Lady Neville-Jones, said, only the SIA is made public, the specific agency budgets are not. There is a danger that if we do that, we may indicate the level and scale of the operational abilities of each agency. We must be wary of that. As the ISC sets out in its report, the CSR 2007 settlement will take funding of the agencies to more than £2.3 billion, which I think everyone accepts is good news, because we have to get to grips with this threat, which is very real. As I said, sadly, they only have to be lucky once.

The allegations of torture are very serious. Our position on that is absolutely clear: we condemn it wholeheartedly. It is a very difficult issue. The Prime Minister has come up with four things that he said he will do. However, if my opposite number from a country with whom we deal with in trade, politically and every way, but we do not necessarily like what they

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do in their country—whether capital punishment or whatever—phoned me up and said, “Right, I have these two names and they are going to blow up Wembley tomorrow”, I do not think that I would say to him, “Hang on a minute, I just want to make sure that the way you got that information is absolutely clear-cut. I would like to send someone to find out. Can you promise me that that was not done?”. I just do not think that I would do that. That is where these things become quite difficult.

The Prime Minister has said quite clearly that we will publish guidance to intelligence officers and service personnel. It will be consolidated and reviewed by the ISC which, as I understand it, is working on that at the moment. As soon as that has been done—it is complex because there is guidance for the MoD as well, so there are different levels of guidance—it will be put in the public domain. We will invite the Intelligence Service Commissioner to monitor compliance with the guidance and report to the Prime Minister annually. We have asked the ISC to consider any new developments and relevant information since the report on detention in 2005 and rendition in 2007 and to report on that. We have made it clear that wherever allegations of any wrongdoing are made, they are taken extremely seriously. If further cases of criminal wrongdoing come to light, we will refer them to the Attorney-General, because it is only right and proper that we should do that.

I hope that I have answered most of the points raised. If not, I am very happy if people come to talk to me or get back to me in writing. Throughout our work to tackle this wide range of threats, the Government and the agencies have to take difficult judgment about priorities and proportionality. It is not easy, but I am confident that, generally, the right balance is being struck. Protecting the safety of people in Britain is a primary duty and a binding obligation on government. We must recognise that the threat we face is very different to what has gone before in terms of its scale and its aims. We know that there is the pervasive danger of radicalisation of our own people.

We must stand firm on our principles—the pre-eminence of human rights and shared values—but we must also up the level of our response. That is why we have increased funding dramatically to about £2.3 billion by 2011—£1 billion more than in the past. I believe—I suppose I would as Minister for counterterrorism—that this is the highest priority for the agencies. It is important to note that, as was raised by the ISC, because of additional commitments, actual spending in other areas, although it is a reduced percentage, has increased. The committee is absolutely right in raising its concern—we must keep a very close eye on that, but we must go for the wolf closest to the sledge.

As I said, thanks to the dedication of the men and women in the security and intelligence agencies—we have two here who have worked there in the past—we have, although I am always very wary of saying this, had considerable success in stopping terrorists in their tracks and bringing those responsible to justice. However, the threat has not gone away and that is why we need to keep ahead. It is why we have updated CONTEST. It draws on our considerable experience, as I think

people around the world realise. In recent years, the number of police dedicated to this area has grown to about 3,000 and the Security Service has doubled in size. These things are crucial and they need to be done to counter the threat. More than that, we need the steadfast support, help and vigilance of all our communities without frightening them about the threat. I have great belief in the British public and I think that that can happen. It is because they all pull together that they are able to keep us safe and they are crucial to our success.

5.50 pm

**Lord Foulkes of Cumnock:** I was absolutely spot on at the start when I predicted that we would have a very well informed and comprehensive debate. I am pleased to say that I can be very brief in my reply, mainly because the Minister has answered all the awkward questions, for which I am grateful.

I want to mention just one or two points in relation to intercept as evidence. It is very interesting that we had the two sides of the argument in our debate today. As the noble Baroness, Lady Neville-Jones, rightly said, it is a question of two public goods and, as the noble Lord, Lord Thomas, said, of putting prisoners in jail but not in any way jeopardising our national security. I think that everyone here recognises that there is a debate to be had there. They will also recognise that the role of the Intelligence and Security Committee is to look at protecting national security and that other people can put the other argument.

We also had a fascinating debate about whether the committee might meet in public. The committee does have the ability to meet in public but, because of the nature of the information that we get, so far we have not done so. However, we are looking at that and, if a suitable subject presented itself, we would consider doing it.

On a number of occasions, the noble Baroness, Lady Neville-Jones, urged the committee to do various things. I do not want to give away any secrets—that would be entirely inappropriate—but the people on the committee whom she has to urge are those from her own party, as I think she probably recognises.

When we went to the Home Office, we were very impressed by what is now being done in relation to the Prevent strategy. A step-change has taken place compared with what we saw originally, and I think that noble Lords will see that reflected in our next report.

The noble Lord, Lord Thomas of Gresford, perceptively picked up one of the key points concerning the Professional Head of Intelligence Analysis being a separate job. Again, I think that noble Lords will find that that matter is raised in our next report. The Committee may not be surprised to hear that a member of the Intelligence and Security Committee who is also a member of the Butler committee ensures that that matter is discussed regularly.

We looked at the issue of the Defence Intelligence Staff very carefully before commenting, and we received assurances from the chief of defence intelligence and from the Secretary of State that the cuts would not impact on analytical capacity. However, I assure the

Committee that we will be monitoring this very matter carefully and, again, it will be covered in our next report.

I am building up excitement about the next report because, again, SCOPE will be covered in more detail in our next annual report. As the Minister said, there is currently a dispute between the Government and the supplier. It would be entirely wrong to go into more detail, as the Minister was right to say.

Although I never like to do this, perhaps I may correct the Minister slightly on one point. We have not started to look at the protocol for questioning but are about to do so. We have the existing arrangements for all the services; very shortly we will get the consolidated arrangements and we will look at those in full detail.

I said in my introduction—I see that the noble Lord, Lord King, a former chairman of the committee, is now here—that one of the encouraging things is that we now have extra resources. We will be getting not one but three investigators to carry out work on our behalf, although they will not all be full-time. I see

the noble Baroness, Lady Manningham-Buller, worrying about her successor being questioned.

The noble Baroness, Lady Neville-Jones, said that the Government are not taking the committee and its reports seriously. With the greatest respect, that is not the case, and every member of the committee, of whatever party, would say that. Just because the Government do not agree with everything the committee says does not mean that it is not being taken seriously. They take it seriously—the reply from the Minister has indicated that today.

I look forward—and I shall still be here because an election will not affect Members of this House—to participating, in whatever capacity, in the next debate. I hope that my noble friend Lord Brett, the Whip, will not give me a row for saying it, but I hope that next time we will manage to have the debate on the Floor of the House to allow more people to participate fully in it.

*Motion agreed.*

*Committee adjourned at 5.56 pm.*



## Written Statements

Tuesday 16 June 2009

### Business Support Statement

**The Minister for Trade and Investment (Lord Davies of Abersoch):** My right honourable friend the Minister for Business, Innovation and Skills (Pat McFadden) has today made the following Statement.

Yesterday, we launched a consultation on measures aimed at enhancing further the rescue culture, to give struggling, but viable, companies a greater chance to succeed, thus saving jobs and providing better returns to creditors.

In particular, the proposals consider:

extending to medium and large-sized companies the option of a moratorium against creditor action—currently only available to small companies—so they too can have a breathing space in which they can seek to agree with their creditors a means of securing a company rescue by means of a company voluntary arrangement;

the introduction of a new court-sanctioned moratorium available to all companies, again to allow them time to reach agreement on a company voluntary arrangement; and

providing greater security to repayment of monies loaned post-company voluntary arrangement or administration, to allow firms in difficulties more chance of accessing the funding they need to get back on track.

The proposals are part of the Government's business rescue measures that my right honourable friend the Chancellor of the Exchequer announced in the 2009 Budget Report earlier this year.

We intend actively to engage with stakeholders throughout the consultation, testing our assessment of the possible impacts of the policy proposals, and welcome views on whether this package is the best way of achieving our aim of making company and business rescue easier and more successful. The consultation closes on 7 September 2009.

A copy of the consultation document will be laid in each of the Houses of Parliament.

### Elections: Armed Forces Statement

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** My honourable friend the Parliamentary Under-Secretary of State for Defence (Kevan Jones) has made the following Written Ministerial Statement.

I have today placed in the Library of the House a copy of the report of a survey on service voter registration conducted by Defence Analytical Services and Advice in November 2008.

The MoD has continued to work with the Electoral Commission and the Ministry of Justice to improve awareness amongst our Armed Forces personnel and their families of their options on registering to vote. This survey was undertaken to provide an estimate of the numbers of service personnel who are currently registered to vote and to draw comparison with the results of similar surveys carried out in each of the previous three years. These surveys help us to judge how best to encourage service personnel to register in future.

I welcome the survey, as it provides the facts needed to refine future work. It indicates that 65 per cent of service personnel are currently registered, compared with 69 per cent in 2007 (a decrease that is assessed as not statistically significant), 63 per cent in 2006 and 60 per cent in 2005. Of those registered in 2008, the majority (75 per cent) chose to register as ordinary rather than service voters. The level of voters registered as overseas voters has remained at 1 per cent.

We acknowledge that there is still work to be done. The results of the survey will help to indicate where our efforts should be concentrated for the future. By continuing to work closely with colleagues in the MoJ and the EC to understand what might be the reasons behind the results, we hope to make further improvements to the quality of information available to our service personnel and their families. We remain committed to improving arrangements for the service community to exercise their right to vote.

### Health: Cross-border Healthcare Statement

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** My right honourable friend the Minister of State, Department of Health (Mike O'Brien) has made the following Written Ministerial Statement.

The House of Commons Welsh Affairs Select Committee published its report *The Provision of Cross-border Health Services for Wales* on 27 March 2009. We are today laying before Parliament the Command Paper (Cm 7647) setting out the Government's response to the committee's report.

The Government have considered the committee's report and welcome it as a helpful contribution to the debate about the provision of health services in England and Wales. The Command Paper sets out the Government's response to the report and discusses the commissioning and funding of services and arrangements to co-ordinate service provision.

The Government believe that the core principles of the National Health Service apply across the UK and an inevitable and healthy consequence of devolution has been some divergence in health policy between England and Wales. The Government agree with the committee that the border between England and Wales does not represent a barrier to the provision of healthcare.

On 1 April 2009, a new protocol between the Department of Health and the Welsh Assembly Government (WAG) for the commissioning of cross-border health services came into effect. The revised

protocol, which has been placed in the Library, is in place for two years with annual negotiations required to agree funding.

### **National Probation Service: Training** *Statement*

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach):** My honourable friend the Minister of State (Maria Eagle) has made the following Written Ministerial Statement.

Today, I have published a consultation document proposing new arrangements for the training and qualification of probation practitioners. The consultation period will run until 31 July 2009. Copies of the consultation document are available in the Libraries of both Houses. Copies are also available in the Vote Office and the Printed Paper Office.

The current arrangements for training probation officers is due to expire and the consultation will seek to gain the views of all those who have an interest in the work of probation practitioners, on proposed new arrangements.

The consultation document proposes that the minimum qualification for a probation officer remains at honours degree level. Approved prior learning gained in higher education could be accredited so that the qualification can be obtained during the first year of employment with a probation service. This maintains the current standard of qualification but allows probation areas more flexibility in workforce planning.

It is proposed to introduce a minimum qualification for probation service officers of an NVQ level 3 and also to introduce a foundation degree that would allow career progression to probation officer for existing staff.

Multiple entry routes onto the framework will enhance the opportunities for existing staff and give more flexibility for probation areas to maximise their workforce planning strategies. The proposed introduction date of April 2010 will ensure that there is no training gap and allows sufficient planning time for the implementation of the new arrangements.

### **Taxation: Double Taxation** *Statement*

**The Financial Services Secretary to the Treasury (Lord Myners):** My right honourable friend the Financial Secretary to the Treasury (Stephen Timms) has made the following Written Ministerial Statement.

A new arrangement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Cayman Islands for the avoidance of double taxation and the prevention of fiscal evasion was signed in London on 15 June 2009.

After signature, the text of the arrangement will be deposited in the Libraries of both Houses and made available on HM Revenue and Customs' website. The text will be scheduled to a draft Order in Council and laid before the House of Commons shortly.

## Written Answers

Tuesday 16 June 2009

### Bees

#### Question

Asked by **Lord Patten**

To ask Her Majesty's Government how many bee inspectors there were in each year since 1996.

[HL3942]

**The Minister of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** The numbers of bee inspectors in England and Wales each year since 1996 were as follows:

*Numbers of Bee Inspectors*

1996	45
1997	45
1998	44
1999	46
2000	47
2001	47
2002	46
2003	47
2004	45
2005	45
2006	45
2007	45
2008	45
2009	64 (including 4 current vacancies)

These figures include the full-time regional bee inspectors (10 in 1996-98, eight since then) and since 2004 the national bee inspector. The remainder are seasonal bee inspectors and are employed for the active beekeeping season.

### Bovine Tuberculosis

#### Question

Asked by **Lord Taylor of Holbeach**

To ask Her Majesty's Government further to the Written Answer by the Minister of State at the Department for Environment, Food and Rural Affairs, Jane Kennedy, on 15 December 2008 (*Official Report*, House of Commons, col. 321W), what the budget is for the Bovine TB Eradication Group for this year and next; and what additional support it receives from Defra.

[HL4057]

**The Minister of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** The provisional forecast budget for the Bovine TB Eradication Group for England for the 2009-10 financial year is £50,000; and the provisional forecast budget for the 2010-11 financial year is £37,000. The difference in the forecasts is due to the expected change in the frequency of meetings: from fortnightly to once a month.

The additional support provided by Defra includes the contribution from the four Defra members of the group; a co-ordinator to run and organise meetings; and the preparation and input of information and expertise to assist the members in taking forward their work plan. This support is funded from Defra's administration budget.

### Children: Nutrition

#### Question

Asked by **Baroness Cumberlege**

To ask Her Majesty's Government further to the Written Answer by Lord Darzi of Denham on 18 May (WA 247), what measures they are taking to provide health care professionals (HCPs) with nutritional guidance for children aged between one and two years old, given that Healthy Weight, Healthy Lives: One Year On said that they will only provide guidance to HCPs and the National Health Service on the nutritional needs of 2 to 2½ year olds.

[HL4137]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The Change4Life initiative is currently developing an information toolkit for use by healthcare practitioners, child-focused professionals such as childminders and nursery managers, as well as Sure Start children's centres providing specialist nutritional advice for children aged one to two years old which is to be available by the autumn.

As part of its ongoing work the Scientific Advisory Committee on Nutrition (SACN) has a Sub-group on Maternal and Child Nutrition which is planning to update the Committee on Medical Aspects of Food report *Weaning and The Weaning Diet*.

The Department for Children, Schools and Families (DCSF) is currently developing a single set of evidence-based messages on healthy eating/nutrition and active play for children under five years old. These will form the basis of clear, up-to-date guidance for health care professionals and early years practitioners to use with parents and will be available by the end of 2009.

### Common Agricultural Policy

#### Question

Asked by **Lord Dykes**

To ask Her Majesty's Government what new measures they intend to put into the current Common Agricultural Policy reappraisal negotiations to arrest the decline in United Kingdom food self-sufficiency.

[HL4085]

**The Minister of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** There are no current Common Agricultural Policy (CAP) reappraisal negotiations, but we expect the EU Commission to publish proposals to form the basis of negotiations in 2011 leading to the next EU Budget Financial Perspective.

Measures designed to address the self-sufficiency of member states within the CAP are only likely to have a detrimental effect on the food security of member states as a whole, who depend on the single market and its global trading partners for a wide diversity of supply. To ensure continued UK food security, our food supply must be reliable and resilient to shocks and crises, and ensuring food security must sit alongside other priorities such as tackling climate change and securing a healthy natural environment.

Rather than introduce self-sufficiency measures, the Government will continue to work towards radical reform of the CAP in order to enhance the integration of the single market and contribute to the food security of all member states. This will reduce the costs of food for consumers, making trade less distorting and more sustainable; with substantial reductions in the cost to taxpayers.

## Cycling

### Question

Asked by **Lord Berkeley**

To ask Her Majesty's Government whether the Cabinet Office is implementing the Government's cycle-to-work scheme. [HL4115]

**Baroness Crawley:** The Cabinet Office supports the use of green transport and offers an interest-free advance of salary to purchase bicycles and accessories to its staff.

## Defra: Staff

### Question

Asked by **Lord Taylor of Holbeach**

To ask Her Majesty's Government further to the Written Answer by the Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs, Huw Irranca-Davies, on 24 February (*Official Report*, House of Commons, col. 569W), how Defra consultations are analysed; by whom; and at what staffing levels. [HL4056]

**The Minister of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** Defra analyses responses to consultations in a variety of ways, depending on the policy issue concerned and the nature of information contained in each response.

Analysis of responses is led by the policy team responsible for the consultation and is carried out by Defra officials, sometimes supported by specialist consultants. Staffing levels for the analysis of consultation responses vary and are determined by the volume of responses and the level of technical detail these contain.

## Disabled People: Mobility Scooters

### Question

Asked by **Lord Morris of Manchester**

To ask Her Majesty's Government further to the Written Answer by Lord Davies of Oldham on 3 December 2007 (*WA 158*), what action they are taking to have the import duty on electric-powered vehicles removed. [HL4016]

**The Financial Services Secretary to the Treasury (Lord Myners):** Government Ministers recognise that the tariff classification of mobility scooters continues to cause serious concern for both importers and end users of the products. The work to pursue a resolution is being co-ordinated by officials from HM Revenue and Customs (HMRC). HMRC has met with representatives from the British Healthcare Trade Association (BHTA) and other interested parties as well as officials from the Department for Business, Innovation and Skills (BIS) to discuss the issue.

Tariff classification matters fall within the competence of the European Community which has set an import duty of 10 per cent for these vehicles. It is the European Commission's (EC) role to ensure uniform treatment of the same goods by agreeing a common EU position and then presenting that unified view. The UK, via officials from HMRC, has made representations to the Commission to have the classification of mobility scooters referred back to the World Customs Organisation. The EC has declined on the basis that current guidelines provide uniformity of classification. In this context it is important to remember that classification experts, both at the European and the international levels, are not influenced by duty rates. The EC has agreed to consider the introduction of duty-free treatment or a reduced rate of customs duty for mobility scooters. In connection with this the EC has asked member states to respond to a UK request for information about any national production. The existence of production in the EU will influence the decision about any future duty reduction. Eight out of the 27 member states have responded so far with some production identified in Germany.

In a separate development, a Dutch national court has ruled that a mobility scooter should be classified as an invalid carriage at 0 per cent duty. There was some discussion about this ruling at the European Customs Code Committee in September 2008. The EC has now advised HMRC that a draft regulation to confirm the classification of mobility scooters will be presented for discussion and possibly for voting at the next meeting in July 09.

## Elections: Northern Ireland Constituencies

### Question

Asked by **Lord Kilclooney**

To ask Her Majesty's Government what were (a) the total electorate, (b) the number of applications for postal votes, and (c) the percentage turnout in each of the 18 Northern Ireland constituencies in the elections to the European Parliament (1) 2004, and (2) 2009. [HL4149]

**Baroness Royall of Blaisdon:** There is nothing further that I can add to the Answer given on 12 May 2009 (*Official Report*, col. *WA 186*).

## Food: Labelling

### Question

Asked by **Lord Dykes**

To ask Her Majesty's Government whether they will propose to the European Food Safety Authority a single market in the nutrition labelling, including salt content, of food products. [HL4030]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The Government are pressing for mandatory nutrition labelling of at least energy, fat, saturated fat, sugars and salt on most pre-packed foods in negotiations to update European nutrition labelling legislation. The Government are also supporting the European Commission's proposal that this mandatory information may be supplemented on front of pack with additional information that has been proven to help consumers identify healthier choices.

## Food: Meat

### Question

Asked by **Lord Taylor of Holbeach**

To ask Her Majesty's Government further to the Written Answer by the Secretary of State for Health, Alan Johnson, on 23 February (*Official Report*, House of Commons, 252W), how many fresh meat establishments paid charges in each year from 1995–96 to 2007–08. [HL4054]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The number of fresh meat establishments which paid charges to the Meat Hygiene Service for official controls in the period 1997-98 to 2007-08 is shown in the following table.

<i>Financial Year</i>	<i>Number of fresh meat establishments which paid charges for official controls</i>
1997-98	1332
1998-99	1346
1999-2000	1317
2000-01	1267
2001-02	1182
2002-03	1190
2003-04	1167
2004-05	1130
2005-06	1093
2006-07	903
2007-08	893

Due to changes in accounting processes, figures for 1995-96 and 1996-97 are unavailable.

## Government: 30-year Rule

### Question

Asked by **Lord Lester of Herne Hill**

To ask Her Majesty's Government what are their intentions regarding the 30-year rule. [HL3974]

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach):** In October 2007, the Prime Minister invited Paul Dacre, Sir Joseph Pilling and Professor Sir David Cannadine to conduct a review of the 30-year rule. The review team published its findings in January 2009.

The Government have welcomed the team's findings and have committed to a substantial reduction to the 30-year rule, phased in over time. The Government will issue a detailed response to the review by the summer.

## Gurkhas

### Questions

Asked by **Lord Taylor of Warwick**

To ask Her Majesty's Government what assurances were made to Joanna Lumley after her discussion with the Prime Minister about Gurkhas. [HL3517]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** The meeting that took place between Ms Lumley and the Prime Minister on 6 May 2009 was a private meeting.

On 21 May 2009 the Home Secretary announced a revised policy for considering applications for settlement from former members of the Brigade of Gurkhas.

Asked by **Lord Alton of Liverpool**

To ask Her Majesty's Government what, by rank of soldier, were the percentage deductions for pension and other contributions from serving Gurkhas' pay in each year between 1987 and 1997. [HL4107]

To ask Her Majesty's Government whether Gurkhas who served and retired prior to 1997 (a) paid taxes in the United Kingdom; (b) paid United Kingdom national insurance contributions; and (c) had other compulsory deductions from their pay while serving in Her Majesty's Armed Forces. [HL4109]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** The Gurkha pension scheme has always been a non-contributory scheme for all ranks.

Gurkhas who served before 1 July 1997 paid tax only when serving in the UK, and they did not pay any national insurance contributions as they were excluded from the scheme by the Social Security (Categorisation of Earners) Regulations 1978, SI 1978 No. 1689.

There were no other compulsory deductions of a statutory nature from pay. For the minority of Gurkhas who spent time in the UK, 10 per cent was deducted from their pay for their resettlement grant payable at the end of service but their take home pay was still broadly comparable with the wider Army.

## Health: Cancer

### Question

Asked by **Baroness Greengross**

To ask Her Majesty's Government whether the 2003 "Improving Outcomes in Haematological Cancers" guidance from the National Institute for Health and Clinical Excellence will be updated to include more detailed recommendations about the care and treatment of patients with myelodysplastic syndromes. [HL4170]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** I understand the National Institute for Health and Clinical Excellence (NICE) has no current plans to review this guidance. NICE is responsible for making decisions on the review of its published guidance, taking account of views from stakeholders.

## Health: Complementary and Alternative Medicines

### Questions

*Asked by Earl Howe*

To ask Her Majesty's Government how many applications have now been received by the Medicines and Healthcare Products Regulatory Agency for the registration of products under the provisions of the Traditional Herbal Medicinal Products Directive; in how many of those applications the registration has (a) been accepted, (b) been rejected, and (c) remained under consideration; and what assistance is given to small and medium sized companies making such applications. [HL4004]

To ask Her Majesty's Government whether it remains their policy that the Medicines and Healthcare Products Regulatory Agency will seek to assist the herbal medicines sector with its efforts to comply with the provisions of the Traditional Herbal Medicines Directive. [HL4005]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The Medicines and Healthcare products Regulatory Agency (MHRA) has so far received 70 applications to register products under the traditional herbal registration scheme implemented in line with the requirements of Directive 2004/24/EC. 31 registrations have been granted and the remaining 39 applications are under assessment. To date no applications have been refused.

A wide range of European guidelines is available for industry, for example on meeting the relevant quality and manufacturing standards. We recognise that moving from a largely unregulated environment into systematic medicines regulation represents a significant challenge for parts of the over-the-counter herbal medicines sector. Accordingly, the MHRA has been running a programme to manage the regulatory impact of the directive. Initiatives have included provision of additional national guidance, workshops and regular dialogue with the industry's Herbal Forum. The MHRA also provides the opportunity for individual companies seeking to register products under the scheme to be given regulatory and scientific advice. The MHRA has no plans to end this advice service, however, our expectation is that, as with any such new scheme, with growing experience, more companies will become confident in operating under these regulatory arrangements.

## Health: Contaminated Blood Products

### Questions

*Asked by Lord Morris of Manchester*

To ask Her Majesty's Government further to the Written Statement by Lord Darzi of Denham on 20 May (*WS 121–22*), what meetings have taken place between officials at the Department of Health and the Macfarlane Trust to ensure that the department had the latest data on the number of surviving persons with haemophilia who had been infected with HIV and hepatitis C by contaminated National Health Service blood products. [HL4130]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** Departmental officials and officers of the Macfarlane Trust, have met many times in the past to keep each other updated. Most recently, officials met the chairman and officers of the Macfarlane Trust on 27 May 2009.

*Asked by Lord Morris of Manchester*

To ask Her Majesty's Government further to the Written Statement by Lord Darzi of Denham on 20 May (*WS 121–22*), what assessment they have made of how much it would cost for the provision of life insurance cover for patients infected with HIV or hepatitis C or both by contaminated National Health Service blood products to be at least as good as the provision made in the Republic of Ireland, as recommended by the Independent Public Inquiry headed by Lord Archer of Sandwell. [HL4132]

**Lord Darzi of Denham:** Officials discussed the general issue of insurance for haemophiliacs with the Association of British Insurers. They advised that it is not possible to calculate the total cost of life insurance provision for patients infected with HIV or hepatitis C or both by contaminated National Health Service blood products as the premiums would vary for each individual and would be dependent on their particular circumstances.

The position in Ireland is different. The Irish Government set up their hepatitis C compensation scheme, and insurance arrangements, following the finding of a judicial inquiry, the Finlay report, that "wrongful acts were committed". It is important to stress that the blood services in the United Kingdom (UK) have not been found to be similarly at fault. Payments are therefore being made in very different, specific circumstances in Ireland that do not apply in the UK.

## Health: Drugs

### Question

*Asked by Lord Dykes*

To ask Her Majesty's Government whether they have detected any increase in the prescription of rivaroxaban for hip and knee surgery patients in NHS hospitals since the end of 2008. [HL4084]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The information requested is not available.

### Health: Non-UK Residents

#### Questions

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Lord Darzi of Denham on 3 June (*WA 94*), why the necessary data were not collected to allow them to claim reimbursement from Latvia in 2007–08 for NHS services; and what is the sum potentially not claimed. [HL4138]

To ask Her Majesty's Government further to the Written Answer by Lord Darzi of Denham on 3 June (*WA 94*), why the necessary data were not collected to allow them to claim reimbursement from Lithuania in 2007–08 for NHS services; and what is the sum potentially not claimed. [HL4139]

To ask Her Majesty's Government further to the Written Answer by Lord Darzi of Denham on 3 June (*WA 93*), why the necessary data were not collected to allow them to claim reimbursement from Poland in 2007–08 for NHS services; and what is the sum potentially not claimed. [HL4142]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The department understands that in the past, individual trusts have not collected necessary data on overseas visitors, as the required infrastructure has not been in place. The department has identified this issue and is currently piloting an improved overseas visitor data capture process in a number of trusts and intends to roll this out across the National Health Service (NHS) in October this year. This will allow the department to claim back for all the treatment provided by the NHS to overseas visitors and allow it to make an assessment of sums that were historically not claimed. Therefore, the department cannot currently assess the sums potentially not claimed.

### Home Office

#### Question

Asked by **Lord Tebbit**

To ask Her Majesty's Government what are the reasons for the closure of the Home Office on Tuesday 26 May 2009. [HL3945]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** The Home Office was not closed on Tuesday 26 May 2009.

### Houses of Parliament: Members' Expenses

#### Questions

Asked by **Lord Barnett**

To ask Her Majesty's Government whether, following the alleged statement by HM Revenue and Customs quoted in the *Daily Telegraph* on 27 May that "MPs are not exempt from tax laws, and tax must be paid on some expenses", parliamentarians must pay tax on benefits in kind. [HL4009]

To ask Her Majesty's Government whether there is any legislation under which parliamentarians have received expenses tax-free. [HL4010]

To ask Her Majesty's Government whether parliamentarians have always had to pay tax on benefits in kind; and, if not, why. [HL4011]

To ask Her Majesty's Government how MPs' benefits in kind were taxed before the guidance issued to MPs by HM Revenue and Customs in 2005. [HL4014]

**The Financial Services Secretary to the Treasury (Lord Myners):** MPs are taxable on the earnings from their position as MP, and, generally, on the benefits and expenses they receive. Certain expenses that they claim, in particular the expense allowance for the costs of overnight accommodation away from their home to enable them to carry out their parliamentary duties, are exempt from tax under specific legislation introduced in 1984 and are therefore not required to be reported to HMRC. Other expense payments are subject to the usual rules on the taxation of employment income. A deduction can then be claimed, again according to the usual tax rules, for expenses which MPs incur wholly, exclusively and necessarily whilst performing their duties as an MP, or for expenses which they have to incur on travelling whilst performing those duties. HMRC updates its guidance to MPs at the start of each new Parliament.

Asked by **Lord Barnett**

To ask Her Majesty's Government how HM Revenue and Customs differentiates between professional fees related to preparation of tax returns, and any charges for general work related to business affairs, for the purposes of taxing parliamentarians. [HL4013]

**Lord Myners:** Under the general rules on deductibility of expenses for tax purposes, accountancy fees will be eligible for tax relief where they are incurred for business purposes or are necessary in performing the duties of an employment or office. Fees for the completion of a tax return would not be allowable, as they are incurred to enable the individual to meet their personal obligations as a taxpayer.

### Immigration

#### Question

Asked by **Lord Laird**

To ask Her Majesty's Government how many persons from Pakistan who completed their student courses in the past three years applied to remain in the United Kingdom; and under which type of category of leave to stay or visa. [HL4070]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** It is not possible to provide the information requested as the information is not held centrally. Whilst it is possible to identify the number of Pakistan nationals who have had leave as a

student it is not possible to identify which category of leave they have applied for after their student leave expired. The data requested could only be acquired by looking at each individual application from Pakistan nationals over the past three years and to track across all immigration routes. This could only be done at disproportionate cost.

## Marine Environment: Gibraltar

### Question

Asked by **Lord Hoyle**

To ask Her Majesty's Government whether they will support Gibraltar's application to the European Court of Justice which challenges the habitat environmental directives which give Spain rights over British waters around Gibraltar on environmental issues. [HL4216]

**Lord Brett:** As the UK is the only member state competent to propose a site covering British Gibraltar Territorial Waters (BGTW), we do not recognise the validity of the site in question. We therefore do not consider that the decision allows Spain any rights in BGTW.

We are aware that the Government of Gibraltar have applied to the Court of First Instance to challenge the listing of Estrecho Oriental under Commission Decision 2009/95/EC. This is a matter which we take very seriously and we are examining Gibraltar's case in detail to determine what action we might take.

## NHS: Prescriptions

### Question

Asked by **Lord Walton of Detchant**

To ask Her Majesty's Government whether they intend to make generic substitution of all medicines mandatory in primary care; and, if not, what mechanism will enable a primary care medical practitioner and pharmacist to ensure that a specific patient will receive a branded prescription, if that is their opinion of the patient's best interests. [HL4120]

**The Parliamentary Under-Secretary of State, Department of Health (Lord Darzi of Denham):** The pharmaceutical price regulation scheme announced that, subject to discussion with affected parties, the department will introduce generic substitution in primary care. Initial discussions on this complex issue are taking place with key stakeholders and interested parties.

Patient safety will be paramount in taking forward the work on generic substitution. It has long been the department's policy to encourage generic prescribing where possible, for reasons of good professional practice and because of the opportunities for more effective use of National Health Service resources.

However, it has always been recognised that there are circumstances in which it may be clinically appropriate to prescribe a particular brand of drug even where a generic is available if the prescriber considers it essential for the patient to receive that specific product. This position will need to be considered under any new specific proposals made as part of the work on generic substitution.

Therefore, generic substitution of all medicines in primary care would not be mandatory. Provision will be made to allow the prescriber to opt out of substitution where, in his clinical judgment, it is appropriate for the patient to receive a specific branded medicine. Provision may also be made to exclude certain categories of medicines for clinical reasons in the interests of patient safety.

## Northern Ireland: Human Rights Commission

### Question

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Baroness Royall of Blaisdon on 1 June (*WA 51*), whether they will withhold approval for the Northern Ireland Human Rights Commission to receive funding from the Atlantic Philanthropies for its proposed further work on campaigning for a bill of rights if this is seen as inconsistent with the commission's statutory function of providing advice on the scope for a Bill of Rights, which it did in December 2008. [HL4045]

**Baroness Royall of Blaisdon:** The Secretary of State for Northern Ireland has considered and approved the Northern Ireland Human Rights Commission's proposal to access external funding from Atlantic Philanthropies. The Secretary of State is satisfied that the proposed projects are consistent with the commission's statutory functions and that the acceptance of this external funding would be in accordance with the terms of the commission's management statement and financial memorandum.

## Policing and Crime Bill

### Question

Asked by **Lord Patten**

To ask Her Majesty's Government what has been the cost to date of the Policing and Crime Bill. [HL4147]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** In addition to minimal administration costs there are three full-time members of Home Office staff working on the Policing and Crime Bill team.

## Polygamy

### Question

Asked by **Lord Avebury**

To ask Her Majesty's Government further to the answer by Lord Bach on 28 April (*Official Report*, House of Lords, col. 106) and his letter of 6 May to Lord Avebury which was placed in the Library of the House, whether a person who is granted asylum in the United Kingdom and who is legally married to more than one person in his country of origin before he was granted asylum is eligible to bring more than one spouse to join him in the United Kingdom. [HL3528]

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** It is Government policy to prevent the formation of polygamous households in this country. Entry clearance or leave to enter or remain is refused if the applicant's spouse has another spouse living who is, or at any time since their marriage has been, in the UK, or who has been granted a certificate of entitlement in respect of right of abode under Section 2(1)(a) of the Immigration Act 1988, or who has been granted entry clearance to enter the UK on the basis of their marriage.

There are certain exceptions to this general restriction: a spouse who seeks leave to entry or remain if he/she has been in the UK before 1 August 1988, having been admitted on the basis of his/her marriage; or, if he/she has, since his/her marriage, been in the UK at any time when there was no such other spouse living.

## Public Bodies

### Question

Asked by **Lord Dykes**

To ask Her Majesty's Government whether they encourage bodies in receipt of public funds to publish the salaries and expenses of their senior members of staff. [HL3890]

**The Financial Services Secretary to the Treasury (Lord Myners):** In accordance with the Government Financial Reporting Manual central government bodies are required to publish within their annual report details of remuneration in respect of their senior members of staff. The remuneration report includes Ministers, where relevant, and the management board, including advisory and non-executive members, and requires disclosure of salary, allowances and pension entitlements. Disclosure is not required for the reimbursement of expenses directly incurred in the performance of an individual's duties.

The answer does not cover banks that the Government own or where the Government have a shareholder interest. As these bodies are classified as public corporations by the ONS, they fall outside the scope of the Government Financial Reporting Manual, and its disclosure requirements. The banks in which the Government have a shareholder interest and whose shares are still traded on the Stock Exchange are subject to the Stock Exchange Listing Rules and the Companies Act, which require similar disclosures to those required by the Government Financial Reporting Manual. The Government have required the banks in which they have a 100 per cent stake to meet the same standard of disclosure.

## Public Sector: Contracts

### Question

Asked by **Lord Kirkwood of Kirkhope**

To ask Her Majesty's Government what appeals are available to local service providers who consider that they have been unfairly excluded by large-scale providers who are successful in bidding for public service contracts. [HL4105]

**The Financial Services Secretary to the Treasury (Lord Myners):** Government do not operate an appeals or mediation process for disputes between prime and sub-contractors.

Work is currently under way to implement the recommendations from the Glover Advisory Committee report, *Accelerating the SME economic engine: through transparent, simple and strategic procurement, published in 2008*. This work includes a project to encourage prime contractors to advertise sub-contracting opportunities as early as possible and also to ensure small businesses and other firms acting as sub-contractors obtain contract conditions, for example promptness of payment, that are comparable to those applied to the prime contractor.

Where suppliers feel they have been unfairly treated during a public procurement exercise they can contact the OGC Supplier Feedback Service via the OGC website at [www.ogc.gov.uk/procurement\\_policy\\_and\\_practice\\_ogc\\_supplier\\_feedback\\_service.asp](http://www.ogc.gov.uk/procurement_policy_and_practice_ogc_supplier_feedback_service.asp).

## Schools: Secondary Schools

### Question

Asked by **Lord Grocott**

To ask Her Majesty's Government how many secondary schools of each school type there are in England. [HL3996]

**The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):** The information requested is found in the table below.

*Total of Secondary Schools in England by School Type*

Type of Establishment Description	Middle deemed		Grand Total
	Secondary	Secondary	
Community	160	1703	1863
Foundation	21	693	714
Voluntary aided	28	516	544
Voluntary controlled	22	81	103
Grand Total	231	2993	3224

Source: EduBase 2

## Schools: Teachers

### Question

Asked by **Baroness Morris of Yardley**

To ask Her Majesty's Government whether they have identified any areas for improvement in (a) current initial teacher training (ITT) provision, and (b) current continuing professional development (CPD) provision. [HL3992]

**The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):** Nothing makes as large a difference to the quality of our schools than the quality of teaching, which is why we are focusing on policies that

attract more talent into the profession, developing teachers through their initial training and throughout their careers, and encouraging them to work where the needs are greatest. Significant improvements have been achieved since 1997 and we are looking to build on these to achieve our vision for the 21st century school set out in the Children's Plan and the White Paper *New Opportunities: Fair Chances for the Future*.

Research tells us that the quality of recruits is the most important long-term driver of teacher quality. The quality of new recruits is driven by attracting a pool of good applicants through offering an attractive range of routes and implementing effective selection criteria. Research also tells us that effective CPD can improve teaching practice, morale, pupil attainment and motivation. It is on the basis of findings like these that we have given the Training and Development Agency for Schools (TDA) and the National College for School Leadership (NCSL) challenging remits to help develop a world-class teaching profession through improved ITT and CPD provision for school teachers and leaders. These remits include the development and implementation of the new Masters in teaching and learning for teachers and development of better arrangements for the collaborative professional development of the school workforce delivered through clusters. The priorities for the TDA and NCSL for 2009-10 are set out in their remit letters from the department and published at [www.tda.gov.uk/about/our\\_remit.aspx?keywords=remit+letter](http://www.tda.gov.uk/about/our_remit.aspx?keywords=remit+letter) and [www.ncsl.org.uk/aboutus-index/about-role-index/about-role-remit.htm](http://www.ncsl.org.uk/aboutus-index/about-role-index/about-role-remit.htm) respectively.

### St Andrews Agreement

#### Question

Asked by **Lord Laird**

To ask Her Majesty's Government whether they regard the St Andrews agreement as an international agreement; and, if so, how it is monitored. [HL4172]

**Baroness Royall of Blaisdon:** The 2006 St Andrews agreement was published jointly at St Andrews on 13 October 2006 by the British and Irish Governments.

The practical changes to the operation of the 1998 Belfast agreement institutions as envisaged by the 2006 St Andrews agreement have been formalised in international law by the Intergovernmental Agreement between the Irish Government and the Government of the United Kingdom of Great Britain and Northern Ireland (Cm 7078) which came into force on 9 May 2007 following the restoration of devolution.

The two Governments, as parties to this agreement, hold each other to account for its implementation. Implementation is monitored through the usual constitutional scrutiny mechanisms. These include scrutiny within each administration and with the relevant legislature holding the executive to account.

### St Helena: Airport

#### Question

Asked by **Lord Jones of Cheltenham**

To ask Her Majesty's Government what would be the cost to the Exchequer in (a) financial year 2009-10, and (b) financial year 2010-11, of starting work on the proposed airport in St Helena.

[HL3550]

**Lord Brett:** Costs will vary depending on the contractor's programme. We can not disclose detailed figures for each financial year due to commercial confidentiality.

### Taxation

#### Question

Asked by **Lord Barnett**

To ask Her Majesty's Government whether all taxpayers are taxed equally for benefits in kind; and whether this has always been the case. [HL4012]

**The Financial Services Secretary to the Treasury (Lord Myners):** Benefits-in-kind provided by employers to any employee earning at an annual rate of £8,500 or more are taxable and liable to employer national insurance contributions (NICs) unless covered by a specific exemption. This has been the position since 1979.

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