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House of Lords

Tuesday, 15 December 2009.

2.30 pm

Prayers—read by the Lord Bishop of Chester.

Leave of Absence

2.36 pm

The Lord Speaker (Baroness Hayman): My Lords, the Conference of Speakers and Presiding Officers of the Commonwealth will be held in New Delhi from 4 to 8 January 2010. Accordingly, I seek leave of absence from your Lordships' House from 5 to 7 January.

Public Finances
Question

2.36 pm

Asked By ***Baroness O'Cathain***

To ask Her Majesty's Government what assessment they have made of whether the levels of public debt and deficits in the public finances are due to the lack of a law preventing the Chancellor of the Exchequer from pursuing such policies.

Lord Davies of Oldham: My Lords, the financial crisis and global downturn have had a profound impact on the public finances, particularly tax receipts, in the UK and in other countries. Discretionary fiscal stimulus was introduced to provide support when the economy was weakest, limiting the severity of the downturn. As the economy is forecast to emerge from recession, borrowing in the medium term is projected to fall markedly through government consolidation measures announced in and since the 2008 Pre-Budget Report. The Fiscal Responsibility Bill will enshrine these consolidation plans in legislation.

Baroness O'Cathain: I am very grateful to the noble Lord for that reply, but I am afraid that I do not really believe it. Will the Fiscal Responsibility Bill contain a schedule to show us exactly where the public debt will be reduced and what public spending will be taken from what departments and when?

Lord Davies of Oldham: My Lords, the Bill is quite clear in what it intends to do. It will make these measures taken by the Government directly answerable to Parliament. That is the way in which we will consolidate the decisions that have been taken in the past year and a half, which have a long-running perspective to them in terms of government borrowing. A code related to the Bill will spell things out in more detail, but the Bill is clear about the responsibility of the Government to report and to stick to these measures.

Lord Newby: The terms of the Fiscal Responsibility Bill would mean that, if there were a recession in five years' time, it would be illegal for the Government to increase public expenditure to combat unemployment. Does the Minister agree that this proves that the Bill is just a case of political posturing and that it is not worth the paper it is written on?

Lord Davies of Oldham: No, my Lords, it is a reinforcement of the Government's intent with regard to their public borrowing plans for the future as we emerge from this deep recession. If the noble Lord is suggesting that we are likely to see in the near future anything like the recession that we have had over the past two years, his judgment is very different from that of everyone else concerned with the British economy and the international economy in terms of recovery from this recession. The Bill makes clear the Government's strategy for emergence.

Lord Campbell of Alloway: Is it right that we are the only country in the European Community not moving out of recession? If so, why is that?

Lord Davies of Oldham: Like all other countries in the European Community, we are moving out of recession and the indications are that we will resume growth next year.

Lord Lawson of Blaby: Is the Minister aware that—in addition to a deficit that is getting on for £200 billion this year and is projected by the Treasury, somewhat optimistically, to be another £200 billion next year—if the £200 billion of quantitative easing that has occurred is going to be neutralised and not turned into inflation in the future, another £200 billion of gilts will have to be sold to mop it up? Has he made any judgment as to whether the financial markets are prepared to buy gilts on that scale and, if so, at what price?

Lord Davies of Oldham: My Lords, of course the Government are concerned about the market response to government projections, but the noble Lord will have rejoiced that the market looks very calm, if not supportive, as far as the decisions taken last week are concerned. The noble Lord is right: of course we face challenges with regard to the future. No one underestimates the problems of reducing this substantial debt, but it is quite clear that the Government are determined to do so and will be increasingly answerable to Parliament to guarantee that they do.

Baroness Noakes: My Lords, the Minister referred to a code when he responded to my noble friend Lady O'Cathain. The code to which he is referring under the Fiscal Responsibility Bill is in fact the code for fiscal stability, which has been required ever since the 1998 Finance Act and did not stop the Government wrecking the economy of this country. The Minister then said that the Bill would make the Government answerable to Parliament. In what way will being answerable to Parliament under this Bill help to avoid the mess that we are now in?

Lord Davies of Oldham: I wonder whether the noble Baroness is broadening her geographical perspective in suggesting that the decisions taken by this Government wrecked the economies of the United States, Germany and all other advanced countries over this recent recession. It is quite clear that we have been facing a worldwide phenomenon of crisis in all the significant economies. What is interesting is that we approached this crisis with a lower level of debt than most other countries.

Lord Soley: Given the seriousness of this economic crisis and its impact on Britain, would it not be logical for the opposition parties to sign up to this legislation? It is straightforward and simple. It is a clear message and it ought to be important for anyone who aspires to government.

Lord Davies of Oldham: My Lords, I agree with my noble friend and suggest that he watches this space.

Lord Howe of Aberavon: Does the noble Lord not perceive that it would be insufficient to restrain only the Chancellor of the Exchequer? It would be essential as well to restrain the First Lord of the Treasury.

Lord Davies of Oldham: My Lords, the Bill refers to no individual Minister but to the responsibility of Her Majesty's Government and their answerability to Parliament. I am sure that the noble and learned Lord shares my view that that is an impeccable proposition.

Lord Stoddart of Swindon: Do we really need a Bill at all? Surely what we need in this country are a responsible Government who put the country before party-political considerations and a free Parliament of people who are concerned about their country and will hold the Government properly to account.

Lord Davies of Oldham: My Lords, we are all concerned about our country. The noble Lord may take a certain independent stance but I hope that his independence is not trammelled by the fact that he will have noted that unemployment levels during this crisis have been the lowest in the developed world.

Visas: Non-EU Visitors

Question

2.44 pm

Asked By ***Lord Clement-Jones***

To ask Her Majesty's Government what assessment they have made of the cases cited by the National Campaign for the Arts and the Manifesto Club in which the points-based visa system for non-European Union visiting artists and academics denied entry for those wanting to carry out bona fide activities; and what action they propose in response.

Lord Brett: My Lords, the cases cited reflect concern that the points-based system prevents the entry of legitimate artists and academics. We do not believe this to be so. Implementation has generally been smooth, successful and well received. Where there have been teething problems, we have addressed them and we continue to fine-tune to ensure that we are delivering a system which is robust, objective, responsive and fair.

Lord Clement-Jones: My Lords, I thank the Minister for that reply. He spoke about "teething problems". The current visa arrangements for artists and entertainers have had an appalling effect on arts and cultural exchange in this country. They have affected music, theatre, literature, dance, opera and the visual arts, and education. While there have been some minor improvements, they have not been fundamental. There are still major issues to be resolved; for example, questions of training for UKBA officers, clarity of guidance, stamping of passports even, biometric machinery and the sheer discretion given to immigration officials. When will Ministers take a grip of this real issue and make sure that these problems are resolved?

Lord Brett: My Lords, the noble Lord does not do justice to what the Government are seeking to do, working with the arts and entertainment taskforce and the National Campaign for the Arts—the independent body representing people in culture of all forms. There have been a number of major changes. Ministers have taken a keen interest. My colleague in the other place, Phil Woolas, has met the NCA twice. He meets the taskforce regularly—they met as recently as 24 November. Among the changes that have been made is a system whereby performers who normally require a visa but who come to the UK for less than three months are not required to apply in advance. We also have provision to accept applications for entry from countries in which the artists are performing, rather than having them go back to their country of origin to do so. We have created a new entertainer visa category for performers who do not require sponsorship. As a consequence, costs are now less for the entertainers, who pay a lower visa fee. In addition, we have retained a route for overseas film crews on location shoots. We have made these and a number of other concessions and changes to meet the wishes of the sector concerned. I believe that we have support for the changes from the NCA and the taskforce.

Lord Tomlinson: But did my noble friend not note that the noble Lord, Lord Clement-Jones, included education among the areas that he criticised? Is it not the case that in both the public and private sectors of higher education the number of overseas students who have entered this country in the present year has greatly increased, which is partly because of the efficiency and the effectiveness with which the points-based system is working in higher education? It is clear that there are still problems to be ironed out, but, overall, this country has benefited enormously from the increase in immigration to higher education in this country.

Lord Brett: My noble friend makes an important point. Students from overseas are a valued part of our community. We have to take a balanced approached to immigration laws, but those students are of great advantage. My noble friend is right that there are welcome indications of an increased number of students. We are carrying out a review also of the tier 4 category

to ensure that the increase is among those who are legitimately entitled to be here. A review has been called by the Prime Minister and its outcome will be known early in the new year. We shall see whether any changes need to be made in that category.

Baroness Gardner of Parkes: My Lords, I have raised this question in the past with regard to Commonwealth artists who wish to come over here, because the scheme is based on the Australian points system. As I have often said, no one goes to Australia to become a world-famous artist. They tend to come from there, and people such as Joan Sutherland have established their world career here. The Minister said in response to my previous question that flexibility would allow those people to continue study for longer. I have had good reports back on that point. So there is a greater element of flexibility than there was in the past, is there not?

Lord Brett: The noble Baroness is correct. I thank her for her support. Australian artists have been doing missionary work in Europe and beyond for many years.

The Earl of Erroll: Many high-tech companies are probably going to have to relocate their training facilities abroad because they cannot bring people in to train here. This is causing us to slide down the global knowledge economy scale. Does the Minister think this is useful for the UK?

Lord Brett: The Minister does not recognise the situation described by the noble Earl. If he wishes to write to me and give me chapter and verse, I would be more than happy to investigate.

Baroness McIntosh of Hudnall: My Lords, would my noble friend agree with me that this Government have on the whole had an admirable record in support of the arts in this country and indeed in supporting artists from this country in their efforts to take their arts elsewhere? Would he also agree, however, that this particular issue has caused some concern in the arts community, as he has already indicated? Would he assure the House that the matter will be kept under review so that any inadvertent abuses are caught before they turn into problems?

Lord Brett: My Lords, I am happy to give my noble friend that assurance. I know that my ministerial colleague Phil Woolas takes a keen interest in this area and, as I indicated, has regular meetings. On the point made in the original Question about training, guidance and training is given to staff. If we find there are any errors, abuses or what-have-you, we will investigate immediately and ensure that adequate training and guidance is given to avoid what sometimes happens in the process which is not the intention of government or policy. On this occasion, the teething problems have largely been solved.

Lord Willoughby de Broke: On a point of information, the Minister might perhaps help the House by saying how many performing artists have been denied access to this country through this points-based system. I appreciate he may not have the answer now, so could he perhaps put a note in the Library about it? Then we might have an indication of how well or how badly the system is working.

Lord Brett: The noble Lord is correct; I do not have a figure in my brief. The reasons why people are denied entry are as important as the numbers of people involved. It can well be for reasons of process that people do not have the required points under the points-based system, or that they do not apply in time, or for other reasons. I will investigate the point the noble Lord makes and take up his suggestion of providing a note.

Baroness Hamwee: My Lords, the Minister refers to training. It is quite clear that problems have arisen because of the inadequacy of training and insufficient knowledge on the part of those delivering the service—and it is a service. Will he acknowledge that, as for artists and for academics coming to speak at conferences, and I suppose for politicians, the UK Border Agency is only as good as its last performance?

Lord Brett: I would certainly agree with the noble Baroness's latter point. Our border patrol service, in the sense that we police our borders and interrogate and talk to would-be entrants, has a high reputation worldwide. It is seen to be friendly and it is seen to be, by and large, efficient. If you are subject to delay, whether it is your fault or the fault of someone else, you will not see the agency in that way. We believe the satisfaction rate is very high, however, and we investigate and seek to put right any errors that are made en route.

Lord Skelmersdale: My Lords, I do not know whether anybody else in the House has been confused by the Minister this afternoon as much as I have. Earlier on, he talked about a fast-track system where people could get their visas at ports of entry—airports, the port of Southampton and so on. Just now, in answer to a question from behind me, he said that one of the reasons for denying a visa in such cases would be the points-based system. While I approve of the points-based system in general terms, is it working in these terms?

Lord Brett: I do not know whether the confusion is in the noble Lord's mind or in mine, but I did indicate that the fast-track system is for artists arriving here from the countries in which they are already performing and who do not require to stay for more than three months. As regards points, under tier 1, one has to acquire points in order to enter. Academics and artists can come under tier 5, but some of the problems from the cases indicated by the Manifesto Club are that it is not clear whether the individuals were in breach of conditions of visas. For example, academic visas do not allow working beyond honorarium—they do not allow people to become salaried. In that sense, therefore, there is no reason why entry may be denied. As I indicated to the previous speaker, however, I will investigate and produce an answer.

Barnett Formula

Question

2.54 pm

Asked By ***Lord Anderson of Swansea***

To ask Her Majesty's Government whether they have any proposals to amend the Barnett Formula.

Lord Davies of Oldham: The Government keep all aspects of public spending under review, but they have no plans to change the Barnett formula. The Government's funding policies for the devolved Administrations were set out in the updated statement of funding policy, which was published by the Treasury in October 2007.

Lord Anderson of Swansea: My Lords, my noble friend will be aware that the Richard committee—a committee of this House—concluded recently that the old formula did not reflect either today's population or the respective needs of the devolved Administrations. The situation in Wales is even worse in that gross value added per head in Wales is now less than three-quarters of the UK average and is deteriorating. When will the welcome recent agreement reached between the Treasury and Mr Hain, the Wales Secretary, to ensure that Wales is not disproportionately disadvantaged be brought into effect? When will the details of that welcome agreement be announced?

Lord Davies of Oldham: My Lords, my right honourable friend the Secretary of State for Wales indicated after the Holtham review had been delivered that he was looking at future spending. That analysis is going on. I do not think that it is quite an agreement—the term used by my noble friend to identify it—but the Secretary of State for Wales is properly charged of his responsibilities in this area, and he is examining the issue.

Baroness Hollis of Heigham: My Lords, I declare an interest as a member of the Richard committee. The Barnett formula allocates over half the total public expenditure to Scotland, Wales and Northern Ireland on the basis of adjusted 1970s population figures. It gets it wrong, I estimate, by something like £4 billion to £5 billion a year. Does my noble friend agree that local authorities, health authorities and regional bodies are all resourced according to need: in which case, why not also the nations of the UK?

Lord Davies of Oldham: My Lords, that case, as my noble friend has indicated, was included in the House of Lords report on the Barnett formula. The Government are examining this report carefully and are aware of the strength of the committee's position. However, my noble friend will know only too well that an accurate analysis of a needs-based expenditure structure is a very substantial task, and the Government will report on that in due course.

Lord Roberts of Conwy: My Lords, does the Minister agree that Scotland, Wales and Northern Ireland have a great deal to thank the noble Lord, Lord Barnett, and his formula for, and that they should be careful when pressing for change to ensure that that change is in their interests and that they will benefit from it?

Lord Davies of Oldham: My Lords, there is no doubt that the Barnett formula has stood the test of time from its development 20 years or so ago, although inevitably over two decades there have been stresses and strains on the reports and the formula, and the accuracy of their basis is increasingly subject to challenge. However, the noble Lord is absolutely right that the three constituent countries of the United Kingdom apart from England have done well out of the Barnett formula.

Lord Barnett: My Lords, the Select Committee report was excellent. It clearly recognised the need for a change that is based on need, but the unpublished response simply said no. Was the response unpublished because it has now been scrapped and the Government are going to come up with a better one that agrees with the committee?

Lord Davies of Oldham: My Lords, I think that my noble friend is a little pessimistic about the Government's response to the position. They very much value the work that he did two decades ago. But it is the case, as I indicated in my response to the first Question, that the Government are looking carefully at these issues. We have two reports now—the Calman report for Scotland and the Holtham report for Wales—both of which indicate that the formula presents some problems in the accurate allocation of resources. The Government are studying the situation carefully.

Lord Elis-Thomas: Does my noble friend accept that there was indeed a general welcome for the Secretary of State's statement in another place on 26 November? However, is my noble friend now able to take the UK Government's thinking a little further? There has been a positive response to Gerry Holtham's report, but surely the basic issue is this: how long will the Treasury continue to be the judge and jury in its own case? Or are the UK Government so afraid of fiscal federalism and the charge that would follow from that in other parts of the European Union, that they are not prepared to tackle the basic issue of having an objective assessment of the relative needs, as my honourable friend has indicated?

Lord Davies of Oldham: My Lords, the problem with an objective assessment is that it is difficult to achieve objectivity. As the noble Lord will recognise only too clearly, some of those who are clamouring for revaluation are not sufficiently aware of the extent to which the devolved Administrations actually benefit from the formula at present. However, serious questioning of the Barnett formula is present in both of these reports and in the House of Lords Select Committee report, and the Government will give their response to them when they have a final considered position.

Prisoners: Voting
Question

3.01 pm

Asked By ***Lord Ramsbotham***

To ask Her Majesty's Government when they intend to legislate to lift the complete ban on convicted prisoners voting.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My Lords, the Government are currently analysing the responses to the second stage consultation which closed on 29 September 2009. The Government take their obligations under the European Convention on Human Rights seriously and are committed to implementing the judgments of the European Court. But we must arrive at a solution which respects the judgment of the court and takes into account the political context and traditions of the United Kingdom.

Lord Ramsbotham: My Lords, I thank the Minister for that predictable reply. Can he explain to the House whether the Government intend either to ignore or take action to prevent what the Committee of Ministers of the Council of Europe last week expressed as serious concern that the substantial delay in implementing the judgment of the European Court of Human Rights given on 6 October 2005 has given rise to a significant risk that the next United Kingdom general election, which must take place by June 2010, will be performed in a way that fails to comply with the convention? Is that a risk that the Government are prepared to prevent?

Lord Bach: My Lords, the Government note, of course, the interim resolution by the Council of Europe's Committee of Ministers' Deputies in this case. We have, as I have told the House, recently completed a two-stage consultation. We are carefully analysing the response. We take our obligations seriously, but we have to arrive at an approach which respects the judgment of the court and the political context and traditions of the United Kingdom. If the concerns of the European Court expressed in Hirst were not remedied by the next general election, this would not, in the Government's view, call into question the legality of the elections themselves as challenges go to the right of individual prisoners to take part in the elections rather than the legality of the elections themselves.

Lord Campbell of Alloway: My Lords, can we forget about the general election? May we concentrate on this incessant moan that we are thinking about this and thinking about that and considering the other, and get on with the job that is a humanitarian commitment?

Lord Bach: My Lords, the concerns are slightly broader than the noble Lord will have it. These are complex issues and remain complex issues. They require full consultation and consideration. Apart from the principle of the issue, there are many practical issues that need to be thought through and decisions taken on what criteria should apply to make a fair decision on whether a prisoner should be able to vote.

Lord Corbett of Castle Vale: Will the Minister indicate how much longer the Government need to come to a decision on this issue, having taken four years already? The order of the court is quite clear. Can my noble friend give me other instances of when this pick-and-mix approach to decisions of the court has been put into operation?

Lord Bach: Our record on committing ourselves and effecting the decisions of the court is a good one over the years. The court made it absolutely clear that there is a wide margin of appreciation for member states in issues such as this. We are coming to a view and want to ensure that it is right; then, of course, it will be for the British Parliament to decide in the end what to do next.

Lord Lester of Herne Hill: My Lords, I am sure the Minister will agree that for there to be an interim resolution by the Committee of Ministers of the Council of Europe of this character is a very serious matter, which affects the reputation of this country to abide by the rule of law. The noble Lord has not answered the question asked by the noble Lord, Lord Ramsbotham, about whether the Government will do what the Committee of Ministers wish and legislate rapidly so that there will not be a continuing breach when the next election comes in respect of prisoners' rights and the judgment of the court. I wonder whether he would be kind enough to answer that question.

Lord Bach: My Lords, we will respond when we are ready to respond. We hope that it will be soon, but these are complicated and complex matters. I believe that the Opposition agree with us that this is not an easy matter. It is not clear, for example, that popular feeling is anything other than strictly against this proposal. We realise that the court's judgment has to be obeyed, and we will do so.

Lord Pannick: My Lords—

Lord Mackenzie of Framwellgate: My Lords—

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): My Lords, we have not yet heard from the Cross Benches.

Lord Pannick: My Lords, does the Minister accept that one reason for the considerable concern about the extraordinary length of time that the Government have taken to implement a decision dated 6 October 2005 is that they appear deliberately to be delaying this matter until after the next general election? Can the Minister give the House an unequivocal assurance that that is no part and has been no part of the Government's motivation?

Lord Bach: Yes.

Business of the House

Motion on Standing Orders

3.07 pm

Moved By ***Baroness Royall of Blaisdon***

That, in the event of the Consolidated Fund Bill being brought from the Commons, Standing Order 47 (*No two stages of a Bill to be taken on one day*) be dispensed with tomorrow to allow it to be taken through its remaining stages that day.

Motion agreed.

Immigration (Biometric Registration) (Amendment No. 2) Regulations 2009

Crime (International Co-operation) Act 2003 (Designation of Participating Countries) (England, Wales and Northern Ireland) (No. 3) Order 2009

Motion to Approve

3.08 pm

Moved By ***Lord Brett***

That the draft order and regulations laid before the House on 4 and 25 November be approved.

Relevant document: First Report from the Joint Committee on Statutory Instruments. Considered in Grand Committee on 9 December

Lord Brett: In moving these Motions, I extend an apology to those who participated in the debate on the second of the instruments, the crime order, when in my enthusiasm for brevity I gave an imprecise answer to a question posed by the noble Baroness, Lady Hamwee, at the end of that debate. I have since written to the noble Baroness to clarify the position on the point that she raised and copied the letter to the noble Lord, Lord Skelmersdale. I understand that the noble Baroness is satisfied on the point in question. I shall lay a Written Ministerial Statement on the subject before the House today.

Baroness Hamwee: My Lords, I am grateful to the Minister. I do not wish to prolong the debate but I must register that we on these Benches are not happy with the first of the orders, the biometric registration order, although we do not wish to divide the House or have a debate. We have always opposed extension of ID cards.

Motion agreed.

Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2009

National Assembly for Wales (Legislative Competence) (Welsh Language) Order 2009

Motion to Approve

3.09 pm

Moved By ***Lord Davies of Oldham:***

That the draft order and regulations laid before the House on 28 October and 10 November be approved.

Relevant documents: 24th Report, Session 2008–09, from the Joint Committee on Statutory Instruments, First Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 9 December

Motion agreed.

Health Professions (Hearing Aid Dispensers) Order 2009

Motion to Approve

3.09 pm

Moved By ***Baroness Thornton***

That the draft order laid before the House on 22 October be approved.

Relevant document: 24th Report, Session 2008–09, from the Joint Committee on Statutory Instruments, considered in Grand Committee on 9 December

Motion agreed.

Bribery Bill [HL]

Order of Consideration Motion

3.10 pm

Moved By ***Lord Bach***

That it be an instruction to the Grand Committee to which the Bribery Bill [HL] has been committed that they consider the Bill in the following order:

Clauses 1 to 16, Schedules 1 and 2, Clauses 17 to 19.

Motion agreed.

Arrangement of Business

Announcement

3.10 pm

Lord Bassam of Brighton: My Lords, with the leave of the House, my noble friend Lady Taylor of Bolton will repeat the Statement entitled "Future Defence Programme" immediately after the noble Lord, Lord

Lester of Herne Hill, has spoken on the Equality Bill. There are 41 speakers signed up for the Second Reading of the Equality Bill today. If Back-Bench contributions are kept to seven minutes, the House should be able to rise around the target rising time of 10 pm.

Procedure Committee: Second Report of Session 2008–09

Motion to Agree

3.11 pm

Moved By ***The Chairman of Committees***

That the 2nd Report of Session 2008–09 from the Select Committee be agreed to. (HL Paper 165)

The Chairman of Committees (Lord Brabazon of Tara): My Lords, two reports are listed on the Order Paper and I hope that it will be for the convenience of the House if I speak to both of them, since they are in many respects linked. The two reports deal largely with the procedural consequences of the establishment of the Supreme Court, the ending of the House's judicial responsibilities and the disqualification of those Members of the House who serve as senior judges from taking any part in our proceedings.

These changes in the composition and role of the House necessitate corresponding changes in our procedures and Standing Orders. Most of these are straightforward and self-explanatory; they are covered in the second report of the last Session, which was published at the end of October. Some of the changes, however, were less straightforward. In particular, we had to consider carefully the future role and composition of the Committee for Privileges, specifically in respect of peerage claims. Our conclusions are set out in the second report on today's Order Paper, which was agreed and published last week.

I would like to put on record my thanks to the Lord Chief Justice and the Master of the Rolls for agreeing to provide judges to assist the Committee for Privileges in considering any future peerage claims. I can also inform the House that, since the report was published, I have had an equally positive and helpful response from Lord Hamilton, the Lord President of the Court of Session, indicating the willingness of the senior Scottish judiciary to help if called upon. I hope that the House will recognise our proposals in this area, embodied in our proposed revision of Standing Order 78, as a constructive and workable solution to a potentially difficult problem.

I turn now to the other issues covered in these two reports. I trust that our recommendations on the abolition of the Personal Bills Committee and the use of the Welsh language by committees meeting in Wales will be uncontroversial. With regard to national policy statements, we propose that they should normally be debated in Grand Committee on a neutral Motion—in other words, a Motion to consider the statement. It is of course not possible to debate substantive Motions in Grand Committee, as there is no possibility of a Division in the Moses Room. However, the use of Grand Committees for general debates on national policy statements would be in addition to those statutory procedures described in the Planning Act 2008. In other words, noble Lords would be able to table substantive Motions that would require a decision on the Floor of the House. It would also be open to Members to seek to establish an ad hoc committee to examine a national policy statement or, indeed, for one of our existing Select Committees to inquire into and make recommendations on a statement that happened to fall within its remit.

Finally, I turn to the recommendation that may be of greater interest to noble Lords, namely our recommendation in our first report of the present Session that from the start of the new year each Secretary of State sitting in this House should once a month answer Oral Questions that would be addressed to them as Secretary of State. We propose that for the initial trial period there should be three Questions, taking 15 minutes in total, asked on a Thursday immediately following Oral Questions. The procedure will be as for Oral Questions—for instance, there will be an opportunity for supplementaries from around the House. With two Secretaries of State sitting in the House at present, this additional opportunity for scrutiny will be a fortnightly event. I emphasise that we see this as additional scrutiny. It will not impact on other existing forms of scrutiny, such as normal Oral Questions or Private Notice Questions.

I hope that these proposals will enjoy support across the House, as they did across the committee. If they are agreed, the Leader of the House and I will tomorrow move the consequential amendments to Standing Orders. I therefore beg to move the first Motion in my name—that is to say, that the committee's second report of the Session 2008-09 be agreed to.

3.15 pm

Lord Jenkin of Roding: My Lords, I am extremely grateful to the Chairman of Committees for setting out briefly but succinctly the procedure to be followed for considering the national policy statements that have been prepared and were made available last November under the provisions of the Planning Act 2008. The noble Lord has already referred to the fact that there has to be scrutiny of these national planning statements in both Houses. This was agreed in the debates in this House to be an important stage in the new planning process.

Of course, this is a formidable task. Those who have seen the volume of papers that were tabled on 9 November—six separate reports covering six aspects of energy policy—will perhaps be a little surprised that we are apparently to try to deal with these in a single four-hour debate in the Moses Room. That is the subject of one of my questions. In another place, two—it may be more—Select Committees have already been appointed to examine the reports. I understand that these Select Committees have already indicated a call for evidence. I have discussed with one or two people whether they will be giving evidence to those committees in another place.

In this House, the usual channels and the Procedure Committee have adopted the very different procedure, which the Chairman of Committees described, of a

[Lord Jenkin of Roding]
four-hour debate in Grand Committee. The Procedure Committee's report on this aspect is very brief. I have been trying to find out exactly how this process will work. We are faced with a wholly new situation. This is not a Bill, a statutory instrument or a report from a Select Committee; it is something novel. Therefore, the authorities have adopted a novel constitutional solution. It is about this that I would like to ask some questions.

First, how is any noble Lord to propose amendments to any of the national policy statements? Will that be able to be done in the four-hour debate in Grand Committee, or will it have to rest until a subsequent procedure? The noble Lord has said that there can be no vote on any of this in the Moses Room, for reasons that we all entirely understand. Will there be a procedure whereby there can be a vote on the Floor of the House? People would like to know that. Section 9 of the Planning Act refers to,

"a committee of either House".

As I have said, the other House is proposing not one or two but perhaps three committees to consider different aspects of this formidable array of national policy statements. This is not currently proposed in this House, for reasons that have been explained to me, but is it open to any noble Lord to propose that there should be an ad hoc committee? If so, would that be proposed in Grand Committee, or would it require a separate Motion to be considered on the Floor of the House? In paragraph 7 of its report, the Procedure Committee says:

"The Leader has indicated that in the event of a motion for resolution being tabled, the Usual Channels would undertake to provide time for a debate in the Chamber within the scrutiny period".

Is that something separate from and additional to the four-hour debate in Grand Committee, or is it all part of one and the same debate?

My next question concerns the fact that there are six of these reports, which, as the noble Lord, Lord Hunt of Kings Heath, will be well aware, are formidable and detailed. Is it envisaged that we will take all six reports in a single four-hour debate in the Moses Room on a single Motion, or will they be split so that we can have a number of debates on the different subjects of the national policy statements?

When can we expect the process to start? As I have explained, it is already under way in another place. I was trying to find the date for completion of the process. One of the documents refers to its completion by 22 February. I questioned whether that also applies to the consultation in this House; the answer is no. There is a separate time limit for that. In a letter written by the Secretary of State, Ed Miliband, when the reports were issued on 9 November, he stated that—the technical words are "the relevant period"—the scrutiny period should end on 6 May. The letter was addressed to the chairman of the Liaison Committee in another place, with a copy to the then acting chairman of the Energy and Climate Change Select Committee and copies to be placed in the Libraries of both Houses. Not surprisingly I did not see this until quite recently—in fact, half way through this morning, when it was drawn to my attention by one of the extremely able and helpful ladies in the Government Whips' Office. That states clearly in the sixth sentence that the date is to be 6 May. That gives us rather more time.

Is it therefore the position—this is perhaps my last question—that if we take it right up to the end, including the several stages in this House and in another place, the final process will not be completed before the general election has to be announced and it will be for the Government after the election to decide how to take the matter forward? We have come right up against the boundary in terms of time; the Secretary of State's letter spells out why that is so. Rules applying to Select Committees in another place state that 39 days must be allowed after issuing a report. If we are not even going to begin to discuss this until after another place has finished—or until nearly after, as has been indicated—will we not find ourselves trying to deal with it in the very last few days in the wash-up before the general election? Is that a satisfactory way for this House to deal with these formidable reports with which we are confronted? I have said previously that I believe that the Government have done as much as they possibly can in drawing up these reports, and I will have some suggestions to make when we debate them, but we have left it to the last possible minute. Is that a satisfactory way of proceeding?

Lord Tyler: My Lords, we, too, share the concerns of the noble Lord, Lord Jenkin. In view of the important business to come through your Lordships' House, I relate my queries to the final issue with which the Chairman of Committees was concerned, which is that of Oral Questions to Secretaries of State. Most of the other proposals are relatively uncontroversial.

I wonder whether the Chairman of Committees can say something about the context for that recommendation. I note that Mr Speaker Bercow has recently suggested that Secretaries of State who sit in your Lordships' House should respond to Questions from MPs not just in sittings in Westminster Hall but in the Chamber itself at the other end of the Corridor. There are well established conventions about such a summons from one House to another. The two individuals concerned may not need the protection of your Lordships' House—no doubt they can stand up for themselves—but there is a precedent here. What discussions have taken place with Mr Speaker Bercow on that matter? In particular, can the Chairman of Committees assure us that negotiations are in hand to secure reciprocal rights? Can we be told when Secretaries of State from the other place will answer Questions in this Chamber? It has been difficult enough, as I know from my own experience, to get Secretaries of State to come to sub-committees of our European Union Committee; they usually prefer to send underlings. What steps can be taken to ensure that we can have that reciprocal right?

On a different matter, I wonder whether we can be sure that the circumstances and terms in which one of the current Ministers referred to, who is also First Secretary of State, comes to your Lordships' House are quite as clear as the Chairman of Committees has implied. Can he confirm that all the oral questions to the First Secretary of State, whether tabled or

supplementary, must relate purely and simply to his departmental responsibilities? In exchanges in your Lordships' House on 16 October 1995, the noble Lord, Lord Tebbit, was anxious to establish the exact role and accountability to Parliament of the then First Secretary of State, the then Mr Michael Heseltine, who was also Deputy Prime Minister. If the noble Lord, Lord Mandelson, is also de facto Deputy Prime Minister, can the Chairman of Committees explain what mechanism there is in this Parliament, at either end of the building, to question him on his role? Surely it is unprecedented that Ministers should take responsibility and not be accountable to Parliament.

Lord Greaves: My Lords, I support every word said by the noble Lord, Lord Jenkin. This is an important matter and it is important that this House gets it right. I want to add two points. On a simple matter, there will be many Members around the House who have not taken a detailed interest in the national policy statements that have been issued, mainly about energy, but also one on ports. I emphasise the points made by the noble Lord: the statements are at least four inches thick and are important and serious documents, which cannot possibly be scrutinised properly by this House in one debate in the Moses Room. I do not believe that having a further debate on a report back from the Moses Room in this Chamber would be satisfactory either. There has to be a process of scrutiny that allows noble Lords to get to grips with the content of these important statements.

During the debates that we had on the Planning Bill as it was going through the House, first there was the question of whether there should be parliamentary involvement in these statements at all. Some people said that they should be subject to a vote of approval, but the view that many of us took was that proper, detailed and expert scrutiny is more important than a symbolic vote of approval on the whole document. That is the argument that we put forward. I think that we now have to be true to what we said then and put into place a proper process of scrutiny by a Select Committee or some other means.

Secondly, the scrutiny was originally going to be only by the House of Commons. Led by the noble Lord, Lord Jenkin, who was supported by these Benches and Members from all round the House, this House insisted that its expertise—not just on the planning process but on the issues that will be discussed about energy, major transport schemes et cetera—has to be brought to bear on these documents in the national interest. The noble Lord, Lord Jenkin, is absolutely right. I think that the Leader of the House, the Chairman of Committees and the usual channels have to think more about this very quickly so that we set in place the kind of process that the noble Lord and many of us want.

3.30 pm

The Chairman of Committees: My Lords, the noble Lord, Lord Jenkin, supported by the noble Lord, Lord Greaves, asked me a series of detailed and quite hard questions on national policy statements, some of which are for me and some of which are obviously for the Government and the usual channels.

First, the noble Lord seemed to think that all six reports might be debated in one four-hour debate in Grand Committee. This is obviously a matter for the usual channels but my understanding is that there will not necessarily be a single debate; there could be more than one. However, that is a matter for the usual channels. It is perfectly true to say that amendments are not allowed in Grand Committee at the moment and there is no proposal to change that.

Lord Campbell of Alloway: My Lords, is it too late to intervene? If not, I should like to say just one thing. Is this not another example of the problems of the Back Benches, which are not exercisable under the authority of the usual channels?

The Chairman of Committees: My Lords, I do not think that that is the case.

Lord Campbell of Alloway: I believe that it is.

The Chairman of Committees: The noble Lord is entitled to his view of course, but business in this House is, and traditionally has been, arranged by the usual channels and I hope that, on the whole, the usual channels accommodate Members' wishes. It certainly is not a matter for the Procedure Committee.

I was on the point of dealing with the subject of amendments in Grand Committee. It is certainly true to say that at present amendments are not allowed in Grand Committee. This is something that the Procedure Committee could look at in the future but the point is that, as I said in my opening remarks, a debate in Grand Committee is not at all necessarily the last word on the subject. As I said, a Motion can follow on the Floor of the House on which a vote can take place, and amendments can be tabled and so on. The noble Lord, Lord Jenkin, asked about setting up an ad hoc committee to look into the matter. It would be for the Liaison Committee to set up such a committee. Lastly, he asked me—again, this is probably more a question for the usual channels and the Government—

Lord Jenkin of Roding: My Lords, I apologise for intervening but I think that the noble Lord has moved beyond the question of an ad hoc committee. Would it then be open to any Member of the House, presumably on a Motion before the House, to recommend that the matter be referred to an ad hoc committee as part of the process?

The Chairman of Committees: I think that it could be. I shall have to get in touch with the noble Lord with further information on that but I think that that is possible.

Lord Campbell of Alloway: Answer the question.

Noble Lords: He is answering it.

The Chairman of Committees: I am doing my best to answer the questions. As I said—

Lord Greaves: Along with the noble Lord, Lord Jenkin, I very much appreciate that the Chairman of Committees is doing his best, but he seems to be struggling a bit with this issue. I wonder whether the best thing for him to say is not that we should pass what is before us today but that the Procedure Committee will look at the issue again as a matter of urgency.

The Chairman of Committees: The Procedure Committee certainly could look at it again, but there is, as the noble Lord, Lord Jenkin, said, some urgency in the process because all this has to be settled by 6 May. I have an assurance from the Leader of the House that time will be found to debate these national policy statements before the scrutiny period expires on 6 May next year. If that falls within a general election period, then of course that is something that I cannot deal with. I hope that that answers the question. If not, I shall study what the noble Lord said and attempt to come back with a more detailed response.

As I said in my original remarks, as far as the Procedure Committee is concerned this process relates to the four-hour debate in the Moses Room on the national policy statements. It does not affect or stop any of the other processes that take place as a result of the 2008 Act. I hope that that deals with that point.

The noble Lord, Lord Tyler, asked me about Questions to Secretaries of State. I am aware that some Members of Parliament—indeed, the Speaker of the House of Commons—have expressed a wish that Secretaries of State in this House should be available to answer Questions either in Westminster Hall or in the Commons Chamber. Some noble Lords might have an equally strong desire to have a chance to ask Questions of Commons Ministers in this Chamber.

We have yet to receive a firm proposal from another place, although I know that the Lord Speaker has spoken to the Speaker of the House of Commons on the subject. If we do, we will consider it, but we are not yet at that stage. The proposal at the moment is that the two departmental Secretaries of State should answer Questions in this House on their departmental responsibilities—as far as I can see, that means the noble Lord, Lord Adonis, on transport and the noble Lord, Lord Mandelson, on almost everything else.

Lord Stoddart of Swindon: Reference was made to 6 May. If there is to be a general election on 6 May, which seems to be the favourite date so far, there will have to be dissolution by 6 April. Once dissolution takes place, presumably all proceedings in this House and the other place will cease, because it will be the end of the Parliament. Would the noble Lord like to comment on that?

The Chairman of Committees: I have already said that I cannot comment on when there might be a general election and what might happen to these national policy statements if there were. If there were a change of government, the new Government might not wish to pursue the statements. I am just saying what will happen in the immediate process, which is that they will be debated in Grand Committee. I hope that that satisfies noble Lords.

Motion agreed.

Procedure Committee: First Report

Motion to Agree

3.37 pm

Moved By ***The Chairman of Committees***

That the First Report from the Select Committee be agreed to. (HL Paper 13)

Motion agreed.

Consolidated Fund Bill

First Reading

The Bill was brought from the Commons, endorsed as a money Bill, and read a first time.

Equality Bill

Second Reading

3.38 pm

Moved By ***Baroness Royall of Blaisdon***

That the Bill be read a second time.

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): My Lords, I am deeply proud and privileged to introduce the Equality Bill to this House. A standard accusation against Governments who have been in office for some time, of whatever political persuasion, is that they have run out of ideas, run out of proposals and run out of steam. This Bill clearly shows how wrong that is in the case of this Government; this is a radical Bill, a Bill brimming with ideas, a Bill with measures for the benefit of people across the United Kingdom. It is a Bill this Labour Government are proud to bring forward.

Before I discuss the Bill, I would like to pay tribute to the person who has done most to bring this Bill about. This Bill simply would not exist without the drive and determination of my right honourable friend, the Leader of the House of Commons, Harriet Harman. At a time of extraordinary difficulty for the other place, my right honourable friend has, with a single-mindedness of purpose and an astonishing degree of commitment to the ambitions and ideas that the Bill encompasses, and to the people whom the Bill will manifestly help, fought to bring this Bill to this House. I commend and thank her and my right honourable friend the Solicitor-General, who has so ably supported her for all that she has done for this Bill and the cause of equality.

In this House, I will lead the ministerial team on the Bill, supported by the Attorney-General, my noble and learned friend Lady Scotland, and by my noble friends Lady Thornton and Lady Crawley. I look forward to the debates we are to have. I also thank very much many Members across the House, including the Front Benches of the parties opposite, key Cross-Bench Peers and my own noble friends for the constructive discussions we have had on the Bill and the issues involved in it before it reached the Floor of this House.

I want to do three things in my opening remarks to this Second Reading on the Equality Bill: I want to set out the Government's case for the Bill; to lay out the broad structure of the Bill; and to detail some key issues in the Bill.

This country and, indeed, the party on these Benches have a proud record of legislation against discrimination. In the 1960s, we legislated against race discrimination; in the 1970s, against sex discrimination and for equal pay; in the 1990s, against disability discrimination; and, in the early part of this decade, we had legislation protecting against discrimination at work because of age, religion, belief and sexual orientation, first at work, and then in the provision of services and the exercise of public functions.

That range of legislation over 40 years has inevitably resulted in a legislative structure that is complex, inconsistent and often difficult to understand. For instance, different protections apply to different personal characteristics and different rules and tests apply to quite basic concepts—for example, the Race Relations Act contains two separate definitions of indirect discrimination. Although we are confident that our legislation properly transposes the relevant EU directives, its implementation has often resulted in subtly different provisions in the same areas of activity, depending on whether or not European law applies. That is because in many cases our domestic legislation preceded equality legislation in Europe and influenced its content, but the legal effect is not identical so a kind of retrofitting has been necessary in many areas. A major policy intention of this Bill is to harmonise and bring together all the existing equality legislation in one place: nine major pieces of legislation and various subsidiary instruments.

The Government believe that this will make the legislation much more accessible and straightforward. As a result, it will be easier for employers and service providers to understand and comply with their responsibilities and employees and customers will be more aware of their rights. We expect that more straightforward law will also enable the Equality and Human Rights Commission to draw up simpler practical guidance. The commission is starting out on this process even now. I would also like to draw the attention of noble Lords to the Explanatory Notes to the Bill, which have been drafted in a way that is intended to bring out as clearly as possible the effect of the various provisions, using practical examples to illustrate what the law will mean in practice.

If the Bill only consolidated the law, that would be beneficial but it goes much further than simply bringing together the existing law. It also strengthens it in ways that will benefit very many people. We need to strengthen the law because, despite the progress made in combating discrimination, inequality still persists. We have inequality of pay between men and women, with the latest gender pay gap put at 22 per cent; if you are disabled, you are two and half times more likely to be out of work than a non-disabled person; there is a 15.5 per cent gap between the rate of employment of black and ethnic minority people and the average employment rate; and Muslims have the lowest employment rates of all religious groups, with only one in four Muslim women and three in five Muslim men aged 16 to 64 in employment. There are continuing instances of discrimination because of someone's age; for example, a retailer assuming that older people are incapable of signing a contract without a younger person present to explain the details to them. One in five lesbian, gay or bisexual people has experienced homophobic bullying at work and nearly half of transgender or transsexual people do not use public, social or leisure facilities for fear of discrimination.

Good though our record has been, we need to do more. That is what the Bill before the House today does. The structure of the Bill is broadly as follows. Part 1 places a new duty on key public bodies to take account of socio-economic inequalities when making strategic decisions. Part 2 contains the key concepts on which the Bill is based: the protected characteristics such as age, disability, race etc; and definitions of prohibited conduct such as direct discrimination, dual discrimination, discrimination arising from disability, harassment and victimisation. Part 3 prohibits discrimination and other unlawful conduct in the provision of goods, facilities or services and the exercise of public functions. Part 4 prohibits discrimination and other unlawful conduct in connection with premises. That would typically relate to landlord/tenant situations. Part 5 prohibits discrimination at work. It also contains the Bill's main provisions on equal pay as well as on publishing gender pay-gap information and making pay secrecy clauses ineffective.

Part 6 prohibits discrimination in education. Most of these provisions simply carry forward existing legislation. Part 7 prohibits discrimination in clubs and associations, including political parties. The Bill extends protection against discrimination in mixed clubs, for example of men and women. In such cases, it will not be lawful to treat some members less favourably than others, but the Bill does not abolish single-sex clubs or other clubs for people with a shared characteristic —for example, the Women's Institute, gay clubs or clubs for people of a particular race or religion.

Part 8 prohibits other forms of conduct, including helping someone or instructing someone to discriminate. These provisions are mostly carried over from existing legislation. Part 9 covers enforcement by courts and tribunals, including the wider power to make recommendations. Part 10 is about discriminatory terms in contracts and collective agreements. Again, these provisions are basically carried over from existing legislation. Part 11 sets out the public sector equality duty and contains provisions on positive action. Part 12 is about disability and transport. This is, I think, the Lady Chapman memorial part. It covers taxis, private hire vehicles, buses and rail vehicles. Its main effect is to make such means of transport accessible to disabled people. These provisions are also mostly carried over from existing provisions in the Disability Discrimination Act. Part 13 contains additional provisions about reasonable adjustments for disabled people in premises. Part 14 includes general exemptions. Noble Lords should note that the schedules deal with exceptions and reasonable adjustments in the various fields such as work, services, education and premises. Finally, Part 15 provides a number of general powers, including a power to harmonise the Act in future with measures required under future EU legislation.

[Baroness Royall of Blaisdon]

I now turn to those issues within the structure of the Bill which seem likely to be the main areas of interest. Essentially, these are all measures to strengthen the current legislation. I begin with the new socio-economic duty in Clause 1. This duty is about ensuring that public bodies systematically and strategically take account of people who are poor and disadvantaged when they are making fundamental policy decisions. It is not intended to be a magic bullet that will do everything, but we believe that it will help, when combined with other measures that the Government have taken and are taking to help narrow the gap between rich and poor. I am pleased to say that the Bill was amended on Report in the other House so that this duty now also applies to Scottish as well as Welsh and English bodies.

On age, the Bill prohibits, for the first time, age discrimination in the provision of goods and services and the exercise of public functions. The relevant clauses are Clauses 4, 28 and 195. Even at the time of the Equality Bill 2005 there were calls for this to be done, and of course the Government are aware of the ever-increasing proportion of older people in the population and the need to ensure that they are treated fairly. The Bill provides this new protection which will ensure that people are not treated unfairly because of their age—for example, in receiving financial services, or in health and social care. Of course, we do not want to wipe out age-related concessions, rules and benefits that cause no harm—for example, free TV licences for the over-75s, winter fuel allowances for pensioners or free bus passes. All these things will continue and the Bill contains a power to make appropriate exceptions by means of secondary legislation. The Government have already sought views about exceptions that might be made.

The Bill also contains an expanded and integrated public sector equality duty. The relevant clauses are Clauses 148 to 156. We currently have three equality duties requiring public bodies to have due regard, when carrying out their functions, to the need to eliminate discrimination, promote equality of opportunity and foster good relations between different groups in relation to race, gender and disability, but these three duties are all slightly different and, consequently, public bodies have to meet different requirements that do not match up with each other. The Bill strengthens the law by bringing them all together and expanding them to cover, in addition, sexual orientation, age and religion and belief, and to apply fully to gender reassignment. This duty is all about providing better all-round services to the community and all its diverse members. It is not about favouring certain groups over others. I believe that this equality duty will be one of the most effective ways of combating institutional discrimination and putting the public sector at the forefront of efforts to secure equality.

On procurement, Clause 154 will ensure that public bodies use public procurement to contribute to the delivery of their equality objectives. Currently, public spending on goods and services, often in the private sector, amounts to around £220 billion per year. It seems only right to expect that this significant amount is used in a way that supports these broader social objectives.

On pay, the Bill contains important provisions that are designed to increase pay transparency. Nearly 40 years after the Equal Pay Act, we still have a gender pay gap. The Government believe that unless you can see a problem, it is impossible to tackle it. That is the reason why the Bill, in Clause 78, contains a power to require employers with 250 or more employees to publish gender pay gap information. The Government intend in any event to use their specific powers under the public sector equality duty to require public bodies with 150 employees or more to publish such information, not only about their gender pay gap but about the proportion of their staff who are from ethnic minority communities and the proportion of their staff who are disabled. The Government intend to bring in these requirements for the public sector from 2011.

For the private and voluntary sectors, which account for 80 per cent of employment in this country, the Government have said that the intention is first to encourage voluntary publication of gender pay gap information by the larger employers who would fall within the ambit of the power. The Equality and Human Rights Commission has been working with the CBI and the TUC on a methodology for collating and publishing the figures, and I am hopeful that agreement may be reached on this issue. However, if sufficient progress on publishing is not made by these private and voluntary sector employers by 2013, the Government have made clear that they will use this power to require such transparency. We believe that gender pay gap publishing will be a significant step towards reducing the gender pay gap. Women who want to join a business or public organisation have a legitimate interest in knowing whether their potential employer has a gender pay gap, and prospective employers will need to take note if they want to attract the best talent.

Also on transparency, the Bill makes clauses in employment contracts unenforceable if they stop people discussing their pay with colleagues. The Equal Opportunities Commission found in 2004 that 22 per cent of employers imposed employment contracts with such restrictions. This is not a means of requiring employees to broadcast their earnings to one and all but a sensible measure to help an individual find out what he or she is being paid compared with someone who is doing similar work, and to bring an equal pay claim if necessary.

On positive action, there are existing positive action provisions in current legislation, but these apply to different protected characteristics in different ways. The Bill extends what action is possible and covers all the protected characteristics in Clause 157. The Bill also extends the scope for positive action by employers when deciding whom to recruit or promote, at Clause 158.

Most of the attention has focused on Clause 158, which allows employers to appoint a member of a disadvantaged or under-represented group where they are as suitable for the job as somebody else. This provision has been much misrepresented by some sections of the press as a means of favouring women over men in job applications regardless of merit, for example. That is not the case at all. There is no automatic favouring of a person with a particular characteristic

over anyone else. Instead, the purpose of this provision is very much to encourage employers to make the most of a diverse workforce.

As well as simplifying the existing provisions allowing training and encouragement of under-represented groups, Clause 158 itself allows, but does not compel, employers to recruit a person from an under-represented group in their workforce when choosing between otherwise equal candidates for recruitment or promotion. Take the example of a primary school wishing to recruit. We all know that there is a relatively low proportion of male teachers in primary schools, and we all also know that it is good to have male teachers as role models for young boys. If a primary school had two or more candidates as qualified as each other for a post and one of them was male, the school could choose him on the basis of making its workforce more diverse, without the risk of a challenge. I acknowledge that there have been some misunderstandings about what this provision does, but it is in fact a very sensible, and in some ways quite modest, provision which reflects developments in European case law in this area.

The Bill also provides stronger provisions on enforcement, in Clause 123. It will enable employment tribunals to make recommendations, in a wider range of discrimination cases that benefit the whole workforce and not just the victim of discrimination. Tribunals can already make recommendations, but currently only in relation to the individual who has brought the discrimination case. In 70 per cent of cases, that person will have left the firm with which he or she has been in dispute, so no recommendation can be made. That leaves a rather unsatisfactory state of affairs. On the one hand, the rest of the workforce may face continuing discrimination and, on the other, the employer may face further claims. The ability to make recommendations means that lessons can be learnt from the case and unfair practices can be addressed. As a result, they could help to lessen the likelihood of future cases. Recommendations will not be directly enforceable but may be taken into account in subsequent relevant cases. I believe that this is a sensible and proportionate measure all round.

The Bill will have an important effect, through its definitions of direct discrimination and harassment, of providing protection for those who, while themselves not possessing a protected characteristic, are associated with someone who does—for example, by being a carer. That reflects the recent so-called Coleman case of a mother of a disabled child who claimed protection under the relevant EU directive on the basis that while she was not disabled she was associated with a person who was. The European Court of Justice agreed that the relevant directive applies in such cases and the Bill has been drafted to deliver that protection. We have gone slightly beyond implementing the court's judgment. In practice, the Bill will protect carers who look after, for example, elderly people as well as disabled people against direct discrimination or harassment by their employer or a service provider.

The Bill will provide a new protection, Clause 14, against discrimination because of a combination of two characteristics, which we call "dual discrimination". The Government identified a gap in the existing law, where, for example, a black woman may face a type of discrimination because of her race and sex combined, which a white woman or a black man does not. People will still be able to bring claims based on a single characteristic—the new clause does not prevent that—but the Bill will close a gap by also providing protection against dual discrimination. In this way, it will provide additional protection for people who face discrimination and disadvantage because of stereotypical attitudes or prejudice when, at the moment, it can be difficult or impossible for people to get the remedy that they need. It is important to note that protection against dual discrimination does not limit in any way the number of claims that could be made on individual grounds. Any of seven protected characteristics can be combined to form the claim of dual discrimination.

The Bill makes important improvements in protection for disabled people. In the other House, a new Clause 60 was added to deter employers from inappropriate use of "pre-employment questions" about disability. This amendment, like a number of others already mentioned, was directly in response to concerns raised during scrutiny in the other House; that is, employers were unfairly screening out disabled people right at the start of the application process, without giving them a chance to compete fairly.

A further improvement in disability protection is Clause 15, which is intended to restore the protection for disabled people that was provided prior to the Malcolm judgment. Disabled people should be protected not just because of their disability itself but also because of something arising as a consequence of their disability. For example, a pub landlady might refuse to serve a man who has had a stroke, as she thinks he is drunk because of the way in which he speaks. He is not refused service because he has had a stroke, but because he has slurred speech, which is something arising as a consequence of his disability.

Finally, the Bill requires landlords to make reasonable disability-related changes to shared areas in residential premises, such as entrance lobbies, when they get a request from a disabled tenant or occupier—Clauses 36 and 37, and Schedule 21. Such changes would be at the expense of the requester.

I should like briefly to deal with some of the myths about this Bill. It will not force gay youth workers on the churches; it will not abolish Christmas; it will not force employers to employ black women; it will not do middle-aged white men out of a job; it will not ban the wearing or display of religious symbols; it will not force councils to support gay clubs; and it will not provide tax-free breaks for scientologists.

One further accusation has been levelled; that the Bill has not received sufficient scrutiny before coming to this place. I have to disagree, although I can see that noble Lords opposite disagree with me. The Bill was scrutinised and reported on by the Joint Committee on Human Rights. Ministers gave evidence to the Work and Pensions Select Committee which reported on the Bill and to which the Government responded. The Public Bill Committee held four evidence sessions with around two dozen representatives and a wide range of stakeholders. It also interviewed Ministers. The committee then scrutinised the Bill for a further

[Baroness Royall of Blaisdon]
38 hours, discussing more than 300 amendments. The Bill then had its Report stage which lasted a further five and half hours. This is considerable scrutiny, and rightly so, because this is an important Bill which consolidates and simplifies a mass of legislation. It is a Bill with real benefits, not just for a particular group for whom equality legislation can be a vital resolution of difficulties facing them, but for the population of the country as a whole in areas like extending provisions against discrimination on grounds of age.

I look forward to future debates on this Bill in your Lordships' House, not least because I recognise and pay tribute to the huge expertise and knowledge that exist on all sides of the House on the subject. I look forward to engaging with that expertise and to learning from it. This is a Bill with considerable ambition and wide potential benefits that will have a real impact on people's lives. It is a Bill which, I believe, will command widespread support. I beg to move.

4.01 pm

Baroness Warsi: My Lords, what a pleasure it is to stand up today and welcome this Bill to your Lordships' House. On a personal level, it is a privilege to be leading these Benches, supported on the Front Bench by the noble Baroness, Lady Morris of Bolton, and the noble Lord, Lord Hunt of Wirral. I am proud that we have a better gender balance on our team than the Government have. This is an area of law which I have been involved in for most of my life, and around the Chamber I see noble Lords with much experience and expertise which should ensure a detailed and lively debate.

I am sure I am not the only one who feels that the Bill has been a long time coming. We first heard of the Government's intentions to bring in a single Equality Bill in their 2005 manifesto. We then waited until June 2008 for Harriet Harman to outline the Bill in the Commons, and until March 2009 for the Bill to be published. It will only be in 2010, at the sad end of a Government on their last legs, that we can hope to see a single Equality Act. Nevertheless, let us hope that this long period of delay has served only to whet the appetites of noble Lords for the scrutiny and debate which such a large and complex Bill will necessarily require, and in which your Lordships' House is so effective. I hope that the waiting has increased the anticipation and enthusiasm for the positive provisions which the Bill brings forward.

We are pleased, in particular, with the fact that the Bill will be used to consolidate the existing large amount of equality legislation. At the moment there are nine pieces of equality legislation, more than 100 regulations and more than 2,500 pages of guidance and codes of practice. It is of the utmost importance that if these pieces of legislation are to work and help improve the situation, both employers and employees understand their rights and responsibilities. Legislation on the statute book is all very well but good intentions will come to nothing if they cannot be translated into action and protection in the wider world. We therefore support the simplification and consolidation, which is the main thrust and purpose of the Bill.

It is sadly the case that, even today, many people in Britain face discrimination because of their race, religion, gender, sexual orientation, age and background. Let me give a few short examples. According to figures from the Office for National Statistics on 12 November 2009, the mean pay gap between men's and women's average hourly wage for full-time work was still 12.2 per cent. We acknowledge that a lot of work has been done to reduce the gap but it remains far too high. Another example is shown by a recent survey by Rethink, the leading national mental health membership charity, carried out on more than 3,000 mental health service users. They found that half of respondents felt they had to hide their mental health problems and 41 per cent were put off even applying for jobs because of fear of discrimination from employers. There must be real action to bring this and other forms of inequality prevalent in our society to an end. We therefore look forward, as we have for some time, to working closely with the Government to help the Bill on to the statute book.

I have already spoken about our support for the consolidation that the Bill will effect. We also support the major extension that the Bill introduces; namely, outlawing age discrimination. We support those clauses so long as—I am sure that the Minister will agree with us—legitimate businesses are still protected. As we move forward into Committee we shall look for reassurances which I hope the Minister will be able to give.

There are parts of the Bill, however, with which we are disappointed. Despite the extremely long time that the Government have had to hone and perfect it, we are still looking at a piece of legislation that represents, for many who were hoping for a great Equality Act, a missed opportunity. Despite the fanfare from the Government, who claim to want true equality, meritocracy and fairness, we are concerned that the Bill will not address the real issues and root causes of these problems.

The Minister for Women and Equality trumpeted the Bill's arrival in another place by saying that it was,

"a good, timely and strong Bill that will make our country a fairer and more prosperous place for all its people".—[*Official Report*, Commons, 11/5/09; col. 564.]

All would, I think, agree with her here. However, it is unfortunately true that this is very easily said but less easily carried out. We on these Benches think that it is important to ensure that there are real outcomes. We are not satisfied with impressive rhetoric and good intentions backed up only with empty promises. One cannot simply legislate for equality; the merits of a responsible Government's intentions can only really stand on their results. We are worried that some of the Bill's proposals will once again merely represent expensive box-ticking and bureaucratic processes that, however well intentioned, will cost much but achieve little.

The Government's proposals to deal with the gender pay gap, for example, would enable Ministers to make regulations requiring all private and voluntary sector firms employing more than 250 people to report their gender pay gap figures and to face possible fines of £5,000 for failing to do so. We are worried that this blanket approach, restricted not just to businesses found guilty at a tribunal, will place a large burden of

cost and bureaucracy on businesses at a time when they need the most help. Furthermore, we are concerned that it will not do enough to address the problems at the heart of the issue.

We see now that the Government have conceded that implementing these proposals might be costly, bureaucratic and difficult. There is some speculation that we might see proposals limiting the application of the regulations to companies with more than 500 workers rather than the original 250. I look to the Government for clarification. We are delighted that they appear to have taken on board some of our concerns and recognised the potential difficulties in their proposals.

Nevertheless, the strategy of simply raising the threshold for gender pay gap audits does not seem the obvious solution. Are the Government suggesting that the size of the company correlates with the size of the gender pay gap? If so, can they produce any evidence of it? Further, we see once again that the date for publication of the metrics has been pushed back. Can the Government confirm that we will see the metrics in January before we enter Committee?

In other areas we can see no real proposals for change but just, sadly, political game playing. Part 1 introduces a socio-economic duty on specific public bodies to take into account how their decisions might help reduce the inequalities associated with socio-economic disadvantage. In Committee in another place, the Government defended the fact that this proposal was tacked on to the Bill at the last minute by saying that,

"it is not the solution; of course it is not, because the problem is entrenched and difficult. However, what is the harm of it?".—[*Official Report*, Commons, Equality Bill Committee, 21/9/09; col. 130.]

Let me repeat that. The Solicitor-General defended this section of the Bill on grounds no stronger than that there would not be any harm in it. This is not the way to create legislation. It creates headlines and little else. We therefore cannot support it.

We also feel that the socio-economic duty risks placing potentially onerous duties on public bodies for very little return. The Government have lumped together discrimination on the basis of socio-economic disadvantage and the disadvantage itself as the same problem. They are not the same. For a failing Government nearing the end of a Parliament, that is perhaps unsurprising, as it is far easier to legislate for cutting back the weeds of some forms of socio-economic discrimination than it is to attempt to pull out the root causes of disadvantage. But surely the Minister must acknowledge that it is only through the latter that we can really hope to provide any form of real and lasting solution to this problem.

There are also areas within the consolidated sections which we will hope to concentrate on and assess fully. We will hope to look at the Government's attitude to exemptions for roles within organised religion. Without going into too much detail now, there are concerns that paragraph 2(8) of Schedule 9 does not transfer provisions that were already enacted but narrows them in a way that was never intended. We will seek reassurances, in this area and others, that the Government are not changing the law where it only intended to consolidate.

I look forward to leading these Benches as we debate these issues and others in Committee in January, and I hope very much that the Government will approach the Bill in the same spirit as we are. It is crucial that the Bill leaves this House with real improvements that will bring about real improvements in people's lives.

I am concerned by the delay in the Bill to date—while the Government have allegedly been perfecting it—as I am by the lack of adequate time for scrutiny in another place, where only one day was set aside for both Report and Third Reading. The majority of amendments were not debated before the Bill came to your Lordships' House. The Minister will be aware of the number of complaints regarding procedure. This culminated in Mr Douglas Hogg's reminder about the suggestion made by the noble Lord, Lord Rooker, that when so much of a Bill has not been debated, a certificate should be sent to the other place identifying the parts that have not been properly debated or even debated at all. Can the Minister inform us whether any such certificate has been received, and if so, whether it will be circulated? We need sufficient time for effective scrutiny, attention to detail and analysis. All are keen to see this Bill on the statute book, but why have the Government left their flagship Bill until the last possible moment? Surely they can see that the way in which they have chosen to bring forward the Bill will make it more difficult to achieve a properly scrutinised Equality Act.

I am sure I speak for all of us when I say that we hope that the Government are ready to rise to the challenge and to work closely with us in ensuring that we get an Equality Act in 2010. However, I must say that we cannot support legislation simply for the sake of making the Government feel better or look good. We want to make sure that the Equality Bill lives up to the hype and that it is worth the wait for real people with legitimate concerns. We will therefore have little patience with any parts of the Bill that demonstrate only a political point or the maxim of "where is the harm in it?". Instead we want real, practical and helpful legislation that addresses the root causes of problems and provides solutions for suffering people. There is little appetite for legislation that professes to fix all problems but in reality addresses few. Our role in this House must be to make sure that this legislation lives up to the fanfare and the years of waiting, so that we have an Equality Act of which we can be proud and which is not a missed opportunity. We on these Benches look forward to ensuring that that is the case.

4.13 pm

Lord Lester of Herne Hill: My Lords, we are very grateful to the Chancellor of the Duchy of Lancaster for her full explanation in her important and impressive speech. As I made clear in the debate on the humble Address, we warmly welcome the Bill. It is a long-standing and core objective of the Liberal Democrats to promote equality of opportunity on the basis of individual worth and merit and to combat unjustifiable discrimination wherever it exists. We hope that our scrutiny of the Bill will help to ensure that effective measures are put in place to eliminate discrimination—measures which are not bureaucratic or opaque and which address real problems and achieve tangible benefits

[LORD LESTER OF HERNE HILL]
for all. We hope that such measures will ensure that the benefits outweigh the burdens that any legislation necessarily imposes.

We welcome the Bill as an important practical measure to rationalise the existing mass of discrimination legislation and to strengthen and improve the law as it stands for the benefit of everyone. We are glad that the Official Opposition also support the Bill. Our colleagues Lynne Featherstone MP and Dr Evan Harris MP sought in the other place to improve the Bill and to remove some of its blemishes but obtained hardly any concessions. We shall look to the Government to be more open-minded during the Bill's passage through this House.

For our part, we will seek to avoid tabling unnecessary amendments or to prolong discussion. If the Bill is to pass before the general election, there will be a need for unusual discipline on all sides, including my own. We will help to ensure that the Bill completes its passage in this House with all deliberate speed. Some improvements are needed. We have already raised many of our concerns with Ministers and their advisers and we are grateful to them for being readily available and willing to reflect on them. Ministers are very fortunate to have such an outstandingly able public Bill team.

The Bill has taken far too long to be conceived and its birth pangs have been painful, in part because of the hostility of some Ministers in representing what they regard as the best interests of commerce and industry. The politics of business have led to some weaknesses in the Bill, which we will seek to remove, notably in tackling the serious and persistent problem of unequal pay for women. Where the pay gap is caused by direct or indirect sex discrimination, some of the provisions on equal pay are incompatible with EU legislation and our own case law, notably in defining the comparisons that may be made and the scope of the employer's defence.

It is in the interests of employers and workers to take positive action to eliminate sex discrimination in the workplace, including discrimination in pay, and to have efficient procedures for dealing with discrimination cases in the tribunals. Too many employers prefer to leave the problems to be addressed, if at all, in individual legal proceedings and are hostile to collective remedies and positive duties that are designed to give systemic remedies for systemic discriminatory practices. Such discrimination wastes the talent and ability of its victims. It is unjust and bad for the economy. If left unattended, it results in the accumulation of problems that eventually have to be remedied at huge cost to the rest of us.

The problem arises not only in the public sector. It is more than 20 years since the Law Lords' decision in Hayward v Cammell Laird, in which I appeared as counsel for Julie Hayward. The noble and learned Lord, Lord Goff of Chieveley, warned employers and trade unions then of what he described as the absolute need to ensure that the pay structures for various groups of employees include no element of sex discrimination, direct or indirect.

Unfortunately, the Bill's provisions on equal pay are weak and ineffectual. Given the failure of employers to implement the principle of equal pay for women for so many years, it is not sufficient to rely on a future obligation for only very large employers to introduce transparency into the workplace to help to address the differences in pay between women and men. We should give incentives to employers to carry out proper job evaluations and to work to eliminate sex discrimination in pay, rather than relying only on the possibility of more transparency and the threat of litigation to promote equal pay for women.

Political tactics have led to the inclusion of some provisions that should not be in the Bill, notably, in Part 1, a public sector duty on socio-economic inequalities that would, as we have heard, compel public authorities when deciding how to exercise their manifold functions to,

"have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage",

taking account of any guidance issued by a Minister of the Crown. This so-called duty is a vague and unworkable exercise in political window-dressing that attempts to suggest that Labour alone is concerned to reduce socio-economic inequalities. The breach of this duty would not give rise to a cause of action in private law, but its presence in the Bill could give rise to politically motivated attempts to use judicial review to challenge a wide range of decisions by already overburdened public authorities, diverting energy and attention from the serious problems of discrimination, victimisation and harassment that the Bill is designed to tackle. Therefore, like the Official Opposition, we cannot support Part 1 of the Bill.

Another example of a vague, unworkable and, in this case, dangerously divisive provision is the way in which religion and belief have been included in the public sector equality duty in Clause 148. It would oblige a public authority, in the exercise of its functions, to have due regard not only to the need to,

"eliminate discrimination, harassment and victimisation",

but to,

"foster good relations between persons who share a relevant protected characteristic and persons who do not share it"—

that is, the characteristics of age, disability, gender reassignment, marriage, civil partnership, race, religion, belief, sex and sexual orientation. Clause 148 treats each strand in exactly the same way. However, religion and belief are not the same and should not be treated as identical.

Religion and belief are not about immutable characteristics such as age, disability, race, gender and sexual orientation. They are about matters of faith—or lack of it—and the practices of those who share a particular faith. One person's faith may be another person's blasphemy. Even within the Christian churches, passionate differences are not unknown. There are conflicts between the right to religious freedom and the right to be protected against sexual orientation discrimination. The place of religion in public policy is disputed by many in our plural, secular society.

Clause 148(3) explains:

"Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic"—

that is, religion or belief—

"and persons who do not … involves having due regard, in particular",

to their needs. These provisions are unworkable and divisive. Clause 10 explains:

"Religion means any religion and a reference to religion includes a reference to a lack of religion … Belief means any religious or philosophical belief and … includes a reference to a lack of belief".

The Bill quite properly does not define religion, which includes new as well as traditional religions and their different sects.

I know of no cogent and compelling evidence to show that these provisions are needed to tackle a serious social problem. I do not understand how a public authority can be expected to operate these provisions or how they will be protected against unreasonable and well publicised claims and criticisms by those dissatisfied with policies and practices. The quarrels within and about the Church of the Holy Sepulchre will be insignificant compared with what may happen if the Bill is not amended. How can it be appropriate and compatible with equality and freedom of religion for a public authority to have to take account of the needs of Muslims compared with Jews or Christians, or of Muslim women compared with Sikh or Hindu women, or of atheists, agnostics and humanists compared with believers in a theistic religion, or a non-theistic religion such as Buddhism, or followers of a new religion such as Scientology? These are examples of legislative overreach and I hope that the Government will agree to prune Clause 148 where it is overinclusive.

There is also the problem of the potentially adverse impact of Clause 148 and other provisions on the editorial independence and freedom of expression of broadcasters, such as the BBC and Channel 4. They have drawn the problem to the Government's attention and we seek an assurance that appropriate amendments will be introduced to deal with this.

There are also examples where the Bill is underinclusive. It fails to cover homophobic bullying in schools, except where it amounts to discrimination rather than harassment. I hope that the Minister will explain exactly how the Bill and other measures will tackle this serious problem effectively. We need to be sure that the Bill will ensure that those responsible for our schools are required to stop homophobic bullying, to take measures against the bullies and to ensure that the victims have effective remedies.

The Bill provides no remedy where a school discriminates against a teenage girl who becomes pregnant, even though it is clear that European convention law requires a remedy to be provided for discrimination against pupils in schools. I have written to the Solicitor-General about this and we hope for a positive reply from the Minister this evening.

The right to equality between spouses is a fundamental right protected by Protocol 7 to the European Convention on Human Rights. Forty-six countries have signed that protocol and 42 have ratified it. The UK has not done so, but it committed to doing so in the 1997 White Paper, *Rights Brought Home*, and has reiterated the commitment subsequently. Before the UK can do that, Parliament has to abolish or amend family law provisions incompatible with the right to equality between spouses. I have listed these in a Question for Written Answer published yesterday. I hope that the Minister will tell us that the Government will introduce appropriate amendments in the Bill together with amendments to equalise the position of civil partners in respect of housekeeping allowances.

On racial discrimination, I hope that the Minister will be able to confirm that the reference to race in Clause 9 should be interpreted and applied in accordance with the UN Convention on the Elimination of All Forms of Racial Discrimination, by which the UK is internationally bound. On age discrimination, we hope that the Government will ensure that the outmoded default retirement age of 65 is abolished during what remains of the lifetime of this Parliament. As for disability discrimination, we need to be satisfied that the Bill involves a progressive approach, as it probably does.

On the interaction between religion and sexual orientation discrimination, we have concerns about the exemption permitting discrimination in state-maintained faith schools beyond what is permitted for charities and businesses where the principle of proportionality applies. The European Commission has given two recent opinions that UK equality legislation does not give sufficient protection against discrimination on the grounds of sexual orientation and disability. I have asked the Government to make those publicly available so that they may be considered by the House in our debates on the Bill.

Provision is needed on positive action, as the Minister explained, because promoting equality may require more than treating different individuals in the same way as each other and may require the accommodation of difference. The need to take steps to correct conditions of disadvantage that arise from discrimination may require taking special measures of general application. I stated those principles in my own Equality Bill, which I introduced as a Private Member's Bill. We need to ensure that the measures for positive action are limited only to what is appropriate and necessary to meet legitimate aims in accordance with the principle of proportionality.

I have concentrated on areas in which we seek changes, but nothing that I have said should take away from the fact that we warmly welcome the Bill and will do our best to ensure that it is safely delivered.

Future Defence Programme

Statement

4.27 pm

The Minister for International Defence and Security (Baroness Taylor of Bolton): My Lords, I am sure that the whole House will wish to join me in offering sincere condolences to the families and friends of Lance Corporal Adam Drane, of 1st Battalion the Royal Anglian Regiment and Acting Sergeant John Paxton Amer, of 1st Battalion Coldstream Guards, who were killed on operations in Afghanistan recently.

With the leave of the House, I shall now repeat a Statement made in another place by my right honourable friend the Defence Secretary. The Statement is as follows.

[Baroness Taylor of Bolton]

"I am announcing today changes to the defence programme which will enhance the support to our personnel on operations in Afghanistan, worth £900 million over the next three years, and reductions elsewhere to make these enhancements affordable and to match our expenditure against available resources. In doing so, I have made every effort to ensure that we balance the priority of supporting our forces in Afghanistan with our commitment to maintaining the capabilities necessary for the future, and that we do not take decisions on major changes that should properly be made in next year's defence review.

As I have repeatedly said to the House, support to our operations in Afghanistan is our main effort. I saw for myself last week the contribution being made by our forces across Afghanistan, taking on the Taliban, and beginning to train and partner with the Afghan National Army. I pay tribute to their bravery, professionalism and dedication.

The defence budget has had the longest period of sustained real growth since the 1980s; it is now £35.4 billion, more than 10 per cent more in real terms than in 1997. As the Chancellor confirmed in the Pre-Budget Report last week, not a single penny is being cut from the defence budget in 2010-11. But despite this significant investment, acute cost pressures remain. There are a number of reasons for this, including rising fuel and utility costs, increases in pay and pensions, and above all cost growth in the equipment programme. A number of major projects, while providing superb military capability, have cost more than twice their initial estimate in real terms.

All this presents us with a significant challenge, both in this financial year and as we look forward. The NAO's *Major Projects Report*, published today, describes the result of these pressures. Going forward, I am determined that defence takes action to deal with these pressures and to address the challenges head on. That is why we commissioned the hard-hitting Bernard Gray report, are taking steps now to implement his report, and are reforming defence acquisition better to match our priorities to our spending. Getting this right is critical. Tough choices are required, and we will be publishing the strategy in the new year that will provide a planning and management framework to produce an affordable equipment plan.

I am determined to ensure that those who put themselves in harm's way on our behalf remain properly supported and resourced. Our priorities in Afghanistan are to provide the best levels of personal equipment and protection to meet the fast-changing threat, and to increase investment in key capabilities, including helicopter capability and our strategic airbridge.

I am therefore pleased to announce a number of capability enhancements to support our mission in Afghanistan. These are in addition to the operational costs paid for by the reserve, which continues to increase year on year, and has risen from £738 million in 2006-07, when we deployed to Helmand, to more than £3.7 billion this year. By the end of 2009-10, the reserve will have contributed more than £14 billion to operations in Iraq and Afghanistan, including some £5.2 billion on urgent operational requirements.

However, my decision to fund these enhancements from the core defence programme reflects our determination to ensure that defence is supporting the current campaign and our belief that we expect such capabilities to feature in a range of future conflicts our forces may face. The enhancements total some £900 million over three years. They include: an improved dismounted close combat equipment package, making equipment such as state-of-the-art body armour and night-vision goggles available to 50 per cent more troops, so that they can train with them before deploying to Afghanistan; more Bowman tactical radios and patrol satellite systems to improve communications between troops and their commanders; an additional £80 million for communications facilities for our Special Forces; increased funding for our intelligence, surveillance, target acquisition and reconnaissance—or ISTAR—capabilities, doubling REAPER capability, and, as the Prime Minister announced yesterday, further improvements to our counter-IED capabilities, particularly intelligence and analytical capability to target the networks. The enhancements also include an additional C-17 aircraft to strengthen the airbridge, and improvements to defensive aids suites and support arrangements for the Hercules C130J fleet to maximise its use. There will be 22 new Chinook helicopters, with the first 10 arriving during 2012-13, as set out in the Future Rotary Wing Strategy which I also announced today.

In addition to this package, the Treasury has signed off the latest funding from the reserve—more than £280 million—to support a range of additional equipment for Afghanistan. This includes more new vehicles, such as a 31 per cent increase in Husky tactical support vehicles and a 40 per cent increase in Jackal fire support vehicles to be deployed to Afghanistan, and additional equipment to combat the IED threat, including more than 400 hand-held detectors, robots, and other kit. This one-off package is on top of the resources already allocated for urgent operational requirements for this financial year and the protected mobility package that has previously been announced.

The pressures on the public finances mean that we need to prioritise carefully within our own resources. We need to make reductions in lower-priority areas to fund these enhancements and better to match the defence programme to available resources. This has meant stopping or slowing spending in other areas and pushing down hard on headquarters costs and overheads. Inevitably, these measures will have an impact on some capabilities but we judge that these are manageable.

We will continue to reduce the number of civilians working in the Ministry of Defence. We recognise the importance of the civilian workforce and the critical outputs it delivers. That is why at the Pre-Budget Report we announced an independent study into the shape and size of the civilian workforce, including the distribution of tasks between civilian and military personnel. This study will be undertaken by Gerry Grimstone and will inform the defence review. Without prejudicing its outcome, we would expect that we will be able to continue reducing the overall size of the civilian workforce, above the 45,000 reduction already made since 1997. This is not just about doing more

with less. We will also need to make hard decisions about what we can stop doing, and how we can bear down on other costs.

The other key adjustments we are making to the current programme are as follows. In line with our current aspirations to reduce to two fast-jet types—the Typhoon and Joint Strike Fighter—we will pursue without delay the Typhoon future capability programme phase 2. This is fundamental to development of its multi-role capability and integration with the latest weapons. We will reduce now the size of our Harrier fast-jet force by one squadron, close RAF Cottesmore and consolidate the Harrier force at RAF Wittering. This will maintain our joint carrier-based combat air capability. We plan to reduce our Tornado and Harrier force by a further one or two squadrons. Decisions on the make-up of our future force will be taken in the defence review.

We intend to withdraw the Nimrod MR2 force 12 months early and slow the introduction of the MRA4 force. This will have an impact on our use of RAF Kinloss, but there is no change to our assumptions on the future basing of the MRA4 force at this stage. The decision to withdraw MR2 has been taken for financial reasons and is unconnected to the report by Mr Haddon-Cave into the circumstances that led to the tragic loss of Nimrod XV230 in Afghanistan. Mr Haddon-Cave was very clear in his report that the aircraft remains safe to fly. I will be making a further Statement to the House in respect of Mr Haddon-Cave's report tomorrow.

We intend temporarily to reduce some aspects of Army training which are not required for current operations. We will also take one survey ship and one minehunter out of service early; cancel the current competition for unprotected utility vehicles and defer the programme for two years; and bring forward the planned reduction of some of the older maritime Lynx and Merlin Mark 1 aircraft, prior to the transition to the more capable Wildcat and Merlin Mark 2. We will spend less next year than previously planned on the wider defence estate but will continue to prioritise investment in both service family accommodation and single-living accommodation.

The measures I have set out will also have implications for service personnel numbers. The details have not yet been finalised, but the emphasis will be on prioritising our manpower for operations in Afghanistan. Changes will be targeted to avoid affecting personnel involved in current operations. Reductions in service personnel numbers will be managed mainly by slowing recruitment and releasing some personnel in accordance with their contracts. I appreciate that these changes will be difficult for many service and civilian personnel, their families and the communities in which they are based. I am fully aware of the consequences and will support those affected.

In making these choices, I have had to consider that the Government and the Opposition parties are committed to carrying out a defence review after the next election. The Green Paper, to be published early in the new year, will explain the Government's vision of what that review should encompass. The measures reflect our stated priority of support for the Afghanistan campaign and continued investment in new capabilities with enduring military benefit.

This is a difficult balance to strike, but I am confident that we have got it right and that that will be demonstrated where it matters most—on the front line, where our brave service men and women, supported by MoD civilians, are fighting for the future of Afghanistan and the security of our country".

My Lords, that concludes the Statement.

4.42 pm

Lord Astor of Hever: We, too, on these Benches send our condolences to the family and friends of Lance Corporal Drane of the 1st Battalion The Royal Anglian Regiment and Serjeant Amer of the 1st Battalion The Cold Stream Guards.

I start by thanking the noble Baroness for repeating the Statement, although many noble Lords will have read much of it in today's media. This morning Quentin Davies said on the BBC news that,

"the Tories have made it quite clear that they will cancel the carriers and the A400M".

I want to make it absolutely clear that no member of the Opposition Front-Bench defence team has ever said that we will cancel the carriers or the A400M. I would be grateful if the Minister could confirm that the Government clearly understand the Opposition's position. I know that we are close to a general election, but it is unacceptable that a defence Minister of the Crown should be peddling untruths like this for political gain. It is very damaging to the morale of our Armed Forces.

Turning to the Statement, the Government tell us that they have sought not to cut capabilities in advance of the SDR, but many people will see today's Statement as a mini SDR in its own right. What will be the effect of the Pre-Budget Report on the MoD core budget, given that the Institute of Fiscal Studies has said that non-protected government departments, including defence, must bear cuts of 16 per cent over the three-year period of the PBR? We welcome the announcement of new Chinook helicopters but it would not have been necessary had the Prime Minister not, against all advice, cut £1.4 billion from the helicopter programme from 2004. Those Chinooks could have been on the front line today. Instead they will not be available until at least 2013 when, according to the Prime Minister, we will, I hope, have transferred overall responsibility to the Afghanistan national army.

Can I be absolutely clear that we are procuring a further 24 new Chinooks—that is 22, plus a further two to replace those destroyed in Afghanistan? What version will these new Chinooks be? Will they be the same as our mark 3s or will they be built to US army specifications? Can the noble Baroness confirm that they will be fully supported with the correct number of adequately trained pilots and maintenance staff?

In light of the NAO report and numerous other projects that have been delayed, what assurances can the Minister give the House that these Chinooks will not also be cut or delayed in arriving? How will our submarines be protected following the withdrawal of

[Lord Astor of Hever]
the Nimrod MR2 next spring? How will the requirement for long-range rescue and maritime reconnaissance be provided once the Nimrods are gone? Can the Minister confirm that the production timetable for the Astute submarines will not be slowed down? Do the Government intend to subscribe to the €5 billion cash call by EADS to fund the cost of the five-year delayed A400M?

We welcome the additional £80 million for communications facilities for the Special Forces, ISTAR and the doubling of Reaper capability, as well as a new C-17 to strengthen the air bridge, which is absolutely vital for the morale of our Armed Forces. To succeed in Afghanistan we must win the counter-IED fight, and I declare an interest as the honorary colonel of a TA regiment with a speciality in this field.

I therefore welcome the pledge of new money to cover the cost of 400 high-tech hand-held devices, which will help soldiers to find IEDs and allow the Army to set up a new analysis centre to scrutinise intelligence from the combat zone. Can the noble Baroness confirm that there will be no cut back in the training of soldiers to counter IEDs? Training of this sort is expensive and is therefore constantly a target for savings measures, but it is vital as our enemy is constantly adapting and has the ability to do so as fast, if not faster, than ourselves.

To enable these changes to happen there will have to be huge cuts across the board. Today the Prime Minister has blithely promised £1.5 billion to sign up to the Copenhagen climate change deal. However, despite the fact that we are fighting a very nasty war in Afghanistan, there is no new money for defence.

4.47 pm

Lord Lee of Trafford: My Lords, first, I enjoin these Benches in the earlier tribute. I also thank the noble Baroness for her Christmas card which I received this morning.

Today's Future Defence Programme Statement, heavily leaked, as the noble Lord, Lord Astor, mentioned, and produced just before we rise, is yet another example of the spin and shambles which characterise this Government's defence policy. The macro story is of a Government who have steadily reduced the spending on defence as a proportion of gross domestic product, have failed to carry out a defence review for over 10 years, and yet have involved our nation in two major and controversial conflicts.

We have had a Chancellor of the Exchequer and now Prime Minister with little interest in defence, who remained semi-detached from the war in Afghanistan until very recently. He now tells us that he has drawn "great confidence" from his recent Afghan visit. No doubt we should be reassured by that. However, I note more seriously the observation by David Richards, the Chief of the General Staff, in the *Sunday Times* on 6 December:

"I'd characterise what has happened over the last eight years as strategic failure".

The Gray report on procurement, confirmed by the National Audit Office, discloses a massive underfunding of our current procurement programme. The MoD is effectively bankrupt. Knowing the state of its finances, how could the Government go ahead with our major new carriers, whatever their merits, without providing additional resources? It is rather like a family threatened by the bailiffs, the bank and numerous credit card companies, deciding that the right course of action is to order a new Rolls Royce.

Of course, like the noble Lord who spoke earlier, we welcome much in today's Statement, particularly the 22 new Chinooks and the additional C17 to strengthen our overstretched transport fleet, and additional equipment to combat the IED threat. It is no good the Prime Minister now masquerading as Father Christmas in a flak jacket. The Government have been in power for 12 years. We have all been pleading for more helicopters for years. Why place the order for more Chinooks only now?

I ask the noble Baroness specifically what aspects of Army training will be temporarily reduced. Which areas of the defence estate will have less spent on them compared with what was previously planned? Will we not, once again, end up paying more in the long term? Approximately what number of RAF personnel will no longer be required following the base closure, the focus on just two fast jets, the Nimrod force changes and helicopter rationalisation?

Virtually all the announcements in today's Statement should sensibly have been made after a defence review, not before it, aligning the review's conclusions with appropriate funding. As with the recent volte face on Territorial Army training, this Government's defence policy is all over the place, and the sooner we have a general election, the better.

4.50 pm

Baroness Taylor of Bolton: My Lords, I start by welcoming the areas where there was some agreement. It is clear that the decision to have an extra 22 Chinook helicopters, together with the decisions on the C-17 and the extra investment in work against IEDs, which are of course very dangerous for our people in Afghanistan, have all been welcomed. It is important to remember the changing nature of the situation that we are facing on operations. Indeed, the noble Lord, Lord Astor, acknowledged that the enemy is adapting very quickly. That is one reason why we have to be responsive, why we have urgent operational requirements and why it is right that we step back from time to time and look at our equipment priorities. We are now trying to make sure that we concentrate our attention on areas where operations lessons have been learnt but where there are longer-term implications. None of us can say exactly what the future threats will be, but we know that we will have to be adaptable and flexible in all that we do. It is right that we learn those lessons and think ahead as we do so.

Perhaps I may pick up on what the noble Lord, Lord Astor, said about my colleague, the Minister with responsibility for defence equipment and support. I did not hear that particular radio interview but I am certainly aware that no single party has said that it will increase defence expenditure, although there have been rumours about what will and will not be cancelled by others. I should like this House, and indeed the other place, to have a very mature debate on what the

priorities for defence should be and what equipment decisions should follow from that, as from many other decisions. That is one reason why it is very appropriate that we have a Green Paper in advance of the Strategic Defence Review, and I hope that we will be able to debate that in this House with those who have a genuine interest in exploring the future. The one thing that we do know is that the next threat will not be the same as the previous one: we are in a very fast-changing situation with globalisation and new challenges. The noble Lord, Lord Astor, mentioned money being spent on climate change, but there are of course security implications in climate change. Given the nature of the possible contributors, I hope that this House will look forward to having a non-political, mature and wise debate on that Green Paper in advance of any decisions made in the Strategic Defence Review.

I repeated in the Statement the spending that the Secretary of State announced when he made his Statement in another place. Defence expenditure is not being cut. So far as concerns defence expenditure, the Comprehensive Spending Review settlement stands—that is, £35.4 billion, which, as I said, is 10 per cent more in real terms than in 1997. The extra £14 billion that the Treasury has put in for operations since 2002 is an exceptional amount of money. It has been very important and shows a degree of commitment that perhaps belies the noble Lord's description of the Chancellor, now the Prime Minister. He suggested that the Prime Minister was semi-detached. A Chancellor who allows that amount of spending from the reserve, and a Prime Minister who has overseen an increase in spending from the reserve, is hardly semi-detached. His weekend visit to the front line, which I understand is the first such visit by a Prime Minister for a very long time, shows a very high level of commitment.

The noble Lord, Lord Lee, asked how we could allow the carriers to go ahead. We allowed the carriers to go ahead because they allowed for a level of deployability that could perhaps not be matched in any other way, which was important.

The helicopter issue has been raised by both of the noble Lords. The do not think that the Ministers at the time plucked a cut in anticipated spending on helicopters out of the air. That was part of a review that was going on at that time about what was appropriate. Since that time we have had very significant changes and improvements in our helicopter capability; indeed, the number of platforms and the percentage increase in flying hours in Afghanistan have increased very dramatically in recent years. It is true to say that we are now spending more on helicopters than was anticipated in 2004 to 2005. We are consolidating four types of helicopters, which should improve our position in terms of support, maintenance and the training of pilots and all those required.

I was asked whether we would make sure that the Chinooks that we are buying off the shelf from the United States and then making adjustments to—the quickest way of obtaining them and making them deployable—would have adequately trained pilots and maintenance staff. Of course we need all of that back up. The improvements that we have been able to make in flying hours in Afghanistan have been precisely because we have invested in maintenance crews and the training of pilots. That is important and something that we can do.

In terms of Astute, we are looking at the production drumbeat. We are having a review of that with industry, which will be reporting in spring of next year, not least because of the practical difficulties that industry has been encountering. It is extremely important that we have a sustainable drumbeat that meets everybody's needs.

In terms of A400M, we all know that this has been a very difficult and ambitious project. It should be a very good plane. We are very keen to have it, but we are not keen to have it at any price. We have to make sure that we can afford it and that it will deliver, in a timely way, some of the capacity that we believe we need.

I was asked whether we should be looking at training for the Army and where there might be cuts. The Statement itself says that the priority will be given to all training that is relevant to the operations in Afghanistan. Cuts will come on more routine exercises that are not pertinent to Afghanistan. In terms of the estate, I was asked where there we will be spending. We are giving priority to service family accommodation to Project SLAM. Office accommodation and things of that kind will be affected.

I am not in a position to say what the situation is in terms of RAF personnel. It is very early days. We will be happy to keep people posted. At the moment it is not possible to make proper estimates. I was asked whether it would be better if we were doing this after the defence review. The decisions that we have made, which have the support of the Chief of the Defence Staff and all the service chiefs, make sure that we do not take out any vital capability and that we do not in that way pre-empt the Strategic Defence Review. That has been one of the priorities in looking at this whole process. Therefore, we have made very balance decisions.

4.59 pm

Lord King of Bridgwater: My Lords, the noble Baroness asked for a mature debate. Does she recognise that the first mature point to make in the defence field is that if you are fighting a war, you do not take the cost of it out of the peacetime defence budget? She says that defence expenditure has not been cut, but if the war is not being funded fully out of the reserve then the defence budget is being cut, and that is precisely what is happening.

Although some of the items of equipment are welcome, and some are long overdue, we are in the eighth year of a war and the Government have just announced an order for new helicopters which, if we are lucky, we will receive in the 11th year of the war. So we face a very grave situation. The courage and bravery of our troops deserves a united and consistent approach to the challenges we face and a recognition that a war of this kind must be funded. I address merely the first Gulf War: not only was it funded out of the reserve, a number of the allies whose interests were supported by our activities helped to fund it is as well. It certainly did not come out of a peacetime defence budget.

[LORD KING OF BRIDGWATER]

This is a most muddled Statement. It says that a number of decisions have been taken but also states,

"our belief that we expect such capabilities to feature in a range of future conflicts our forces may face".

Is that not pre-empting a defence review? It is quite clear that such a review is now urgent, as are the earliest publication of the Green Paper and the earliest possible addressing of these issues. While the Government jump backwards and forwards between what may be our future capabilities and what are our urgent priorities, it does no service to the courage and bravery of our forces, who are facing a very difficult time.

Baroness Taylor of Bolton: My Lords, I recognise the expertise that the noble Lord brings to this debate, but I would remind him that the C17 and indeed the new helicopters that we have announced today are not just for Afghanistan; they will be used in any potential conflict. They will be part of the core defence equipment for a very long time. Therefore it is appropriate that some of this funding should, as has always been the case, come from the core budget. I also remind him that the Statement says that today the Treasury is giving another £280 million from the reserve for some of the extra items that he and others have welcomed. I return to a point that I made earlier: £14 billion from the Treasury in the past eight years is no mean amount of money by anybody's standards. It shows the very high level of commitment that everyone in government has in this regard.

The noble Lord asked for the earliest possible publication of the Green Paper. The work on that is very well advanced and a great deal of thought—including some outside consultation—has been given to what should go into it. It will deal with the broad issues of the nature of the threat and what we might have to face in the future. While I am not a business manager in this House, I would hope that we can find time for a debate so that all who want to contribute can have their voices heard.

Lord Craig of Radley: My Lords, I thank the Minister for repeating the Statement. Eighteen months ago, I asked the then Defence Secretary about the need for a defence review. He assured me that it was not then required. How wrong he was. What a pity that the work that should have been done on the SDR has not been done. Without that we now have these panic intentions to rein in current overspending in the MoD, really putting the cart before the horse. We should all welcome the new C17 and additional helicopters, which are clearly needed. But I must point out that all ground and naval forces can only fight effectively when their side has air superiority. Yet further major cutbacks are planned now for the fast jet force, which alone has the capability of fighting for and sustaining air superiority. The further reduction in the front line by a Harrier squadron and one or two Tornado squadrons must be seen against the earlier reductions of the whole of the Jaguar force and other Harrier and Tornado squadrons. Does today's announcement mean that the Government have no intention or expectation of ever again having to confront an opponent equipped with offensive air power? They are dangerously arriving at a position where we could not sustain effective air power over our ground and naval forces.

Baroness Taylor of Bolton: I am glad that the noble and gallant Lord accepts the wisdom of buying the C17 and the helicopters. I recall what he said previously about the need for a Strategic Defence Review, as have others. I think that the timing of a Strategic Defence Review must always be difficult, particularly when you are in a conflict situation, but the approach that has been adopted, with a Green Paper in advance, which will allow for the more mature debate that I would like to see, is probably a very good way forward. On his questions about air superiority, I draw his attention to the fact that we have made a very clear commitment that we will have, in the medium to long term, two fast jets, namely Typhoon and the Joint Strike Fighter, both of which have an undoubted reputation and aspiration to be the best possible available. We announced today an upgrade of Typhoon's attack capabilities, so I do not think that we are making ourselves vulnerable in the way that the noble and gallant Lord fears.

Lord Maclennan of Rogart: To what factors does the Government attribute the doubling of cost of certain important defence items to which the Minister referred in her Statement? Will the defence review investigate the potential cost savings of pooling more of our procurement of defence capability with our European allies?

Baroness Taylor of Bolton: Increased costs on specific defence projects can come about for a number of reasons, partly because some of the projects are extremely ambitious and it is not always clear at the beginning exactly what the end product will be, not least because the pace of change is so great. There are often many upgrades during the lifetime of a project, which might be over several years. The capability of the end product has often been significantly enhanced compared with what was originally envisaged.

As for pooling projects and working more with Europe, or indeed with other potential partners, there is scope for pooling projects, but it is not always easy. You have to have the same requirement as whoever you are working with, you have to have the same budgetary availability and you have to be working to the same timescale—that is assuming that there are no other difficulties involved. So far as Europe is concerned, there are some projects within the European Defence Agency that we are working on and that we think could help in, for example, certification of airworthiness, which could bring benefits across the board to a number of countries. On specific projects, it is often a lot more difficult than people think to get a proper alignment of the needs and requirements of all the countries involved, but this is something that we always look at, especially on some of the larger projects.

Baroness Park of Monmouth: I have a very simple question for the noble Baroness. Is the survey ship referred to, which is to be withdrawn, the one that operates around the Falklands? If so, it will be sending the same signal to the Argentines as it did last time.

Baroness Taylor of Bolton: My Lords, I cannot remember the name, off the top of my head, of the one that is there. It is not "Endurance"; "Endurance" came back for other reasons. We are not envisaging reducing any key capabilities. There are other aspects of that work and we will make sure that we are covered in the area she suggests.

The Archbishop of York: I visited Afghanistan in 2004—I went to Helmand province, Mazar, Kandahar, Herat; all kinds of different places—and wherever the British soldiers were, they were doing a very professional job. I pay tribute to them and to those who have been killed. Given the increased number of fatalities—I know that the Minister is talking about future defence; I am not asking her to prophesy whether there will be no more deaths, that is not what I am asking—can the Government, hand on heart, be certain that, in the present theatre of war in Afghanistan, all the necessary equipment is available and can be procured? During the Second World War our factories worked flat out to make sure that our forces were given the necessary equipment. In terms of the modern world, money needs to be made available now, not in the future. We may learn lessons for the future in Afghanistan, but I am worried about the number of fatalities. The future will happen, but can the Minister tell us whether we can be confident that in the immediate theatre of war in Afghanistan, our soldiers have what they need to do the job that they are doing?

Baroness Taylor of Bolton: My Lords, I thank the most reverend Primate for his comments. I am glad that he was able to visit Afghanistan. I know that a number of Members of this House have had that opportunity, which can lead to more informed debate and discussion and a greater understanding of the nature of the conflict. I am glad that he paid tribute to those who are working there and who have worked there in the past. It is right that we should do that on all occasions.

The most reverend Primate asked me if I can be certain that all the equipment that is required will always be available and can be produced. The analogy that he drew with the Second World War is a difficult one in these circumstances because, as I mentioned earlier, the pace of change and the changing aspects of the threat that we are facing are so great that we need constant upgrading, because—to quote the noble Lord again—the enemy are very adaptable. Indeed, they have assistance from different places and have information. They are not little old men in caves taking pot-shots at us, they have very sophisticated advice and information. The kind of equipment we need for Afghanistan is very often the kind of equipment that cannot be bought off the shelf. We have to buy a core capability, enhance it and provide all the extras to try to get the best security possible. It is never possible to be certain on any of these things that a new threat will not emerge, because that is what we have seen time and time again. What I can be certain of is the commitment of everybody in the Armed Forces, in the Ministry of Defence and in industry itself to do everything possible to keep ahead in countering the threat. However, we should not underestimate how difficult that can be.

Lord Eden of Winton: My Lords, can the Minister say a bit more about intelligence, which was mentioned in the Statement? Does she agree that effective intelligence is an essential ingredient in support of the fighting forces? Can she say to what extent we are getting as much support as we would wish in intelligence material from Pakistan and from the relevant authorities in Afghanistan?

Baroness Taylor of Bolton: My Lords, it may be known that I chaired the Intelligence and Security Committee, as did the noble Lord, Lord King. Anyone who has held that position would confirm the absolute importance of intelligence and would always want to see that getting a high priority. We talk about Reaper in the Statement and the fact that we will seriously improve the availability and capability there. I do not think that anyone can overestimate how important ISTAR is. We get support and co-operation from other partners and we are trying, in what we are doing here, to use ISTAR and whatever information we can get not only to identify IEDs but to get to the network of those who are providing them. In the long run that will be an effective use of resources.

Lord Bramall: My Lords, I appreciate that the Secretary of State has a very difficult, if not impossible, balancing act, but can the Minister confirm that, however much it is dressed up, £1 billion is going to be removed from the defence budget in year 1, when we still have an all-embracing war on our hands? Will she be a little more explicit on priorities and explain what exactly is meant by,

"stopping or slowing spending in other areas and pushing down hard on headquarters costs and overheads",

which the Secretary of State believes,

"will have an impact on some capabilities"?

What are those capabilities? The noble Lord, Lord Lee, asked an important question about training. It is easy to refer to training that does not affect Afghanistan, but the whole professional competence depends on all-round training. It would be nice to know exactly what training is going on. Finally, how much less will be spent on the wider defence estate? The Statement says that family accommodation and single living accommodation will be given priority. What is being affected and how will this affect the covenant that the Government and the country feel is so important? Does the Minister agree that, if these temporarily and seemingly less important items are unduly affected, they store up endless problems in the future?

Baroness Taylor of Bolton: My Lords, on the last point I have to agree with the noble and gallant Lord that some of these problems, if not tackled, could create unduly difficult problems in the future. Indeed, I would suggest that that is one of the reasons why we have had to spend so much on the defence estate in the recent past. The backlog of underinvestment in that area was dramatic, but I am pleased to say that we are now in a situation where 90 per cent of service family accommodation is at grade 1 or grade 2, which is a significant improvement. However, I am told that when the service chiefs have asked about this, the priority that they have identified is the project called

[Baroness Taylor of Bolton]
service personnel first, which gives an accommodation uplift for those who are returning from operations. It is quite understandable that that should be the priority. As to the Strategic Defence Review, the nature of the accommodation that we provide is one of the issues that I think will have to be discussed. An appropriate model in the past might not be an appropriate model for what we want to provide in the future or for the lifestyles of those in the Armed Forces.

The noble and gallant Lord says that £1 billion is being cut in year 1, but I have to say that I do not recognise that figure. The Pre-Budget Report said that not a single penny will be cut from the defence budget in 2010-11, which is as far as the Comprehensive Spending Review goes. He asked where we can make cuts, when we talk about priorities, in headquarters costs. Since 1997, we have reduced the number of civil servants in this area by 45,000. That has shown significant scope for reductions. We want to see that developed further, which is why we have the review under Gerry Grimstone. We will look forward to seeing what he comes up with. In our discussions on operations in Afghanistan, we have looked to slow down some projects. I hope that the whole House agrees that those projects that are important for operations should always have priority.

Lord Grocott: Further to my noble friend's reference to the civilian workforce, I warmly welcome the importance that the Statement attaches to the work being done by a very dedicated workforce. She referred to the review that is taking place. Can she give us any indication of how long that review will take and when it is likely to report?

Baroness Taylor of Bolton: My Lords, we hope to have the report, which will cover the size and shape of the workforce, next year. As I have said, 45,000 is a big reduction and that has taken place already. Over the next four years, 4,500 more posts are planned to go, but we have to strike a careful balance. Some of the roles of those in the civilian workforce are critical to supporting those on operations. Therefore, we cannot just say, "All military posts good, all civilian posts bad". We should appreciate that a lot of important work goes on and we should bear in mind the fact that it is much more expensive to employ military personnel on comparable jobs. We need to step back and look at that issue as a whole.

Lord Hamilton of Epsom: My Lords, would the Minister like to comment on the independent report that said that the procurement budget will be overstretched by £36 billion over the next 10 years? Does this not denote systematic failure of the procurement process? Does it not indicate that very large items of procurement have been ordered when clearly the funds were not available?

Baroness Taylor of Bolton: My Lords, there are problems with procurement, as the noble Lord will know. I mentioned earlier some of the reasons why certain projects accelerate in cost, not least because they end up being very different from how they started. I do not recognise the figure of £36 billion as being likely in reality, whichever Government were to get in. It assumes a flat-cash situation in so far as defence spending is concerned and I do not think that anybody believes that that is a likelihood.

Lord Selkirk of Douglas: My Lords, can the Minister reassure the House that those service men and women who have been severely injured but who are able, after coming back to this country and being healed, to be reabsorbed into the armed services will be, as has been the general practice in the past, and that reports to the effect that this will not be continued in the same way are unfounded?

Baroness Taylor of Bolton: My Lords, I think that we would all wish to pay tribute to those who have worked so hard to save the lives of those who have been seriously injured. We would always want to try to absorb those people back into the Armed Forces. It is not always possible and it is not always what they want, but the courage and determination of some of those who have managed to rejoin the Armed Forces and be active again have been quite remarkable and have impressed everyone.

Lord Tunnicliffe: My Lords, I feel that it is necessary now to resume the debate. Unless the noble Baroness, Lady Greengross, is here, which I believe she is not, we should move on to the most reverend Primate the Archbishop of York.

Equality Bill

Second Reading (Continued)

5.23 pm

The Archbishop of York: My Lords, let me be clear: it is a fundamental principle of the Christian religion that all human beings are of equal and infinite worth in the sight of God. This Bill seeks to address the many occasions when that fundamental principle is violated. That is an objective which I share and which the Church of England, by law established, supports wholeheartedly.

Sadly, this Bill before us is like decorating a Christmas tree. Everyone has his or her own idea about how to do it. Some favour strict colour co-ordination and others glorious variety. I myself am a Primate of glorious variety.

One cannot legislate to promote equality without constraining freedom to some extent, and because human freedom is both immensely precious and immensely vulnerable, we must proceed with great care. I am concerned that this Bill is built on an impoverished understanding of society. As the right reverend Prelate the Bishop of Ripon and Leeds recently said in this House, we would have a much richer sense of who we are, and a better chance of tackling inequality, if we understood ourselves less as a society of strangers or atomised individuals and more as a community of communities. Individuals' rights to equal treatment only get us so far.

I am a great supporter of this country's record in fighting discrimination. Britain was well ahead of the rest of Europe in opposing discrimination on the grounds of colour, culture, religion, sexuality and ethnicity, and that is to its credit. It recognises that black people like me and other minority ethnic people have to be visible before they can fully participate, and that difference in ethnicity must be celebrated and not suppressed. You do not get equality by concealing difference, but, sadly, when this Bill turns to the question of religion and belief, it appears to take a different line. You will never overcome unequal treatment on grounds of religion or belief by silencing the expression of religion in the public square. That would be the imposition of one set of beliefs—the many "-isms"—on all others. I fear that this danger lies below the surface of the Bill and undermines its key objectives, which I wholeheartedly support.

I shall be more specific. In paragraph 2(8) of Schedule 9, the definition of employment "for the purposes of an organised religion" fails to reflect the way in which members of the church and many other religious groups understand their faith to be the bedrock of their lives. It will mean that churches and other religious communities can require an employee to observe particular standards of behaviour or not engage in certain types of conduct that are contrary to Christian teaching or their particular religious beliefs only when their work,

"wholly or mainly involves … leading or assisting in the observance of liturgical or ritualistic practices of the religion, or … promoting or explaining the doctrine of the religion".

There are several problems with this. The movers of the Bill may be of the view that archbishops and other clergy work only on Sundays, but if one looks at my diary, you will find that most of my days and evenings are not filled with preaching or taking services. The same would go for most clergy and ministers and, I am sure, for leaders within other religious communities as well. The exemption is flawed even on its own terms.

At the height of the floods in Cumbria, I visited Cockermouth, Workington and Keswick. A major part of the relief effort in those places was being carried out by Churches Together, with Christ Church, Cockermouth, as the hub of the activity. The church had been converted into a relief centre and the rector, Reverend Wendy Sanders, and members of the churches did outstanding work which made a huge difference to the whole relief programme. They were, of course, providing help and care to all people, regardless of faith or no faith. How would the Bill classify this activity? Would it come under "liturgical or ritualistic practices" or "explaining the doctrine of the religion"?

However, my main objection to the Bill is this: we are told that the Bill is intended simply to harmonise existing antidiscrimination laws, yet we find that the provision made in 2003, for religious bodies to employ people who share their faith, is being significantly narrowed by the wording which I have just quoted. It does not reflect the reality of how churches work and it goes way beyond harmonising existing law. There is a danger here of legislation by stealth. We need to hold the line where it was set in 2003.

The Bill is in danger of combating religious discrimination by treating all religions as the same. Neutrality between beliefs is one thing, but imagining that one size fits all is the quickest way to an unfair and monochrome society. The noble Lord, Lord Lester of Herne Hill, illustrated this when he dealt with Clause 148, saying that you cannot just do it that way. You may end up finding that one size fits no one.

Not enough attention has been given to the different ways in which prejudice, unfairness and discrimination operate. We need some subtlety in order to distinguish the different ways in which prejudice and unfairness happen. In a community of communities, members of different groups will honestly disagree about what is good, what is right and what is true. By looking at equality through the prism of competing individual rights, the Bill runs the risk of silencing the fair expression of different positions, not just silencing words but preventing people living integrated lives where words and deeds go together. In many cases, the Bill appears to require Christians to separate what they believe from how they express those beliefs, as if integrity of life and faith were of no consequence. That cannot be right in my book.

As I said earlier, the Bill has become like a Christmas tree that has had too many baubles added to it and is now in danger of falling over. Schedule 9 is a bauble too many. We need to find a better way to balance these different sorts of equality so as not to put at risk the precious freedoms which underpin our way of life in this country.

I am reminded of the story of a plane that got into trouble flying across the Atlantic. The captain asked the permission of the passengers to open the hold and dump all their luggage into the ocean. "Yes, yes, yes", they all cried out and it was done. Thirty minutes later the captain said, "We are still losing altitude. We must get rid of your hand luggage". They cried out, "Of course", and it was done. An hour later, the captain said, "We still need to lose more weight. Fifty people will be safely dropped in the water with their lifejackets. The airline operates an inclusive equal opportunities policy and we shall now put it into operation. We shall use the alphabet to guide us. A—are there any Africans on board?". Silence. "B—are there any blacks on board?". Silence. "C—are there any Caribbeans on board?". Silence. A little black boy turned to his father and said, "Dad, who are we?". The father replied, "We are Zulus!".

This Bill aspires to great things. I would love to say "Yes, go for it" but, as it stands, I cannot. At the minimum we need to look again at how the exemptions for religious bodies are framed. It is a grave error to set up competing rights and then, by stealth, trump some of them. Like the noble Baroness, Lady Warsi, I beg that Schedule 9 paragraph 2(8) should be amended in the direction of the 2003 Act. If not, it should be deleted from the Bill. The rest of the Bill has much to offer and its main objective ought not to be sacrificed at the altar of "one size fits all" in matters of occupational requirements.

Baroness Crawley: My Lords, the usual channels have agreed that the noble Baroness, Lady Greengross, should now make her speech.

5.31 pm

Baroness Greengross: My Lords, I apologise. I mistook the timing and I am sorry.

[Baroness Greengross]

I declare in interest as a commissioner on the Equality and Human Rights Commission.

This Bill is extremely important. It merits the all-party support which has been demonstrated very clearly. It is part of a journey towards ensuring that we live in a fair society where everyone can feel good about themselves and have an opportunity to participate on equal terms and feel they can reach their potential. They should not face barriers over which they have no control—barriers due to prejudice and discrimination. In the United Kingdom, we have made some good progress in tackling many of the most blatant examples of discrimination; individuals and organisations now know that those who perpetuate this type of discrimination can be brought to account. However, chronic disadvantage and inequality persist, as we have heard. Half of disabled people are out of work and a Bangladeshi woman is six times as likely to be unemployed as a white woman. A child's postcode at birth is a reasonable predictor for their lot in life as an adult and our choices and chances in life are still to a great extent determined by our origins. This is not simply the product of ill will on the part of either individuals or organisations; it is a systemic bias and, while people may win individual victories here and there, progress will be slow at best and will depend upon those who make great sacrifices in order to take their cases through the courts.

The real challenge is to achieve a wholesale shift in attitudes, looking at how to improve our systems and structures in order to give everyone a fair chance. This is what the Equality Bill will enable us to do. That is why the duty on the public sector is of such importance. The Bill spells out that organisations must look at the evidence and examine their processes, finding ways of delivering for everyone, regardless of race, gender and the other strands of fairness in which they can live equally.

I turn to age discrimination. I welcome the measures outlined in the Bill to ensure that providers of goods, facilities and services—such as high-street shops, sports clubs, holiday resorts and doctors—treat older people fairly and equally. One example is that it is currently legal and normal practice for insurance companies to refuse to quote based solely on a person's age. This means that some healthy and active older people find it difficult or impossible to travel abroad to visit relatives, regardless of what might be justifiable estimates of risk or experience. There are examples in other sectors of discrimination against young adults. Older people are also denied access to some health services, such as mental health care. One in four people over 64 has a diagnosable and serious mental illness and half of those will suffer from depression. Of those with depression, 2.5 million receive no treatment whatever. One in three of us who reaches 65 will die of dementia. The Bill will ensure that dementia is recognised as a health issue as well as requiring social care.

Some issues, however, remain outstanding. For example, the mandatory retirement age will put age discrimination legislation on an equal footing with the other equality strands and make the law simpler and clearer for both employee and employers. We need this to be achieved in the lifetime of this Parliament. Being forced to stand down from a job because of your age rather than your ability is one of the most blatant forms of discrimination that older people face.

I agree with the noble Lord, Lord Lester, that homophobic bullying in schools must also be addressed and be part of this Bill. I agree with the noble Baroness, Lady Warsi, that the Bill must address the real causes of inequality and ensure real and genuine outcomes. It is your Lordships' role to ensure that that is built into the Bill.

I am anxious that this Bill, which is so important, does not get lost. We could try to make it perfect by debating it for a long time. It was subject to a lot of consultation in the discrimination law review. If we lose this Bill, whatever Government are elected at the next election, it will take several years before we get another opportunity like this. Measures in the Bill, which is better than some of us feared, have also been subject to amendment, particularly regarding disability. It is key therefore to ensure that the measures pass, subject to your Lordships' careful scrutiny, but not at the risk of running out of time.

The Bill will help us to celebrate differences and to value others, both for themselves and for the contribution they can make to society. We all need to pull together at a time of great economic difficulties. The Bill deserves our wholehearted support.

5.37 pm

Baroness Gould of Potternewton: My Lords, I welcome and support the introduction of this Bill, which not only harmonises all the current pieces of legislation but also provides new principles further to progress equality across all strands, as disadvantage and inequalities still exist.

I congratulate all those who have had the responsibility for pulling this Bill together and for overcoming the complexities and anomalies of the legislation currently on the statute book and so making it easier for everyone—individuals, service providers and employers—to understand their rights under the law.

As chair of the Women's National Commission, an interest I declare, I and the commissioners have had the privilege of discussing aspects of the Bill with a great many stakeholders, the vast majority of whom are genuinely supportive of the outcome of this Bill. I do not intend to set out the case for the Bill, because my noble friend the Leader of the House did that so well, but I should like to look practically at some of the key aspects of the Bill, starting with the three clauses that were inserted in the other place. The new provision for dual discrimination in Clause 14, which addresses people experiencing discrimination because of a combination of characteristics, is opposed by the CBI which believes that the inclusion in the Bill of the clause is burdensome for employers. However, its arguments are not valid, either in substance or in principle. What is important is precise legislation to deal with discrimination that people experience.

The new Clause 40 responds to concerns about pre-employment health questionnaires which effectively allow employers to weed out candidates with medical conditions, including HIV. As chair of the Independent

Advisory Group for Sexual Health and HIV, this is of particular concern to me. While the new clause is helpful, in that it provides a clearer pathway to a tribunal for people with disabilities, it still does not preclude employers asking questions and discriminating against applicants on health grounds. Thus there remains the "fear of discrimination" factor that many people affected by HIV or mental illness have highlighted.

I greatly welcome the Bill making it unlawful to treat a woman unfavourably because of maternity and pregnancy, but until the noble Lord, Lord Lester, spoke I had not appreciated that under Clause 84(c) it will be legal for a school to expel a student on the basis of her pregnancy. I ask my noble friend for clarification, because surely that cannot be right. Also on schools, it is alleged, as the noble Lord, Lord Lester, and the noble Baroness, Lady Greengross, said, that Clause 82(10) will allow schools to harass pupils on grounds of gender re-assignment, religion or belief, or sexual orientation. There is considerable evidence of this. School pupils are a captive population in the classroom, so surely they must be protected even more. This clause has caused great concern among the people involved, and I fail to understand what good purpose is served by allowing it to remain unamended.

As my noble friend said, the importance of the public equality duty cannot be overstated, but, in working the new duty, it is important that the beneficial aspects of the gender duty are not lost in harmonisation. The gender duty has provided a legislative framework for women to hold public bodies to account, and, as women invariably make up the majority across all the equality strands, it is vital that a gender perspective is prominent across all the grounds.

Clause 148(5) is particularly important in that compliance with the duties involves treating some people more favourably than others. This is a counter to the widespread misconception that equality means treating everyone the same, which has had a detrimental effect on women-only services. However, for the new duty to be effective there has to be greater awareness and understanding of how it will work.

The public sector, as has been said, spends £175 billion a year on goods and services. As the CBI says, public procurement is a useful lever to promote equality and other social goals. That is absolutely right. It can also lead to good pay practices, which brings me to the question of pay. As other noble Lords have said, after nearly 40 years of the Equal Pay Act, the gender pay gap remains, but the elimination of the pay gap relies on a package of measures: pay audits, transparency, representative action and hypothetical comparators.

On mandatory pay audits, views differ: from those that oppose to those that call for their instant introduction. Clause 78 attempts to balance those two views, and although I support it in principle, I should say to my noble friend that 2013 is an awfully long way off and a tighter timetable may be needed.

Currently 30 per cent of employers insist on a secrecy clause in employment contracts. The introduction of transparency and the right to discuss one's pay with a colleague are important and can make employers consider their pay structure before an equal pay claim is made. However, I again ask my noble friend for a definition of "colleague". Who is included in the clause? It is impossible to achieve equal pay, particularly for women in low paid, undervalued work, unless there is a comparator in the same employment who is treated differently. Again, I must ask why equal pay is the only area of discrimination law in which a hypothetical comparator cannot apply.

While the Bill helpfully extends the role of employment tribunals to make recommendations in discrimination cases that benefit the whole workforce, it goes only part of the way. Representative action has been demanded for many years. I appreciate that the Ministry of Justice is looking at this issue, but this should not preclude the inclusion of representative action in the Bill.

In conclusion, I shall refer very briefly to two other issues. The first issue relates to positive action. The value of a diverse workforce is beyond question and is accepted by employers. These provisions will not only promote positive action but clarify the current confusion arising from the existing plethora of different rules about when positive action can be used. It would be a retrograde step if the principle of this clause were not accepted. The second issue relates to a purpose clause. Although the Government do not support the idea that a purpose clause is needed in this Bill as it was in the Children Bill, such a clause at the beginning of the Bill that stated the goals and fundamental principles would be a useful tool for those who apply the law in practice. It would prevent misinterpretation of the legislation, thereby strengthening protection for all groups. For that reason, I ask the Government to reconsider the matter and think about a purpose clause.

I have been able only to scratch the surface of some of the clauses of this important Bill. I have raised a number of queries which the Government may not feel able to respond to positively, but this Bill is not about rhetoric but about a real, practical advancement towards equality. I fundamentally believe that, in the name of equality, it is crucial that the Bill is carried in its entirety, and I wish it a speedy passage through your Lordships' House.

5.45 pm

Baroness O'Cathain: There are many issues in this Bill, but I intend to concentrate on two: religious freedom and the process of scrutiny of the Bill.

The noble Lord, Lord Lester, stated that faith is not an immutable characteristic. This is untrue, particularly in my case. I know that I could never change my faith, and there are many millions with the same view. Let us not forget that many have gone to the stake for it over the ages. This is the time of year when our country's Christian heritage is most obvious. Many of us will participate in carol services and other services, proudly watching grandchildren, children and godchildren taking part in nativity plays, all celebrating the great news of the birth of the saviour Christ.

This country recognises the unique place of the Christian faith in its national life not just at Christmas but every day. There are many examples of this, including daily prayers here in Parliament, memorial services around the country, and church schools, which continue to be popular with Christian and non-Christian parents

[Baroness O'Cathain]
alike. However, the Christian majority in this country is renowned for being the vast silent majority. Our voice is not strong enough and is not heard often enough. We certainly punch way below our weight. This struck me forcibly on Sunday when I read the interview with the most reverend Primate the Archbishop of Canterbury in the *Sunday Telegraph*. His observations were wholly accurate. He said:

"The trouble with a lot of government initiatives about faith is that they assume it is a problem, it's an eccentricity, it's practised by oddities, foreigners and minorities … The effect is to de-normalise faith, to intensify the perception that faith is not part of our bloodstream".

The right reverend Prelate the Bishop of Winchester warned recently that Britain is increasingly becoming,

"a cold place for Christians".

The past 12 months alone have seen several disturbing cases of Christians suffering unjust treatment for their religious beliefs. They have been mentioned in the press and include a nurse suspended for offering to pray for a patient, a Christian care home stripped of £13,000 of public funding by Brighton council, and a hostel support worker suspended for discussing Christian beliefs with a colleague. Many more, of course, go unreported. What do these cases have in common? The Christians involved have all suffered in the name of "equality and diversity". Supporters of this agenda may have noble intentions, including a desire to protect Christians, but it is now apparent that all too often it becomes a tool for punishing them.

Equality laws have created some of the worst injustice. The case of the Christian care home in Brighton, which I have just mentioned, was motivated by the 2007 sexual orientation regulations. These same regulations have forced several Roman Catholic adoption agencies to close; yet these are the very agencies that accounted for one-third of all voluntary sector adoptions. Their contribution to our society has been huge.

Christian principles have woven the fabric of our democracy: the belief in the unique worth of every person, freedom of religion, freedom of association and freedom of speech. The rule of law in this country is based on the principle of equality in the eyes of God. Parliament and the judiciary have upheld these principles for centuries. All our constitutional freedoms have developed from Christian principles. Throughout history Christians have been at the forefront of humanitarian efforts. We heard about the most reverend Primate the Archbishop of York going to Cumbria and sorting out problems for people involved in the floods. That is not religious preaching or liturgy; it is pure humanitarianism.

Christians have also been at the forefront of establishing education and welfare projects in all parts of the world, and have led the way in the abolition of slavery. All this is real equality. In our own age, Christian groups are working so hard to free trafficked women and those who have been forced into prostitution, as I have already said in a debate in this House. Why are Christians being increasingly marginalised in Britain in 2009? Poring over the evidence, I have no doubt that the equality and diversity agenda lies near the heart of the problem.

Yet today we are considering this huge, all-embracing and cumbersome Equality Bill. This is the biggest piece of equality legislation ever put before Parliament, and in the current culture I fear that it could serve to make things worse. I believe that, for Christian freedom, it is the single most damaging Bill to come before the House in my 18 years as a Member.

I am deeply concerned about another aspect affecting this Bill; namely, the scrutiny process. In 18 years the scrutiny of legislation in the Commons has diminished significantly, and I am not the first person to make that statement. There was a problem with the Coroners and Justice Bill there when murder was not even considered. Despite what the noble Baroness the Leader of the House said—that the Bill was well scrutinised in the House of Commons—five and a half hours on the Floor of the House to have both Report stage and Third Reading together does not equate with good scrutiny. The Bill caused uproar in the Commons. The Government appeared to renege on an offer to discuss with the opposition parties how much time would be given to debate the Bill. Just one day was allocated for the remaining stages despite more than 200 amendments having been tabled. As a result, the guillotine fell part way through the second of seven groupings, before the Minister had even begun responding to the debate.

More than half of over 200 amendments that had been selected by the Speaker went undebated. Only those in the first group actually got a response from the Minister at the Dispatch Box. Even today, on the first occasion that I have taken part in a Second Reading debate, we have been asked to limit our contributions. This is a Second Reading debate, not a timed debate. I believe that there is some ulterior motive in all of this. Last week a meeting was held by the Leader of the House and the Minister, the noble Baroness, Lady Thornton, at which groups concerned with the Bill were told not to put down amendments, not to provoke long discussions and not to make interventions, because the Government wanted to curtail the Committee stage of the Bill.

Baroness Royall of Blaisdon: That is not so.

Baroness O'Cathain: May I continue? I shall write to the noble Baroness.

Apparently the Government have been advised by the Whips that a Bill of this size should require eight or nine Committee days, but they want to cut it down to four or five. I believe that that is totally unacceptable. We will not be able to hold our heads up in terms of scrutinising Bills by pandering to the Government's perfected art, shown in the Commons, of limiting scrutiny. In the interests of avoiding further undermining of Christianity in this country and avoiding injustice, I beg noble Lords to stand their ground and put down as many amendments as they feel they need to do for the Committee stage.

We are dealing with the vital issue of religious liberty and free speech. In addition, I believe that the Bill puts a huge, expensive bureaucratic burden on business and charitable organisations, which, at a time of severe recession, is inexcusable. I ask your Lordships to think seriously about this. The other place does not appear to care about ever-increasing bureaucratic regulation.

Some of the Bill's provisions are not controversial and are widely supported, yet in my view any positives in the Bill are surely outweighed by the negatives I have discussed. The problems I have mentioned so far are caused by existing equality law. So even if the Bill confined itself to consolidating current law, it would not enjoy my support. The examples of adoption agencies and care homes show that the present law is unjust and must be remedied. The Bill continues that injustice. In debates on the earlier 2005 Equality Bill I moved amendments to protect freedom of conscience for those in business. The Government disagreed, and Schedule 23 to the new Bill continues the policy of giving no protection in this area.

However, the present Bill goes much further. Part 11 introduces public sector equality duties so all-encompassing that the implications could be vast. What are public bodies going to make of a duty to promote religion and a duty to promote sexual orientation? As we have heard from the noble Lord, Lord Lester, even the BBC and Channel 4 have voiced fears. The Bill would drastically limit the freedom of churches and religious organisations to choose to employ people, as the most reverend Primate the Archbishop of York has said. It significantly narrows the existing exception which allows churches to refuse a post to those whose lifestyles are incompatible with Church doctrine. It could mean that churches are left without protection even for clergy posts. Leading employment lawyer and author John Bowers QC confirms this position. The Church of England, the Roman Catholic Church and many other religious groups, not only Christian, are very alarmed. Losing the right to choose a church minister who shares their beliefs would strike at the heart of freedom of association for religious believers. The exemption which has existed until now must be maintained.

The implications of the Bill are far too great for it to be rammed through Parliament before the impending general election. I fear that this is the hidden agenda of the Government in view of the comments I have already alluded to concerning the restriction of amendments.

On careful reflection, I believe that equality is morphing into an ideology hostile to the Christian faith. I accept that many Members of this House never intended this to happen, but at grass roots level the equality and diversity agenda is causing increasingly severe problems for Christians in many walks of life; at work and at school, in the media and in the public sphere. The evidence therefore shows that we must make major amendments to the Bill to meet these concerns, or call a halt to it altogether until a solution is found.

Baroness Royall of Blaisdon: Noble Lords will forgive me if I set the record straight. Every meeting I have in this House is open and transparent. I would not do anything of which I was ashamed. We are not trying to ram this Bill through. There is no hidden agenda. I have had a series of meetings with noble Lords on all sides of the House. I have explained that, if noble Lords wished to have a Bill—and the vast majority in this Chamber do—timing is extremely tight. I do not wish to curtail scrutiny. I have never said that noble Lords should not put down any amendments which they wish to put down. I have merely pointed out that, if they wish to have the Bill, they should not put down amendments that bear no relation to the Bill; they should focus their amendments very carefully. I am not ramming the Bill through; I am not seeking to curtail any scrutiny.

Baroness O'Cathain: I must say to the noble Baroness the Leader of the House that I have nothing but admiration for her. The way it was reported to me was: not to put down amendments which might be not tangential to the Bill. Perhaps there has been a misunderstanding. I shall go back to my source and find out. I do not want to impugn anything like this on the noble Baroness the Leader of the House, but it was part of a very serious conversation I had and I will give you chapter and verse.

5.56 pm

Baroness Campbell of Surbiton: My Lords, the need for stronger, clearer, more comprehensive and more easily enforceable equality legislation is pressing. Without it, we cannot address the equality gaps that hold so many people back. I warmly welcome this Bill. I think it could genuinely transform opportunities over time. I look forward to working with Ministers—very speedily—and noble Lords to ensure we end up with a new legal framework that delivers better outcomes for all protected groups.

There are several measures in the Bill that I particularly welcome. My top three are probably using public procurement to drive forward equality as part of the new single equality duty, the provision for regulations extending protection against discrimination in access to goods and services and the inclusion of protection against discrimination by association and perception.

Disabled people often experience multiple forms of oppression and disadvantage. I know that sometimes I am not sure whether I am discriminated against because I am a woman or because I am a disabled person. Many others struggle against other forms of disadvantage arising from ageism, racism, sexism and heterosexism, so I am also pleased to see recognition of multiple discrimination in this Bill, even if it probably does not go quite as far as I would like. At the moment, it involves just two dimensions.

I am very much in favour of an integrated approach to equalities. After all, it is why I joined the first board of the Equality and Human Rights Commission. Realising the vision of an integrated commission has proved an uphill struggle. We now need to replace the myriad of legislation, addressing different forms of discrimination—an even more complex task than putting together the commission, so it will not be easy. Nevertheless, great progress has been made on this front during proceedings in another place, but we still have some way to go with respect to the protection afforded disabled people, and it is now that I will turn to review these little conundrums that need to be sorted.

As the Bill passes through its various stages in the House, I hope that noble Lords will share my desire to ensure that the effective gains secured in the Disability Discrimination Act in the 1990s are not lost in translation in the Equality Bill. My major concern is that this may be the case with the public sector duty to promote

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equality. Clause 148 says that public bodies should seek to meet the different needs of all the protected groups. Fine. But then it says this may involve treating some people more favourably than others. Noble Lords need to remember that what is permitted in relation to the more favourable treatment of disabled people is vastly different from the more limited forms of positive action permitted for other groups. If this is not made abundantly clear in this Bill, the upshot could be at best, huge confusion and, at worst, public bodies rescinding on some of their positive measures on disability equality.

I shall now hand over to the noble Lord, Lord Williamson, as the usual channels have agreed that he can help me out with the rest of my speaking notes.

Lord Williamson of Horton: My Lords, with the agreement of the House and at the request of the noble Baroness, Lady Campbell, I continue her speech.

The current disability equality duty is clear and much more directional. It says that public bodies must meet disabled people's different needs even where this involves more favourable treatment. Only by restoring this fundamental provision can we be assured that disability equality is safe within a single duty. Many public sector organisations have said how useful this format has been when drawing up their disability equality schemes, and that it has been the reason for their successful implementation. I am pleased to note that the Joint Committee on Human Rights is in full agreement on that point. Let us not reel back on this in this Bill.

I must also sound the alarm on provisions in the Bill on reasonable adjustments for disabled people. The DDA is absolutely clear that it is unlawful for a service provider to charge a disabled person for making a reasonable adjustment. The classic case that noble Lords will remember is that of Bob Ross v Ryanair, a case that the Disability Rights Commission supported back in 2004. Ryanair tried to charge Mr. Ross £18 for use of a wheelchair to get from check-in at Stansted airport to the plane. The DDA was so clear on this point that the principle of not charging was readily confirmed by the Court of Appeal. Providers of goods and services such as Mr O'Leary need this sharp clarity, which is currently missing from the Equality Bill. I have been told not to worry because the relevant Code of Practice will clarify this point. Service providers will be told it may not be lawful for them to pass on the costs of reasonable adjustments, the clarity therefore being lost. This is just not good enough. Disabled people need to know where we stand. There must be no regression.

The Bill also creates the potential for regression on reasonable adjustments for exams and in immigration, when a new exception is proposed. It could lead to disabled people with serious illnesses being denied entry to or leave to remain in the UK. They could risk being deported back to countries where conditions may be life-threatening. This is in contravention of the most basic human rights and cannot be right.

I am confident that we can address those outstanding issues within the limited time frame that we have to secure the Bill, which is truly a landmark for equality.

6.04 pm

Lord Alli: My Lords, it is a privilege to follow the noble Baroness, Lady Campbell of Surbiton.

I welcome this Bill, which presents us with the opportunity to tidy up and consolidate and put equality legislation on a safer footing. The past 11 years that I have spent in your Lordships' House have been an extraordinary journey. I pay tribute to this House for the conscious choices that we made in that journey. For me, it started off pretty badly with that age of consent debate—some of you may remember. It was a terrible and at times very wounding experience. But every subsequent step that we have taken towards equality we have taken voluntarily, in this House, in partnership with the other place. We have worked together in this House for equality for women, racial minorities, religious groups, people with disabilities, the elderly and, particularly for me, the gay community. It is a journey of which I am incredibly proud but, more importantly, for which I am incredibly grateful.

In front of us now is a choice. We can build on this tradition and help the Bill find safe passage on to the statute book, or we can use the Bill as a mechanism to refight the battles of the past. I appeal to noble Lords—and I am sorry that the noble Baroness, Lady O'Cathain, is not in her place—not to reopen those debates that we have worked so hard to resolve over the past decade. I ask noble Lords not to use this Bill in a destructive way but to use it to heal and not to divide.

I give notice to my noble friends on the Front Bench of two significant provisions that I shall seek, with the support of others, to add to the Bill. The first concerns civil partnerships. This week marks the fourth year since the first civil partnerships were formed; over those four years, civil partnerships have been a huge success and even their fiercest critics cannot deny the overwhelming benefits that they have brought to the gay community, gay men, lesbians and the wider community as a whole. With your help, I want to reverse the current ban on civil partnerships taking place on religious premises. It is wrong to ban civil partnerships from churches and religious institutions. Equally, it would be wrong to force churches and religious institutions to host civil partnerships against their will.

As many noble Lords are aware, a number of religious organisations would like to host civil partnerships, such as the Quakers. This House has a tradition of standing up for religious freedoms. It must be a matter for churches and religious organisations to decide for themselves but, having decided, the law should not stand in their way. I hope that I shall have the support of these Benches, both Front and Back, of the Benches around the House and, in particular, of the Lords Spiritual, in achieving this endeavour. I seek only to heal; I do not seek to divide.

Lord Lester of Herne Hill: I think that I invented the Civil Partnership Bill in my own Bill. As I understand it, the noble Lord is not saying that we should call it marriage; he is saying something less than that. Is that right?

Lord Alli: I do not mind what we call it. I have heard marriage described in many ways in itself.

The second issue that I wanted to raise relates to one class of people who are not protected from employment discrimination because of their sexuality. I also welcome the refinement of the employment regulations contained in the Bill. In crafting our legislation all those years ago, noble Lords may remember that we allowed one exemption, and one exemption only. That exemption was for the clergy. This is not an attack on the church, but I do not believe that anybody should be sacked from or persecuted in their job or vocation because of their sexuality. I understand the controversial nature of some of what I am proposing, but persecution is persecution, and we should have done away with the persecution of priests a long time ago.

The Lord Bishop of Chester: Will the noble Lord accept that the stance churches take on this matter is, if you like, sexually neutral? It is about the longstanding belief held in Christianity and other religions that sexual relationships appropriately belong within marriage—there is an equal intolerance towards heterosexual as well as homosexual sexual relationships on behalf of faith communities: it is not specific to a particular sexual orientation.

Lord Alli: I hope the right reverend Prelate will accept that you cannot sack a heterosexual for having an affair outside marriage—they are protected against employment discrimination—whereas exemption here is simply on the basis of sexuality. That is the point I am getting to.

The Lord Bishop of Chester: We do not want to prolong this, but I think the noble Lord misunderstands the way in which faith communities operate in these matters; that must be a debate for a future occasion.

Lord Alli: I hope to table an amendment to frame such a debate.

I look at this Bill, and I see possibilities—the possibilities that Martin Luther King talked about in his "I have a dream" speech. You may recall he said that one day he could see,

"the sons of former slaves and the sons of former slave owners",

sitting,

"at the table of brotherhood".

I am a descendant of the sons of former slaves, and I know there are descendants of the sons of former slave owners among us. In this Chamber perhaps we can create a table of brotherhood. In this place, we do good, and we have done over the years.

Martin Luther King went on to say that he hoped that his children could live in a nation where they were judged,

"by the content of their character",

and not by the colour of their skin; I would add gender, sexuality, age and disability. This Bill is all about that: being judged on the content of our characters. Judge us on who we are and the way we behave. This is an opportunity to make that dream come ever closer to reality. It is a chance to take one step in a journey together; to finish this work, in this Parliament, with a display of the same spirit I have seen over the last 11 years. It is with pride and gratitude, and with hope and great optimism, that I welcome this Bill.

6.13 pm

Earl Ferrers: My Lords, I shall resist the temptation to follow the noble Lord, Lord Alli, down the delicate path upon which he walked. At the outset, I would like to apologise to the noble Baroness, Lady Royall of Blaisdon, for the fact that I was not in my place when she started her speech. I am so sorry—I should have been, but I was inadvertently delayed.

My intervention today relates to one specific part of the Bill and the effect which it may have on one company: Saga. Its business has been built on what is somewhat unattractively called a "niche market". This means that it provides a range of services to a certain group of people—in Saga's case, to more than 2.5 million people who are over the age of 50. I suppose that your Lordships would expect me to declare an interest in being over 50. Indeed, if I did so perhaps I could truncate the issue by declaring an interest for most of your Lordships, too. I do not have a financial interest to declare because, regrettably or stupidly, I have not availed myself heretofore of Saga's services.

Saga happens to be adversely affected by the way the Bill is drawn at present. People are generally happy to see special offers tailored for specific age groups, such as discounted tickets for cinemas or theatres, concessionary rates for hairdressing and so forth—as a matter of fact I found a hairdresser who gave me a reduced rate because I was over 25 or something like that. All sorts of cruises offer special discounts for the over-55s—there is another opportunity for your Lordships. Various hotel chains offer discounts to older people. The Government have followed suit, and have given enhanced ISA allowances for the over-50s. They also give public transport concessions, such as senior citizen railcards and national free bus passes. Senior citizens—and I am lucky enough to be one—would be sorry to see these benefits go. This principle is not new. It is accepted by those who provide the facilities, those who accept them, the general public and the Government, but the Bill as it stands has the effect of banning the marketing of group holidays for particular age groups.

The Government have said that they are considering making exemptions. The Explanatory Notes accompanying the Equality Bill say that exemptions may include holidays for particular age groups. Another publication, *Equality Bill: Making it Work*, issued in June this year, said:

"On balance, we believe that there is a case for allowing age-targeted group holidays to remain lawful"—

what a fearful expression, but there we are. There is a great case for that. This is all good stuff, but it is difficult to imagine any reason why they should not remain lawful—unless it was in the mind of some bureaucrat looking for unjustified uniformity.

In another place, the honourable and learned lady, the Solicitor-General, said:

"they are exactly the exceptions that we want to make",

but,

"we will not put it in the Bill".—[*Official Report*, Commons, 2/12/09; col. 1203]

[Earl Ferrers]
I cannot understand why these exemptions should not be written into the Bill. If they are not, on the day on which the Bill comes into force, all services which are confined to the over-50s will become illegal.

One might say that one solution would be for Saga to cater for under-50s, as well as the over-50s, and then it would cover everything. However, it would then be catering for a market in which it has no experience. Presumably the price to those who are in the market in which it does have experience will go up, as the company will have to accommodate the costs of participating in a market in which they have little or no expertise.

Your Lordships may be pleased to know that Saga understands older people. This is not an advertisement, it is just a fact. It insures many drivers who are over 100; the oldest lady taking Saga's insurance went to Italy to celebrate her 100th birthday recently. That is quite something—there is hope for your Lordships and all of us yet. That is the market which Saga insures, and in my view it is wrong,—indeed, unbelievable—that it might find itself on the wrong side of the law after the passing of this Bill, just because the Government say this is an equality Bill, and therefore everyone, apparently irrespective of the arguments, must be equal.

I wish to ask the noble Baroness the Leader of the House whether she will be good enough to bring forward an amendment to the Bill which will make it perfectly clear that providing special facilities for people who are in the over-50s age group will not be an offence. It seems so obviously sensible and reasonable—characteristics in which the noble Baroness abounds so fully—that I very much hope that she will agree to do this.

6.19 pm

Baroness Afshar: My Lords, it gives me great pleasure to thank the noble Baroness, Lady Royall, for introducing the Bill. I declare an interest as a commissioner of the Women's National Commission, which agrees wholeheartedly that the Bill is necessary, although it may not be sufficient.

Much has been said about tackling the root causes of gender inequality. There is a vast amount of academic literature which already addresses the root causes of gender inequality. I have previously put its ideas forward in this House. The root cause is the fact that women are seen as inferior bearers of labour. That is because they offer domestic labour free of charge and therefore, when they offer the same labour in the marketplace, it is considered to be unskilled. I am well aware that the consideration of wages for housework is not likely to be acceptable, so perhaps we should move on from root causes to giving women rights. If we do not have rights, we cannot exercise those rights. It may be that when we have rights, their exercising is complicated, but without them we are nowhere. I am very grateful that we are at least being given the opportunity to be treated equally by employers, and that the responsibility for transparency rests with employers, and not necessarily with employees.

I particularly welcome the inclusion of religious discrimination in the Bill. I declare an interest as the honorary president of the Muslim Women's Network UK. The difficulty so far has been that religions—that is, the adherents of a faith—have been discriminated against without fear of prosecution. The reason for that is that particular categories of people are classified by their faith. I was born a Muslim and do not see Islam as a jacket that I can change every day; it is what I was born with and probably what I will die with. Therefore, it is not a choice that I make consciously.

However, I have lived, very sadly, through an intense period of Islamophobia. More than once I have been asked to choose between being a Muslim and being British. I did not choose to be a Muslim; I was born a Muslim. I chose to be a British person. I regard it as a huge privilege to have been allowed to be a British individual. Had I lived in Iran, I think my faith would have been rather different at this stage of my life. I am grateful to be British but I cannot be British by choosing not to be a Muslim. Therefore, when the adherents of a faith are, as a category, unprotected by the law, perhaps we need to take action. This bridging action is most welcomed by Muslim women who, as has been repeated, are the group that is least likely to access equality.

It is important to bear in mind that, for those who practise their religions, the provision of facilities such as a prayer room or clean washing spaces is not an unusual requirement. It will not particularly hurt the employers, and it would help Muslim women to see themselves as welcomed in the workplace as Muslim women. I very much welcome this inclusion.

I would like to see these provisions extended more to the informal labour market, particularly part-time workers. Given the welfare provisions as they stand, most mothers of children under the age of three do not have easy access to full-time free childcare. Therefore, they cannot offer full-time employment. They can only work for the hours when their children are being looked after. The majority of women who are suffering are part-time workers in the informal sector. They are, as yet, not included. However, I heed the advice of the noble Lord, Lord Alli, and I would not press this. I hope that, at some point, these views will also be considered.

6.25 pm

The Lord Bishop of Chester: My Lords, it is a pleasure to follow the noble Baroness, who made a very important speech which merits rereading after the debate. I add the ritual acknowledgement that there is a certain lack of gender balance on these Benches—exactly the opposite of the government Front Benches, as was pointed out earlier. You cannot win.

I also thank the Leader of the House for her introduction to the debate, which was particularly helpful and gracious. I was grateful for her assurance that there was no proposal to abolish Christmas. Given her duties in the House this week, she may also be grateful that Christmas is not being abolished this year.

During the course of this debate and consideration of the Bill, there will be expressions of concern on behalf of churches and faith groups. We have already heard something of that. Indeed, I have engaged in it a little with the noble Lord, Lord Alli. The first point that he raised is worthy of discussion but he would

need to take into account also the ban on civil marriages being held in religious bodies. It would have to be taken in the whole. Some sort of permissive arrangement for faith communities is certainly worthy of careful discussion. I am sure that I can say that from these Benches.

I express some regret that the religious aspects and reservations have come to the fore too quickly. So much of the Bill stands in the broad stream of Christian and Judaeo-Christian ethical thinking: the dignity of the individual created in God's image; the care for the stranger in the midst in the Old Testament; and the transcending of cultural and racial barriers in the New Testament, such as when St Paul spoke of the Church as being open to Jews and Greeks, slaves and the free, male and female, because Jesus Christ was Lord and saviour of everyone without partiality. Such ideas received a strong puff of wind in the Enlightenment. What we are discussing today can be seen as part of a great historical movement towards greater equality in society that includes the development of democracy, the abolition of slavery, universal suffrage, free access to education and healthcare, and so on. We can all be grateful for the benefits of these huge advances in society and the dignity and rights of individuals.

Clause 1 is significant in this regard. It places a duty on a range of public bodies, including the Government of the day, to take strategic decisions with a view to reducing the inequalities of outcome that result from socio-economic disadvantage. This programmatic opening clause is carefully phrased, with a focus on addressing the inequalities of outcome, rather than the underlying socio-economic inequalities themselves. I think an earlier speaker spoke of narrowing the gap between rich and poor, but that is not quite what the clause says. It deals with the outcomes of the inequalities in economic terms.

Research now overwhelmingly links poorer outcomes to underlying inequalities in wealth and income. The recent book *The Spirit Level* by Richard Wilkinson and Kate Pickett sets out the evidence in a compelling way. Yet our recent experience over 30 years has been of a growing divide between rich and poor, which even 13 years of a Labour Administration have not reversed, although it has, I think, more or less maintained the position that it inherited. The financial crisis of the past two years can be seen as directly linked to the growth of excessive inequalities in salaries and bonuses, both within the financial sector and between the financial and other sectors.

It seems that, for all its provisions, many of which are to be welcomed, the Bill skirts around the most fundamental issues of inequality in our society. Its sheer size should not deflect us from its limitations. Has any previous Bill had Explanatory Notes running to more than 1,000 paragraphs? If you gave the most reverend Primate the Archbishop a bauble for his Christmas tree for each paragraph, it would have 1,002 baubles on it. Paragraph 80 of the notes refers to,

"the ordinary user of the Bill".

Who will be the ordinary user?

The underlying problem is that it concentrates too quickly and too excessively on the rights of the individual, essential as these are. There was an interesting interchange in the recent debate on the humble Address, to which the most reverend Primate the Archbishop himself alluded, between the right reverend Prelate the Bishop of Ripon and Leeds and the noble Lord, Lord Lester, who I am pleased to see is in his place. The right reverend Prelate said:

"The Equality Bill is grounded in a view of society as a collection of individuals with rights but fails to take account of the needs of communities to flourish. That can quickly lead to an authoritarian imposition of an individualistic understanding of difference rather than a celebration of plurality in society".—[*Official Report,* 26/11/09; col. 492.]

The noble Lord, Lord Lester, responded that EU law is,

"based on the rights of individuals, not of groups".—[*Official Report*, 26/11/09; col. 502.]

Perhaps, but that does not mean that it is necessarily correct. We have not just replaced the divine right of kings with the divine right of particular aspects of EU law, particularly as we frame our legislation here.

I say that because there has been too much emphasis on individual freedom in the economic realm that has led to the growing inequalities of socio-economic outcome over the past 30 years, which are now more and more clearly documented. Societies that overemphasise individual freedom and rights, as opposed to responsibility, duty and communal rights, simply generate a growing underclass, well evidenced in the growth of the prison population and all the problems coming from that.

The interplay of individual rights with the rights of other individuals and the broader rights of society and the socio-cultural and religious communities in society, will occupy us at a number of points as the Bill makes its passage. I conclude with one example that has not been mentioned so far—it has not received much attention, which illustrates the point. I refer to the provisions in relation to those who are undergoing, or who have undergone, a change of gender. Society holds different views about the basis for gender reassignment, and there are different views in some of the faith communities.

Noble Lords will not be surprised to hear that the Church of England cannot quite make up its mind, and it is left to individual bishops to decide whether a transgender person can be accepted for ordination. There are conscientious and sincerely held beliefs on different sides in this matter. As a society overall, the current anti-discrimination provisions seem to have been in a proper balance, but the Bill extends the legal protection to those who claim either an intention to transgender, or who claim to have done so without any recourse to medical advice or supervision. I speak as someone who accepts the possibility of gender dysphoria and the treatments that professional psychiatrists and medicine can offer. I know from personal and pastoral experience how distressing it is for somebody to have a sense of being in the wrong gender, but I do not think that society as a whole has a right to expect that anyone who seeks legal recognition in a new gender should have followed proper medical assessment and advice. Anything less seems to be open to abuse. It is not that it should be just a matter of individual decision of individual rights.

I look forward to the Committee stage of the Bill.

6.33 pm

Lord Davies of Coity: My Lords, the main thrust of the Bill is commendable but I wish to raise two points, both of which are necessary for a free and democratic society. The first is the need to protect the interests of Christians and the Christian church. Secondly, we should ensure that elderly people have the freedom to enjoy holidays with those of a similar age, an issue to which the noble Earl, Lord Ferrers, referred.

With regard to the former, noble Lords will no doubt be aware of the recent interview given by the most reverend Primate the Archbishop of Canterbury, reported in the *Daily Telegraph* on Saturday. I shall not go into the detail of the interview but I understand and appreciate the points that he made. I and many others have heard it said that the Christian celebration commemorating the birth of Christ, which we are now nearing, should cease and that the period should be described as a "customary holiday". I do not accept that. Neither do I believe that the Christian church is a problem; in fact, it is a solution for many of the country's difficulties. Therefore, I shall support any amendments that are tabled that will ensure that Christians can express and demonstrate their Christian faith without the threat of being in danger of arrest. Christianity is not to be marginalised in this country.

My second point—again I mention the noble Earl, Lord Ferrers—is one with which I have some difficulty. Why? Because the Government support the exception to which I shall refer, but unfortunately they will not include it in the Bill. The exception is to allow certain businesses that provide holiday services to place an age limit on group holidays and to provide holidays catering for people of a particular age, which of course I come into. Holiday companies, such as Club 18-30, which I do not come into, and Saga, which I do, continue to target specific groups, allowing niche marketing by age. In another place, the Solicitor-General agreed that purpose. She said:

"They are exactly the exceptions that we want to make".—[*Official Report*, Commons, 2/12/09; col. 1203.]

It is better to have these matters ironed out and included in the Bill than to have to wait for an uncertain period and an uncertain outcome for British businesses such as Saga. I cannot understand why the Government are so hesitant, as they have already made their view plain. The June 2007 consultative paper *A Framework for Fairness* states:

"We must not have in the Bill unintended consequences of prohibiting positive benefits for either younger or older people, such as youth clubs or clubs for older people … or concessions and discounts which help younger or older people".

That was followed in June 2008 by the Command Paper *Framework for a Fairer Future*, which restated that the Equality Bill would,

"not affect the differential provision of products or services for older people where this is justified—for example bus passes for over-60s … or group holidays for particular age groups".

The Bill, however, has the effect of banning the marketing of group holidays for particular age groups. The Explanatory Notes mention the possibility that exemptions "may" include holidays for particular age groups. In June 2009, in yet another consultative paper, *Equality Bill: Making it Work*, the Government consulted on their repeated intention:

"On balance, we believe that there is a case for allowing age-targeted group holidays to remain lawful".

Why not put on the face of the Bill exactly those exemptions that the Government recognise are important? Why should businesses have to wait not quite knowing when this will come, if at all? Saga's 2.7 million customers over 50 would be grateful to know that the Bill will allow them to be able to continue to receive the services that they currently receive.

6.40 pm

Lord Harries of Pentregarth: My Lords, for anyone committed to equality the whole of this Bill is extremely important. Personally, I will be keeping an eye on a range of issues in which I have a concern, including, but not limited to, civil partnerships and the impact of religion generally. In the short time available to me this evening, I will focus on only one issue, which is discrimination on the ground of caste. I and others will table amendments that will add this form of discrimination to discrimination on the grounds of gender, disability, race and so on.

Discrimination on the ground of caste is one of the historic evils of humanity, similar in many ways to discrimination on the ground of race. This has been recognised by people from William Wilberforce to the present Pope. The Indian constitution is exemplary in recognising this; indeed, in 2008 the Prime Minister of India, Dr Manmohan Singh, described such discrimination as a "blot on humanity". However, in practice it remains a terrible blight.

According to Hindu thought, there are four traditional caste groups, which correspond to the different traditional occupations but which are linked to birth and kinship groups. Outside those groups are what used to be called the "untouchables"—today they are termed Dalits—who are shunned and forced into the most menial tasks. For example, vast numbers of Dalits are manual scavengers, forced to scrape up and collect human excreta with their hands. There is now, I am glad to say, a growing worldwide campaign against this form of discrimination.

As we know, many people from India have migrated to this country. Therefore, two questions arise. First, how many Dalits are there in the UK? Secondly, is there evidence that they are discriminated against here, as undoubtedly they are in India? The issue is complicated by the fact that so pernicious is the caste system that it has permeated even those religions that have a strong doctrine of the equality of human beings and in which the caste system has no religious basis, such as, sadly, Christianity, Sikhism and Islam. In this country, for example, according to the 2001 census, there are 336,000 Sikhs, though the true figure is reckoned to be nearer 500,000. Of these, 167,000 are thought to be Dalits. The figures for Hinduism are more difficult to arrive at, but it has been estimated that as many as 1 million people could be adversely affected by the caste system in this country. That is a very significant number of people.

One study, which was done by the Hindu Forum and carried out over only two weeks in August, with only 19 respondents, agreed that caste discrimination was present in Britain but said that it was confined to private social practice. However, the Hindu Forum and the Hindu Council do not speak for the Dalit communities, who are regarded as untouchable by those who accept the caste system.

I urge the Government to look again at the recent report by the Anti Caste Discrimination Alliance, *Hidden Apartheid—Voice of the Community: Caste and Caste Discrimination in the UK*. This was a reputable academic study, undertaken by a professor of law and a director of the Centre for Community Research, with outside legal advice; it was a thorough study, involving a lot of people over a long period.

The report shows that discrimination has seeped out of the private sphere into issues of employment, education and healthcare. I will give a few examples. In the field of employment, a bus company operating in Southampton had to reorganise its shift system so that a "lower caste" driver would not have to drive with a "higher caste" inspector. Similar issues arose when drivers were being tested. Another person said:

"Caste came up in the college on a daily basis and you would find that people would group together. The name calling happened every day … You think there is something wrong with you—why am I being treated very different?".

At school, there is very strong evidence of children being called "chamar" or "chuhra", which are derogatory terms akin to terms of racial abuse of black or Pakistani people.

In the provision of services, a good number of people complained about intrusive questioning about the caste that they belonged to, with the result that when they revealed that they were Dalits they were rejected in some way. For example, a woman in Coventry was not given care in accordance with her care plan because it was due to be given by a "higher caste" woman who refused to help her shower.

These are just a few quick examples from a very thorough survey. Of those surveyed, 71 per cent identified themselves as being Dalits; 58 per cent of these said that they had been discriminated against because of their caste and 37 per cent said that this had happened on more than one occasion.

In the other place, the Government indicated sympathy for this issue but said that they remained uncertain about the evidence. I suggest that the evidence put forward by the Anti Caste Discrimination Alliance is more than enough to show that discrimination is a reality and needs to be made illegal. The evidence adduced there is certainly as compelling as that which convinced the Government in relation to transgender and transsexual issues. The Anti Caste Discrimination Alliance report, as I mentioned, was a serious study undertaken by academics and it deserves to be given serious weight.

In October this year, the UN High Commissioner for Human Rights, Navi Pillay, said:

"The time has come to eradicate the shameful concept of caste".

He called on the international community to come together,

"as it did when it helped put an end to apartheid".

There are 270 million Dalits in the world. We in this country can play our part, with the international community, in ensuring that caste discrimination at least has no place at all in our own society. When appropriate amendments are brought forward to ban discrimination on the ground of caste, they will receive support from all sides of the House and I very much hope that the Government will be sympathetic.

6.47 pm

Lord Morris of Handsworth: My Lords, I, too, commend the Government for bringing forward another instalment on the long road to equality. It was some 44 years ago that this nation made a date with destiny with the 1965 Race Relations Act, which was followed by the 1976 Race Relations Act. Both Acts pledged the nation to the twin pillars of the elimination of discrimination and the promotion of equality of opportunity. Both Acts combined law enforcement on the one hand with community development on the other and set Britain on the road to equality. To coin a phrase, we sealed the deal with the British people. While the Explanatory Notes to this Bill are extensive, and my reading of it is incomplete, I cannot recall any reference in the Bill to contributing to the building of a strong, diverse and stable community. I support the call for an overall purpose clause to the Bill.

Today we consider a Bill that, we are told, is intended to bring together the various anti-discrimination laws and their subsequent amendments, which is to be welcomed. The Bill also promotes the notion of a socio-economic public duty, but these duties are not the panacea to all our social ills. For some time, public duty has already been provided in our anti-discrimination laws. Following the Stephen Lawrence inquiry, the Race Relations (Amendment) Act 2000 imposed a number of proactive responsibilities on public authorities, which are commonly known as general race equality duties. We owe it to the legacy of Stephen Lawrence that, however inconvenient, we do not dilute or roll back these steps, which are positive tools in the struggle to eliminate discrimination and promote equality. The problem with this new section of the Bill is not a lack of public duty but a lack of enforcement of that duty, a lack of sanctions and a lack of real remedies.

That said, the principle of consolidation is welcome because the Bill raises a number of key issues, one or two of which I shall touch on as time permits. First, there is the interpretation of "equality". In the proposed legislation, Ministers embrace equality in the language of fairness, but one person's fair is another person's unfair. Fairness is a subjective concept and it has been used as a second-rate substitute for the one word that really matters in this debate—equality. We must build a society where we enjoy the right to be different and, just as important, the right to be equal.

The Race Relations Act 1965 and the legislation that followed it were described by one of the Act's architects as having real backbone. Underpinning those Acts was the recognition that victims of discrimination must be empowered to seek and pursue justice through remedies in the civil courts or, indeed, industrial tribunals. The new provisions of the Bill—I emphasise "new provisions"—lack real teeth. There is no clear route to

[Lord Morris of Handsworth]
equality or justice and some would say that that means very little credibility. Frankly, the new provisions, to coin a phrase that I have just used, lack a legal backbone. Individuals will not be able to pursue legal remedies for breaches of their statutory duty; they will have to seek judicial review proceedings if the authority does not deliver in respect of its strategic decisions. Equality and justice should be about simplicity of access to the law, not about scaling the hurdles of bureaucracy.

Digging deep for some positive strands in the new section of the Bill, I welcome the inclusion of age within the scope of the public sector duty. Sadly, the Bill does not outlaw the practice of enforced retirement at the arbitrary age of 65. Why do the Government not use the Bill to outlaw a practice that discriminates on those grounds? It is also to be regretted that there is a total absence of any protection for those under the age of 18, which could mean that children who suffer discrimination do not enjoy the Bill's protection.

Gender pay transparency is yet another concern. Only public sector employees, for whom there is a target figure, will enjoy the opportunity of annual detailed reporting. I cannot understand the distinction between the public and private sector obligations here. Eighty per cent of all employees are in the private sector—the vast majority in small and medium-sized enterprises—and their employers are asked to report only on a voluntary basis. However, it is at that level of employment where the growth in the number of women employees really exists. In my view, a voluntary reporting scheme will take us no further forward in the battle to get equality in respect of women's pay.

We are told that the procurement budget is some £220 billion. It seems to me that this gives us a real chance to make a difference in respect of discrimination on any of the grounds named in the Bill. I would take a blunt instrument to this: if you are found to discriminate, you should not enjoy the benefit of government contracts. The Americans take a simple view: it is called "contract compliance".

We need to recognise that, if we are to take the road to true and lasting equality, we must ensure that we have the tools to finish the job. Discrimination is not just another social evil; it is a disease that devalues its victim, corrupts its perpetrators and attacks the moral fabric of our society.

6.55 pm

Lord Adebowale: My Lords, I generally support the Bill. I was born in 1962, so I do not qualify, and shall not be rushing, to enjoy the benefits of Saga, and I doubt whether many over-50s will be rushing to take part in Club 18-30 holidays. Putting that to one side, I was born into what could be described as an "either/or" society: you were either black or you were British; you were either gay or you were decent; and you were either disabled or you were working. I have lived much of my life in such a society, even with the implementation of the Bills referred to by previous speakers.

The importance of this Bill is that it ushers in an "and/and" society—a society in which it is possible to be black and British, to be a Muslim woman and British, and to have a disability and contribute fully to the economy. It seems to me that that is the important point of the Bill and it is why I welcome the idea within it of multiple discrimination: we accept that we must see people as multiples in society and not just as either/ors.

I also welcome the socio-economic discrimination part of the Bill, although I note the concerns of previous speakers that it does not carry enough teeth. In my work with Turning Point and on estates around the country where public services have been commissioned without due regard to the socio-economic impacts and the ensuing discrimination, I can see the impact not just on the individuals in those places but on the generations born to those individuals. We know how difficult it is to move from an estate, from a family where there is unemployment or from a situation where you have not gone to the right school or where the public services have not taken into account the need to balance out socio-economic discrimination. I would rather start here with an expression of the public duty to provide a reversal of the inverse care law and do something about socio-economic discrimination than not start at all. However, I, too, should like to see teeth in the Bill. The "so what?" factor rides high in that statement. What happens if the duty is not adhered to?

At a time when the BNP has appeared on a BBC licence fee-funded station, using the freedom of speech to frighten the life out of a significant minority of the community, I should like the Leader of the House to say a bit more about what is missing in the Bill. In my view, what are missing are the duties of the publicly funded broadcasters, the Arts Council, museums and others to support fairness and equality in society.

For me, the Bill is not just about race, religion, disability or sexual orientation, important as those are; it is also about the future economy of this country. In his 2001 report, Shamit Saggar pointed out that 70 per cent of the increase in the working population will be from black and minority ethnic groups by the year 2020. Some people do not like that fact, but it is a fact. It is as obvious as gravity. If we want a population and an economy that will look after our elderly and provide us with new ideas, economies and businesses, then we cannot afford to discriminate on the grounds of race, disability or sexual orientation. To do so costs us. It is not just a moral imperative; it is an economic one.

I should like to know more specifically about the fears expressed by previous speakers, particularly those of a Christian religious faith. I am from, and take part in, a Christian community, as do my family. I have not heard expressed in that community the fears that have been expressed in this Chamber, and I would like to know more. I believe that most fears are imagined. Some of the fears were expressed during the passing of the Race Relations Act 1976 and the 1964 Act. I am not dismissing the fears but we should examine them logically and see exactly where they lead us.

I do not want to keep you any longer. I am concerned that the issues about the scrutiny of the Bill will lead to delay, which would lead to a dismantling of the Bill at a future time. That would be a real shame. We have

a once-in-a-lifetime opportunity to put on the statute book an all-encompassing and/and anti-discrimination Bill, and I urge us to do so. Scrutiny should not mean delay. The people outside this House who are discriminated against on a daily basis deserve a Bill that speaks to them as individuals and as members of our society and community. We should pass this Bill as quickly as possible.

7.02 pm

Lord Macdonald of Tradeston: My Lords, although I am generally supportive of the Equality Bill, it is disappointing that it fails to tackle some of the unnecessary discrimination in employment. I speak to two specific issues in that context. First, there is the exception that permits organisations with a religious ethos to discriminate in employment when they are working under contract to provide public services on behalf of the state. Secondly, there is the possible discrimination against teachers in state-funded faith schools.

I am grateful to the noble Lord, Lord Lester, for his incisive analysis of the problems of religion and belief as defined and deployed in the Bill, which I need not elaborate. Nor will I contest the assertions of the noble Baroness, Lady O'Cathain, except to say that as chairman of the All-Party Humanist Group, I only wish that I could share her belief that secularism is advancing across the UK. That is certainly not my impression.

The wording of the "work exceptions" for employers with a religious ethos, which permit them to discriminate in their employment on religious grounds, have been harmonised in the Bill. The new definition of exemptions for religious employers in the Equality Bill clarifies the present law by stating that any requirement that an applicant or employee must be of a particular religion or belief must be "an occupational requirement" and,

"a proportionate means of achieving a legitimate aim".

This applies to all employers, including those with an ethos based on religious belief, and is to be welcomed. However, as the Bill is drafted, the exceptions described would apply even when a religious organisation is working under contract to a public authority to provide a public service on its behalf.

By extending the exception in Schedule 9, paragraph 3, of the Bill to religious organisations working under contract to provide these public service, the Bill could potentially subject a large number of posts currently in the public sector to religious tests. This could, for instance, provide favourable employment prospects to small numbers of religious believers. Conversely, it could rule out large numbers of posts for those with the wrong religion or with none. It could threaten the employment or promotion of staff transferred under a contract from the public sector employer to a religious one.

There is no good reason for allowing religious organisations performing public functions on behalf of a public authority to apply religious tests to their jobs. These concerns are shared by trade unions, the British Humanist Association, progressive religious organisations and others, including the parliamentary Joint Committee on Human Rights, which, in its recent report on the Equality Bill stated:

"We are concerned about the status of employees of organisations delivering public services who find themselves as employees of organisations with a religious ethos who have been contracted to provide the public service. They have a right not to be subjected to religious discrimination on the basis of the ethos of the contracting organisation if they are otherwise performing their job satisfactorily".

I ask the Minister to agree that the extension of Schedule 9, paragraph 3, is not satisfactory, and that it puts the jobs and job prospects of potentially thousands of public service workers at risk if their work is contracted to an organisation with a religious ethos.

Having expressed these concerns about the exceptions made for organisations with a religious ethos, I register our continuing concern about the ability of faith schools to discriminate against staff. There is no present need even to demonstrate the occupational requirement in order to discriminate on grounds of religion. In practice this means that a voluntary-aided school can impose religious requirements on all teaching posts and can also take religion into account in promotion and pay decisions without ever needing to show that the teacher being discriminated against needs to perform any religious role at all. Furthermore, any teachers in a voluntary-aided school might be dismissed or sanctioned for conduct incompatible with the tenets of the religion of the school, which could cover a wide and disputed range of conduct.

We anticipate that the tolerant majority of faith schools would not use the full extent of their powers to discriminate in employment. Indeed, many faith schools employ many teachers with many different beliefs. However, the reality is that those staff have few legal rights if they are discriminated against on religious grounds. This is surely not a satisfactory situation. The Bill could be amended in ways that would permit faith schools to discriminate by religion against employees but only according to the same rules as other organisations with a religious ethos.

I conclude by asking the Government to look again at these matters, which could restrict jobs to workers of the right religion, a requirement that, by definition, the majority of citizens can never meet.

7.08 pm

Baroness Flather: My Lords, the noble and right reverend Lord, Lord Harries of Pentregarth, has already spoken most eloquently about caste discrimination. I add my voice to it as well. I do not think that I will do as well as him, but I will bring something different to my speech: a personal experience and knowledge of this heinous practice. In doing so, I hope that I may try and convince your Lordships that caste discrimination exists in this country and that it blights peoples' lives in the same way as all other discrimination.

It is very difficult in many ways to describe what constitutes a caste. The noble and right reverend Lord, Lord Harries, gave the traditional view that there are four castes. Well there are four castes, but it is not just about that. It is about the practice of discriminating against a person who is not of your own caste. Sometimes this can even happen among the people of the higher castes. The highest caste will discriminate against the one lower; that one will discriminate against the one lower and so on and so forth. It is a practice that needs to be examined and, if possible, tackled.

[Baroness Flather]

When I was a child, caste was very much part of our lives. As we are of the third class—the merchant class—we had to have a Brahmin—the highest caste—to cook our food because if someone from a higher caste came to our house, they would not eat our food because we were not of the same cast as them. We had two kitchens: one where meat was cooked and another where a Brahmin cook prepared food. I grew up expecting people to demand that food be cooked by someone from their own caste.

The Indian constitution was formulated by a wonderful lawyer called Dr Ambekar, who was from the lowest caste. He was very anti-caste. He added provisions to the constitution saying that people should not be discriminated against on the basis of caste. He also outlawed one other very dreadful practice; the practice of dowry. Asking for a dowry is outlawed in the constitution.

Laws are made but people do not follow them. The constitution is not followed so the caste system exists. The saddest part is, as the noble and right reverend Lord, Lord Harries, said, that it has been extended to other people and other religions in the Indian subcontinent. To me, it is very sad to find that the Sikhs now have four temples in every town, each one being for a different caste. That is appalling because the founder of the Sikh religion said, very categorically, that they are all brothers and sisters.

Islam says its followers are all brothers—it talks only about brothers and not about sisters. They do not call it caste, but Biradari, or Jati, or some other name and people will not marry into another caste. To me, that is very sad.

Many Christian converts in India were from the lower castes who thought that conversion was a way of getting out of the caste system.

Baroness Warsi: My Lords, on a point of clarification, when the noble Baroness refers to discrimination on the basis of caste or to the brotherhood in Islam, is she referring to that as a cultural practice or as a religious practice? If it is religious, what is the religious basis for it?

Baroness Flather: My Lords, it is not a religious practice. I refer to it only as a cultural practice for Muslims from the Indian subcontinent. I have been to Pakistan four times and, the first time I went there, I was shocked to learn that people did not marry outside what they considered to be their caste. I refer to that and not to the Muslim religion. The Muslim religion does not recognise the caste system and it does not exist in other parts of the Islamic world.

Christian converts came mainly from the lower castes who thought they could escape the caste system, but everyone treated them as lower caste. You cannot escape simply by calling yourself something different.

The lower castes were mentioned in a schedule to the constitution, so they became known as the "schedule castes" and now we call them Dalits, which means downtrodden. They have asked for that name. People from the Indian subcontinent have come to this country and have brought these customs with them. It is a social and cultural custom, not a religious custom, and it is not stratified as it used to be. People are being discriminated against in this country because of that. When immigrants come to another country they do not change. If change comes in their own country, they do not change when they leave their country. I believe that if this very comprehensive Bill is intended to root out all remaining discrimination, it ought to tackle that form of discrimination as well.

There is also verbal abuse and people who do not receive the same pay. I used to be a teacher and I know there is abuse in schools. The Christian boys got very short shrift from the others. I know very well what goes on and I beg your Lordships to consider this as a serious issue and to find a way to root out this dreadful practice in this country.

7.15 pm

Lord Parekh: My Lords, I greatly welcome the Bill and see it as a tribute to the Government's commitment to equality. The Bill does a number of things that are long overdue. It comes as a climax to a long struggle for equality, which began nearly 45 years ago. As time is limited, I shall concentrate on those aspects of the Bill which puzzle me and where I would like some clarification and possibly some reinforcement. I have six points.

Given the provenance of the Bill and the fact that women constitute 51 per cent of our population, the Bill has much to say about gender equality. I welcome that, but I would have thought that measures similar to those proposed for gender equality might be introduced for other characteristics; for example, pay audits refer mainly to women and have nothing to say about the disabled or the ethnic minorities. There is a provision in the Bill for a women-only shortlist but no provision whatever for ethnic minorities or for the disabled or others. Women enjoy only 19 per cent of the representation in the House of Commons, which certainly needs to be rectified, but the representation of ethnic minorities is less than 2 per cent. I would have thought that the same arguments made about gender representation should also apply to ethnicity and other areas.

My second point is a simple one. As is widely acknowledged and was repeatedly emphasised by Tony Blair when he was Prime Minister, the ethnic minorities are inadequately represented in the higher echelons of the Civil Service, the judiciary, and among chief executives of NHS trusts and other public bodies. Many of us had hoped that the Bill would propose some way of rectifying that situation. So far I have seen nothing in the Bill that will do much to rectify that gross under-representation of women and ethnic minorities in the upper echelons of the Civil Service and the judiciary.

My third point concerns placing a positive duty on public authorities to promote equality of opportunity, to counter disadvantages and to foster good relations. The duty, as formulated in the Bill, remains rather vague. There is no provision to monitor public authorities. The Bill says that the Government will make proposals later for specific duties, possibly in the form of instructions or secondary legislation. I hope that they will bear in mind the need to give real bite to the general positive duty to promote equality of opportunity and to foster

good race relations. However, it would greatly help if there were some kind of monitoring provision and provision for equality impact assessment in the Bill.

I have the same feeling concerning the need to tackle socio-economic disadvantage. Tackling that is a public policy issue and the law can only do so much but we should ensure that it does everything it can. Public authorities are required to show that they have taken into account the differential socio-economic impact of their policies and that the course of action they propose to take will deal with those differential impacts. Placing the duty is not enough. We also need to ensure that public authorities are required to publish alternative strategies by which they try to identify what impact different strategies will have and that those strategies deal with socio-economic disadvantages. There is no use simply putting the duty in formal terms, unless there is a backup mechanism of some kind.

My fourth point has to do with the fact that disadvantage and discrimination occur for a variety of reasons and in a variety of ways. There is direct and there is indirect discrimination, but as the Macpherson report pointed out, and as the report that I was privileged to chair on behalf of the Runnymede Commission pointed out, discrimination can also occur through the culture of an organisation, through the attitudes of its members, unwitting prejudices, thoughtlessness and stereotypes—in other words, a kind of sexism or racism which is built into the practices and procedures of the organisation, which shapes its culture and results in discriminatory or disadvantageous treatment. I should have liked the Bill to have moved beyond simple forms of direct and indirect discrimination and to tackle ways of organisational culture.

I want to move, briefly, but importantly, to the complicated notion of positive action and the situation where it can be regarded as lawful. Positive action, as it is defined in the Bill, is, in some form, already lawful and many organisations practise it. It seems to imply that, where people are equally qualified, you might take into account the fact that someone belongs to a particular gender or a particular race. However, there is a different way in which the problem can be conceptualised.

Take a hospital. The example given is of a school where all the teachers are women and we are thinking of a male teacher as a role model. Let me give a slightly different and less hackneyed example and a real one. Take a hospital whose obstetrics and gynaecology department is all-male. Many women would like to be seen by a female gynaecologist, but there is none. A vacancy occurs. We have two candidates, a male and a female, with equal medical or academic qualifications and equal professional experience. The woman doctor could be appointed, either as a form of positive action, or by simply saying that the needs of the organisation require that her gender is an important part of the qualification itself. In other words, what is called positive action here is not simply an add-on in a situation where there is equality of qualification or experience, rather it is built into the structure of the assessment criteria themselves, so that she is appointed because she has an additional qualification, by virtue of her gender, which others do not have.

My last point has already been made and has to do with the procurement policy of the Government. They somewhere between £175 billion and £220 billion per year on goods, facilities and services supplied by the private sector. This is a very powerful weapon by which to ensure equality. This is what the Americans did in the 1970s and 1980s in a very big way. This is what was also proposed here when the GLC was in swing, in the form of contract compliance. The Bill needs to provide clear guidelines as to how the procurement policy or contract compliance is to be executed, there should be rigorous monitoring so that the policy is not misused and it must be enforced as powerfully as it can be.

I have expressed some doubts and reservations about the Bill, but that was simply in the hope that we take them into account, and as and when another opportunity arises to propose a Bill, perhaps we might be able to go back and take these points into account. I have no wish to put down amendments on any of this, because the Bill is extremely important and nothing should be done to delay its passage through this wonderful House.

7.23 pm

Baroness Deech: My Lords, I wish to address the impact that the Bill will have on the professions of law and medicine and in particular the position of women and ethnic minorities in those professions. By virtue of Schedule 19, the NHS is a public authority for the purposes of Clause 145 and therefore it will have a duty to advance equality of opportunity between men and women, a subject in which I have a special interest. I chaired for a year a Department of Health committee which produced a report this October entitled *Women Doctors: Making a Difference*. This initiative arose because of two factors relating to equality. One is that the majority of students starting to study medicine is now and has for some time been female. The other is the need to retain and use to the full the value of the medical workforce, given the expense of training and the cut in hours imposed by the European working time directive, which has made full utilisation harder.

Both men and women medical students need and deserve to have a work-life balance, but the profession of medicine is exceptional in the demands it makes of doctors, especially women. Other professions have long hours, anti-social hours and a demand for continuity on the part of the person receiving the services, but in none is it as intense as in medicine. There have been many reports into the best way to keep women doctors in and at the top of the profession. My report was different in two respects. It focused on remedies, not reasons, as the ground had been well covered, and its thrust was to get women back to full-time work, assuming they want it, while admitting that there will always be periods in the woman doctor's life when she has to train or work less than full time, because of child or elder care. So we focused on returning and retaining; we examined the difficulty women doctors seem to experience in getting into leadership positions, focusing on fair nominations to committees, mentoring and the need to share the limelight in the royal colleges and journals. We looked at flexibility in terms of hours and place in order to facilitate it and we spent a great deal of time examining childcare.

[Baroness Deech]

There is one big gap in the otherwise admirable ideology underlying this Bill, and it relates to the position of women, the protected characteristic of the female sex. While in relation to other protected characteristics, such as race, the law seeks to remove barriers, in the case of women and the disabled it may be more subtle: making reasonable adjustments. It is not sufficient to say to women that they are free to get on with it, any more than it is to the disabled. The ramp, or helping hand, has to be put in place. In the case of women, that is childcare. There will never be true equality in the workplace until there is national, affordable, indeed subsidised childcare in all its varieties.

We expect women at one and the same time to occupy half of all top positions, to earn the same salaries as men and yet to be good mothers. It is regarded as a valid life choice to abandon work and stay at home once children are born, with all the risks that that choice entails if the male partner leaves the home, or the career ladder is left behind. The only way to square the circle in medicine and other demanding professions is to enable the woman both to be a good mother and a good professional in relation to her patients by enabling childcare. When a typical man goes to work, he is provided with a secretary and a computer; when a self-employed man entertains potential clients, he gets tax relief. A typical working mother would like and has more need of a child carer and tax relief on that. The childcare costs that she incurs at work are necessarily so incurred. The tax that it is proposed should be recovered from bankers would be well spent on extending childcare vouchers. A parliamentary staffing allowance for MPs, if it continues to exist, is as validly spent, if not more so, on a child carer than on a secretary, and many women would support me in saying that the childcare is the more essential. Promoting equality without the infrastructure is only half the battle.

I now turn to law, where I declare an interest as chair of the Bar Standards Board regulating barristers. I was dismayed to see Clause 45, which singles out the Bar, with one or two others, for special treatment in the area of equality. There is no need for Clause 45. The Bar put together an equality and diversity code as far back as 1995. The noble and learned Lord, Lord Neuberger, issued a famous report on equality and access at the Bar, which laid out a blueprint which has been faithfully followed to encourage diversity and inclusion within the legal profession. Considerable work has been done by the Bar in relation to school visits and in engaging students at all universities. The Inns of Court spend £4 million in supporting students, and as far as pupillage goes, 23 per cent of new pupils are from black and other ethnic minority backgrounds. There is no case for singling out the Bar. The only problem with the legal profession is the Government. Their desire—

Lord Lester of Herne Hill: My Lords, I declare an interest as a barrister. I wonder whether the noble Baroness is aware that the provisions she is talking about were put into the race and sex discrimination Bills and had the support of the legal profession for good reason.

Baroness Deech: I am grateful to the noble Lord for his intervention. My express intention in saying this is that I do not think that Clause 45 is necessary because of the great advances that the Bar has made. It makes it look as though the Bar has not made them. The biggest threat to young barristers is the Government's cut in legal aid in the crime and family areas where young women and black and ethnic minority practitioners are strongly represented and would expect to earn a living, albeit a modest one, doing family and criminal work. The cuts in legal aid are the factor that will most impact on the possibilities for advancement of young women and black and ethnic minority barristers at the Bar. The Bar itself is taking every possible step to help them forward, and I would wish that Clause 45 be regarded in that light. I know it has been brought over from other legislation, but its presence is now superfluous.

7.31 pm

Lord Graham of Edmonton: My Lords, it is a pleasure and a privilege to take part in this debate, although I missed the early part, for which I apologise. It is fascinating to find that in answer to the question, "Are we in favour of equality?", there is not a voice that would say, "No". However, I had not conceived of the range of inequality, but I listened with attention.

No one has worked harder than the Leader of the House recently and no one deserves a good holiday over Christmas more than she does. I shall give her a Christmas box: I do not intend her to say anything at all about what I say, except that it was a good speech, that she enjoyed it and that she will listen to what I have to say in Committee.

Declarations have been made. The House is well aware of my lifelong commitment to the Co-operative movement. I shall use this opportunity to remind the House that the Co-operative movement is an early example of an institution that practised equality. In 1844, when the Rochdale pioneers started, and for the next 160 years, the criterion for being a member of a co-op was one member, one vote. When it came to the sharp end—members of a board of directors—you could stand. I remember more women than men at the large parliaments of the Co-operative movement, and I know they played a full part. We practiced equality, not discrimination, more than many a private company's board of directors. Last night, we heard that the SSRB has not a single women member. That is a shame and regrettable. However, we are bringing attention to these things.

I have been a member of this House for 25 years and was in the other place for 10 years. I shudder to think of the awful debates in which people who had a deep-rooted objection or a passionate belief in an issue used the opportunity to get it out of their system. I listened and wondered how people could be so bigoted in their reaction to other people.

The Bill tries to produce a single body of legislation instead of it being all over the place. It may succeed. Time will probably be the biggest enemy of the people who want to see the Bill doing something. I have been a trade union member all my life. The TUC has pointed out the benefits of the Bill. It requires public bodies to take account of socio-economic disadvantage

when taking strategic decisions. No one can object to that. It improves protection for disabled people and their carers. No one can object to that. In this House and in the other place, I have seen the march of disabled people—that is not quite the right phrase—but the wheels of the wheelchairs grind exceedingly slowly. I have seen the gradual place taken by blind, deaf and disabled people in this place and the other place. It is to the credit of Parliament and its Members that they have been willing to do this. The public ought to be grateful.

The Bill allows employers to take positive action in recruitment and promotion and extends protection from indirect discrimination to, and clarifies the definition of, gender reassignment. It includes enabling powers to introduce specific equality duties relating to the public sector. Those who have studied the Bill more closely than I have will acknowledge that these things are there, but there will still be hundreds of amendments, mainly not to take out, although we have an interesting point about what needs to come out of the Bill: Clause 45. However, a lot of people will say that they agree with what the Bill says, but it does not go far enough or extend to their special interest. The Minister and her colleagues will have the difficult job of possibly agreeing in principle with everything that has been said. However, there are limits on what can go in to the Bill.

I listened closely to the speech by my noble friend Lord Macdonald, who spoke on behalf of the British Humanist Association. As a member of it, I agree with every word he said. No doubt, there will be amendments. Like many other noble Lords, I received a brief from the Equality Trust. I had never heard of it until I got its brief. With a Bill of this kind, people have been waiting in the dark for parliamentary action to take place, and then they spring out, and we find that they are there. I liked what it said. It said that the Bill includes a requirement that public bodies have regard to the desirability of reducing socio-economic inequalities when making strategic decisions. It goes on to talk about the benefits that could come if a small amendment was made to the Bill. It says, but we do not know, that it would halve the homicide rate, reduce mental illness by two-thirds, halve obesity, imprison 80 per cent fewer people, have 80 per cent fewer teenage births, increase the proportion of the population who feel that they can trust others by 85 per cent and allow us to become significantly more environmentally sustainable. That is if we get economic equality.

No one round here would disagree with the fact that, however wage structures have been made and whatever society has done, there is no such thing as economic equality. There are various slogans; for example, equal pay for equal work. We are all aware of them and agree with them, but this is the place that can do something about it. I am sure that the Government will have something to say that may inhibit my enthusiasm for what has been said. All I will say to the Minister and her colleagues is that I do not envy them their task not only in having to listen to a great many briefs which are coming forward from many places, but also in trying to satisfy people against a timescale. I wish my dear friend the Leader of the House well.

7.39 pm

Baroness Pitkeathley: My Lords, without doubt we are engaged on hugely significant legislation and it is a privilege to be taking part. In view of the range of topics in the Bill, the richness of experience in your Lordships' House and the time, I want to concentrate only on the bits of the Bill that refer to carers. I declare an interest as vice-president of Carers UK.

I welcome the provision to extend protection against discrimination and harassment to someone who is associated with a disabled person, which in effect will give carers new rights in the workplace and in the provision of services. Your Lordships will be aware that, until now, the Disability Discrimination Act has applied only to disabled people. However, following the case of a Carers UK member, Sharon Coleman, against her employer, the European Court of Justice ruled, as my noble friend the Leader of the House mentioned, that the European framework directive did not specify that the person discriminated against had to have a disability themselves in order to be protected against direct discrimination and harassment. In introducing this provision through the Bill, the Government are implementing this ruling in British law, but they are going further than that. I congratulate the Government heartily on extending the protection to the provision of goods, facilities and services. That is a very welcome step.

Carers are a hidden but substantial minority of our population. They constitute about 6 million people in the United Kingdom, a number that is set to rise considerably. However, until the Coleman judgment and this Bill, carers have remained one of the very few groups against whom it is possible to discriminate. So it is not surprising that there is much enthusiasm for this Bill in the carers' movement and a commitment to making the law work for carers.

Clause 13 is the heart of the Bill as far as carers are concerned. It is good to see that the definition of direct discrimination is broad enough to cover cases where the less favourable treatment is because of the victim's association with someone who has that characteristic or because the victim is wrongly thought to have it. It is currently unlawful to discriminate against or to harass someone because they are linked to or associated with a person who is of another sexual orientation, race, religion or belief. But the same protection has not so far fully applied in respect of disability, age, sex or gender reassignment. The inclusion of protection against this type of discrimination, which follows the case of Sharon Coleman, is very much to be welcomed, as is Clause 14.

Clause 14, which refers to multiple discrimination, includes protection against discrimination because of a combination of two relevant protected characteristics. Currently, for example, more women than men are carers, which may mean that female carers are discriminated against in the workplace both because they are a woman and because they are a carer. However, we should remember that male carers, who are in a minority, may also suffer discrimination. For example, a male carer may be denied flexible working because the employer underestimates the nature of his caring role, where female employees with children are

[Baroness Pitkeathley]
allowed to work flexibly. Certainly, carers from ethnic minority groups may face discrimination because of both their caring role and their ethnicity. That could be based on racial stereotypes and on attitudes about carers and it could lead them to be treated differently from a white carer or a non-carer from the same ethnic minority. The multiple rule is most welcome.

Let me mention discrimination in the provision of services. Many carers rely extensively on health and social care services because of their own health problems and to provide care for the person they look after. They often have problems accessing appropriate and affordable services. These practices are often discriminatory. For example, both health and social services assumed that a woman with a broken leg would be able to rest it, despite the fact that her husband was in the terminal stages of cancer and required 24-hour care from her. She was eventually provided with support, but it was too late. I am sorry to say that she was left with lasting complications and constant pain from the broken leg.

As to direct discrimination in employment, discrimination against carers can take many forms. At its most blatant, carers can be fired or demoted because of their caring role. I must mention the carer who went to a job interview with a local authority employer to be told that he should reapply for similar positions after his wife with MS had died because then he would be in a better position to take up a post. I should point out that some of the questions that used to be asked of women with children—many of your Lordships, or I should more pertinently say "your Ladyships", will remember questions about their responsibilities and how committed they were to their work and so on—are now targeted at carers. It is very important that this part of the Bill is also pursued.

Having given a warm welcome to those parts of the Bill, I must now mention what I believe is missing. Carers are not currently protected against indirect discrimination. The wording of Clause 19 ensures that protection is extended only to disabled people. For example, if a carer is forced to leave a job because the employer operates a shift pattern with which they cannot comply because of the provision of services locally, they would not be protected and have recourse to the law. Such indirect discrimination should also be unlawful and I hope to hear the opinion of the Leader of the House on that.

I also believe that carers should have the right to reasonable adjustments in their desire to demand and expect flexible working, a view that is supported by the Work and Pensions Select Committee. I believe that more provisions should be made for that. I wish the Bill extremely well and a speedy passage through the House.

7.47 pm

Lord Low of Dalston: My Lords, I, too, very much welcome this Bill. Having grown up piecemeal over 45 years and more, equality law has become an overgrown and impenetrable jungle spread over more than 100 pieces of primary and secondary legislation and thousands of pages of guidance and statutory codes of practice. It is inaccessible to rightsholders, employers and service providers alike and is overdue for consolidation, rationalisation and simplification. Some wish that it could have been even more streamlined than it is and consisted of something much more like a framework Bill setting out the purpose and principles of the legislation in a manner that would have been easier for the general reader to grasp, leaving much to regulations and guidance, along the lines of the Bill introduced by the noble Lord, Lord Lester of Herne Hill, in this House a few years ago. But we have the Bill that we have. However you look at it, it is clear that it will deliver a legal regime that is a great improvement on what we have.

The Government have made clear their commitment to ensure that the Bill provides at least the same level of protection as current law and that, in the jargon, there is no regression. They have largely done a good job. They have listened to concerns expressed by colleagues in another place and have made further welcome changes. But that does not mean that the Bill is incapable of improvement. Without wishing to be unduly parochial, but simply because it is what I know most about, let me say that aspects of the Bill remain of concern to disabled people. Having said that, I should add that the Disability Charities Consortium, which represents the larger disability charities—I declare my interest as a vice-president of RNIB and an officeholder in a number of other disability charities, all of which are declared in the Register of Interests—is clear that it wants the Bill and is not phased by the bureaucratic burdens that have been alleged. I shall therefore be anxious to facilitate the Bill's passage into law. However, that does not absolve us from our duty to subject it to proper scrutiny and I shall be seeking further changes designed to address the concerns to which I have alluded and which I will outline further. I feel sure that, with reasonable give and take, we can arrive at a solution that we can all live with. For today, I will content myself with simply touching on a few of the disability community's priorities for improvement.

Before I do that, it is only fair to mention some of the things in the Bill that are particularly welcome to disabled people. I particularly instance here: the provision that makes it clear that, where a defensive justification is available to claims of discrimination, that defence must be objectively grounded; the establishment of a single threshold for the point at which the duty to make reasonable adjustments is triggered, though some slight tweaking of the wording may still be required here; the elimination of confusing variations in the definition of discrimination as it relates to disability; and, perhaps most welcome of all, the reversal of the Malcolm decision which threatened to wreak so much havoc with the concept of disability-related discrimination.

As for the points where I feel that changes are still necessary, I will just mention half a dozen or so. The noble Baroness, Lady Campbell, has already mentioned three of them so I shall be very brief. First, there is a need to ensure that the public sector equality duty reflects the distinctive nature of disability discrimination as fully as current legislation does. In its desire to establish a common conception of discrimination that goes across all strands, the Bill does not adequately reflect the asymmetrical nature of rights and duties as between disabled and non-disabled people. If we fail to get this right, we risk regression.

Secondly, there is the public sector duty itself. As the noble Baroness, Lady Campbell, pointed out, this does not yet have the precision that the disability equality duty has had for disabled people, which has been such a welcome feature of the Disability Discrimination Act 2005 and has been welcomed by service providers as well since it gave them much more clarity as to what they needed to do to address systemic discrimination against disabled people.

Thirdly, as a frequent flyer, I am particularly concerned about the regression in the Bill's failure to retain the provision in Section 20(5) of the DDA that the cost of reasonable adjustments may not be charged to the disabled person. The definition of "reasonable adjustment" takes account of the service provider's ability to bear the cost, so there is no hardship to service providers in retaining this provision. I hope that we will be able to see it back in the Bill.

Fourthly, the Minister will be aware of the uncomfortable history in which qualifications bodies have misguidedly chosen to demonstrate their commitment to standards that we all share by taking measures that disadvantage disabled people. They have lost the confidence of many disabled people by doing so. Clause 96 of the Bill explicitly authorises an exam system that disadvantages disabled candidates and says in terms that minimising this is merely desirable, not necessary. The wording does not sit comfortably in an Equality Bill. The Government is usually such a champion of the life chances of disabled people and their foundation on basic qualifications that I hope very much that we will be able to move this issue forward through a process of discussion.

Fifthly, there is an unfortunate gap in the duties between the DDA and the special educational needs framework. That needs to be addressed. I feel a bit guilty about this as, when we considered this matter on the Disability Rights Task Force, which prefigured the creation of the Disability Rights Commission back at the end of the 1990s, I was concerned to preserve a clear dividing line between the two systems so that they should not get confused with each other. I have to confess that it has not worked out in practice. Schools' current duty is to use their best endeavours to secure provision and they are exempted from the duty to provide auxiliary aids and services as part of the reasonable adjustment duty under the DDA. This has given rise to a gap in provision as a result of the way in which the rights framework and the SEN framework do not mesh with each other. Removing schools' exemption from the duty to provide auxiliary aids and services would mean that the rights framework placed on schools a clear responsibility to ensure that all their pupils could access the curriculum and fill the gaps that have grown up in meeting the practical needs of disabled children.

Finally, there is one omission from disability legislation that must now be corrected. What ramps are to wheelchair users, large print and other forms of accessible information are to blind and partially sighted people. There are 2 million of us and, with an ageing population, that number is increasing year on year. Large print is easy to produce now, yet even eye hospitals fail to provide it for appointment letters and even intimate matters like test results. Older people are resigning themselves to simply stopping reading. This is neither necessary nor acceptable. It is also a perfect example of where the law should be judged against the outcomes that it produces and not merely against its procedures. I will therefore be tabling an amendment in Committee to introduce an explicit duty to provide accessible information.

I welcome the Bill and look forward to constructive discussions in Committee designed to resolve the few important issues that remain.

7.56 pm

Baroness Gibson of Market Rasen: My Lords, I, too, welcome the Bill and I believe that it was changed for the better in the other place. I am among those in the Chamber who have been campaigning to combine the many discrimination laws into a single act for more years than I care to remember. As a former trade union official, I know how this harmonisation will make life simpler and strengthen protection for those relying on the Bill to improve the lot of some of the most vulnerable in our society.

Like other noble Lords, certain parts of the Bill are more important to me than others, but I shall not outline these tonight because of the time. Rather, I shall concentrate on queries and comments that I have about the Bill. My first comment is about the approach to gender discrimination in pay and contractual terms—vital issues for trade unions and their members. The Bill replicates the existing provisions of the Equal Pay Act 1970 and this for me is extremely disappointing. The Government are missing a great opportunity to improve on the Equal Pay Act. They could have overhauled what is currently a complex, time-consuming and costly legal process to close the gap between men's and women's pay by allowing a hypothetical competitor to be used. Secondly, in relation to the new public sector duty proposals, I would welcome more details of these in the Bill, most especially the inclusion of the requirement for public bodies to consult their recognised trade unions on these issues. This would certainly pave the way for better industrial relations.

My two most important queries relate to women bishops and to equality representatives. I will start with women bishops and I place on record my thanks for my briefing from the Women and the Church task force. WATCH has anxieties about the Bill. It believes that within the Equality Bill, the Church of England may need to claim exemptions under Schedule 9, concerning gender, for two reasons. First, some Episcopal appointments may only be open to men who do not ordain women. Secondly, does Paragraph 2(6) of Schedule 9 mean that those opposed to female bishops and/or opposed to male bishops who consecrate them may be exempt from the Act under this non-conflict clause? When I read the clause, it made me wonder if it really should be removed from the Bill altogether because it appears to give a licence to any group that wishes to hold the Church, or indeed any other religious body, to ransom when such a body is considering changing its stance on issues of gender, sexuality, et cetera. I would welcome the Minister's response.

I should be grateful if the Minister could clarify these issues, because WATCH believes that the best future for the Church of England will include women

[Baroness Gibson of Market Rasen]
and men as bishops without any discrimination between them in terms of functions, responsibilities for care or geographical territory. As a member of the Church of England, I support this view, hence my raising these points today.

I know that the TUC and the Government have fairly recently discussed equality representatives. The Government have identified a clear business case for promoting equality and diversity in the workplace, including enhanced profitability, attracting and retaining talented staff to fill skills gaps and, importantly, more productive employees who are selected, trained and promoted because they are the best people for the jobs. I am surprised, therefore, that the Government have not sought to recognise the valuable contribution already made by union equality representatives by using this Bill to place them on the same statutory footing as other union representatives.

Equality reps are trained to advise and inform union members about equality matters in the workplace, such as the right to request flexible working, equal pay and protection from discrimination, which are all relevant to this Bill. They complement and enhance employers' efforts to engage with workers by fostering a shared level of trust between workers and between workers and managers, supporting the efforts of the employer to deal more effectively with issues that individual workers may find difficult to discuss. At present, equality reps often operate outside the collective bargaining process and, although there is no obligation on an employer to consult with equality representatives, many employers do, because it helps them to deal with sensitive matters; for example, between special interest groups. Working with employers, equality representatives can assist in monitoring and assessing the impact of employment policies on different groups to ensure that measures are put in place to avoid discrimination. Avoiding discrimination reduces the employer's exposure to costly and time-consuming employment tribunal claims while encouraging healthier, happier and more productive employees.

Representatives already receive considerable support from unions to perform their role in the workplace. However, those who are not given paid time off to perform their role are not able to be nearly as effective. Paid time off means time off that is "reasonable in all the circumstances" in order to undertake training relevant to their role and to perform their functions, in line with the ACAS code of practice on time off for trade union duties and activities. Once the Equality Bill comes into force, the pressure on equality reps to give advice and support to employees who fall into one or more of the equality strands protected under the new Act will dramatically increase. Without a right to statutory facility time, the burden of managing workplace disputes between competing interest groups will fall squarely on existing human resources teams and managers.

The TUC would like included in the Bill proposals to give equality reps the same rights to paid time off for training and carrying out their duties as those currently enjoyed by shop stewards, and union learning and health and safety representatives in workplaces where the union is recognised for collective bargaining purposes. The TUC will publish a full report in early January 2010, illustrating the important contribution made by equality reps and why statutory backing should be incorporated in the Bill. I give due notice that I shall place an amendment to include equality reps in the Bill. I look forward to the debates ahead.

8.04 pm

Baroness Cumberlege: My Lords, I start by declaring an interest. When one sees the Bill's protected characteristics, including gender, marital status, age, religion or belief, disability, race and so on, one could perhaps, like most of your Lordships, declare multiple interests. However, I have carried out some training for members of the Catholic Bishops' Conference of England and Wales through my company, Cumberlege Connections, and I am aware of its concerns about the Bill. It is on the implications of the Bill for religious belief that I shall speak, as have, I know, many other noble Lords, including the noble Lord, Lord Lester, my noble friend Lady O'Cathain, the most reverend Primate the Archbishop of York, the right reverend Prelate the Bishop of Chester and the noble Lord, Lord Davies of Coity.

I start by stating where the Catholic Church stands on human rights. All forms of unjust discrimination are wrong. That principle goes back to the New Testament. It is the inescapable consequence of a belief in the innate dignity of every human person, as created in the image of God. However, the church, like the drafters of the Bill, recognises that we can and should take account of differences between people where these distinctions are properly based and not simply a matter of prejudice. Accommodating difference and the needs of minorities is surely one of the key tests that distinguish a genuinely liberal democracy from one which is oppressive. Anti-discrimination law, protecting religious beliefs as much as other characteristics, should not be framed in such a way that it prevents those very beliefs being put into practice, but that, I fear, is exactly where the Bill takes us.

A matter of grave concern to many religious bodies is the definition of employment for the purposes of religion in paragraph 2(8) of Schedule 9. Such employment is relevant only if it "wholly or mainly" involves leading or participating in formal liturgy,

"or promoting or explaining the doctrine of the religion".

It is only if a post meets that definition that the employer can legitimately make a requirement relating to sex, transexuality, marriage or civil partnership, divorce or sexual orientation.

We are not debating here whether different religions should choose to make such distinctions. There are well established matters of clear belief and doctrine which religious bodies have held, in some cases for millennia, and which they are fully entitled to hold under Article 9 of the European Convention on Human Rights. All we are considering is whether the right of the religion to exercise that choice should be restricted by law to the narrow range of posts covered by the definition in paragraph 2(8) of Schedule 9.

Under the current Employment Equality Regulations 2003, there is no definition of employment for the purposes of an organised religion. An employer may

therefore lawfully apply a requirement related to sexual orientation, first, so as to comply with the doctrines or, secondly, because of the nature of the employment and the context in which it is carried out, so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

The same tests are in the Bill and seem to strike the right balance. So why do the Government feel that they now need to define employment for the purposes of religion? What is the mischief that this new provision addresses? I understand that officials have indicated that it has been introduced because the existing provision was being grossly abused in some cases. If so, I would have thought that courts would have no difficulty in making a judgment on the facts as to whether the plain meaning of the regulation was being abused and ruling accordingly.

What the Government have done in introducing this restrictive definition, however, is create a very narrow class of persons to whom the provision applies. It covers only those whose time is wholly or mainly spent on leading or participating in formal liturgical practices, or promoting or explaining the doctrine of the religion. As the most reverend Primate said, it takes no account of pastoral or representative functions, or of any of the myriad activities carried out to meet the functions of a religious body. Any post where liturgy and doctrinal explanation were not the whole or main tasks would have to be open to a person of any sex, marital status, transsexual history or sexuality, whatever the beliefs of the religion. It would be unlawful to reject an applicant or take action against a person in post, however grave the scandal caused.

What would this mean in practice? If a man employed as a Catholic diocesan marriage care co-ordinator abandoned his family and his wife in a well publicised and scandalous divorce case to remarry in a civil ceremony a woman with a similar history, he could not possibly have any credibility in the function in which he was employed. Yet any action the diocese took against him as a result would be unlawful.

I am not arguing that a religious body should have the right to refuse any form of employment on the grounds of sex, marital status and so on. Churches can and do employ builders, accountants and architects where there is no genuine occupational requirement to be a member of the religion never mind any question of their personal circumstances. I am arguing, however, that in a number of significant posts which may be occupied by people who are ordained, consecrated, religious or lay, it is right for a religious employer to require that their lives are not manifestly in opposition to the teachings of the religion and the beliefs of its followers. Is that too much to ask?

However, the Bill does offer a crumb of comfort. The Explanatory Notes reassure us that the definition, narrow as it now is, will at least permit the Catholic Church to require that a priest be a man. I am afraid to say, however, that the Bill will not even achieve that. I do not know whether those who drafted the Bill actually stopped to talk to a Catholic priest but the only priests I can think of who spend their time wholly or mainly either engaged in leading liturgy or in promoting or explaining doctrine will be the staff of seminaries or those with catechetical roles. The definition simply will not do as a description of the work of most priests.

I took a diary of a priest at random. He has spent 21 hours on the definition that is in the Bill. If one considers all the other activities, as the most reverend Primate was saying—such as private prayer, social engagements with parishioners, dealing with callers at either of his church offices—he has two—administration and finance, school visiting, paperwork, hospital visits, appointments, visiting the sick and other pastoral activities, they add up to over 60 hours a week. This is not a job description, it is a vocation: a way of life in the service of others.

Finally, this is not a matter that is of concern to the Catholic Church alone: 11 other religious groups who wrote to the Minister for Women and Equality in November stressing their very real concerns. I hope the Leader of the House will, on reflection, see fit to bring an amendment before your Lordships in Committee to remedy this defect. If not, I suspect amendments will need to be tabled from other sources to remove this unnecessary and discriminatory definition.

8.13 pm

Baroness Billingham: My Lords, my first thoughts when reading the Equality Bill were, "Haven't I been here before? Isn't this already the case?". On rereading the Bill, however, I became persuaded that readdressing the issue is not only necessary but overdue. One of the great dangers is assuming that checks and balances are not only in place but that they are working. They are not. More than that, the scope of inequality today is wider than ever and includes issues such as civil partnerships, race, sexual orientation and age. All have implications which are more complex than ever and which require further scrutiny.

I congratulate the Government on taking these issues further and making a Bill fit for the 21st century. Harriet Harman earns our praise for the dogged manner in which she seeks to counter discrimination. Incidentally, I also praise the outstanding version of the Bill—its "easy read" format. I was in the gallery of the other place when Harriet Harman presented the Bill. She, too, paid tribute to the easy read, saying that it made the Bill available to everyone, including those with learning difficulties. She added that she had found it useful and helpful. We all chuckled a bit at that. It was a lovely moment but we knew what she meant.

It is also right to look at the Bill with European eyes. Equality legislation owes much to the European Parliament and the Commission. While in the 1990s they tackled problems on a pan-European scale, we learnt from each other, copying the best practices, levelling up—not levelling down—and much of the work of the Bill before us today owes its starting point to its progress in Brussels.

What difficulties do we still have? Secrecy and opaqueness are the twin enemies of equality. As long as employers or authorities can hide behind the veil of secrecy, challenges are almost certainly impossible. We may think we are getting a raw deal but getting proof is a real obstacle. The Bill takes this on board and provides a framework which helps to overcome these problems.

[Baroness Billingham]

In the short time allotted to me today, I wish to focus on what to some might seem an obscure area; namely, sport, where equal opportunities and participation are a far-off dream. Let me flag up some problems and in so doing acknowledge the help that I have received from Sport England, the Commission for the Future of Women's Sport and the Central Council for Physical Recreation.

Let us look at some facts. Only one in eight women take part in sport, while one in five men do. The gap is widening. Why so few women? The list of my reasons would include lack of confidence, lack of childcare, transport costs and a lack of friends to go with. It a great pleasure therefore to tell your Lordships that Sport England has set new targets for 1 million more people being active in sport by 2012. Within that, a new initiative called Active Women is targeting £10 million from the National Lottery. It aims to get more women into active sport from what it describes as disadvantaged communities where participation in sport is particularly low.

Alongside this, all the major governing bodies within the CCPR are responding to this priority area. My own chosen sport of tennis is particularly friendly to lifelong participation, both on court and off. I am living proof of that. Volunteers are essential in all sport and women can play a huge part in setting up the framework for sporting participation. We have thousands of junior players in tennis and thousands of active veteran players but we lack women between 16 and 35 for some pretty obvious reasons. We can do much better in coaxing them back to sport, which they played at school and then forgot. All sports are tackling this gap. It is a real gender gap and the Government have prioritised this as a target group. Getting mums off the touchline and into the game, into officialdom, into all areas that enhance sport are good and reasonable objectives.

Dame Tanni Grey-Thompson recently headed a commission to look at the future of women's sport. She and her commission did an excellent job. She highlighted the fact that the dominance of men in the hierarchy of sports administration and leadership is nothing short of scandalous. Only one in five members of the boards of national governing bodies is a woman. Even worse, a quarter of all sports have no women at all on their board. There is still a macho culture in sport, and women's participation in national and local sport is almost totally ignored by the media. It is a disgrace.

Sport is at last waking up to its shortcomings, and you might ask why that is important. It is important simply because sport offers so much in health and happiness, and the role of the female in the family dictates so much the activities of her children. It is a fact that if the mother is involved in sport, the children are 80 per cent more likely to be involved, too.

I apologise for straying off piste, but I had to demonstrate that equality in all corners of our lives is imperative if we are to give all citizens a fair and full life without discrimination and unfairness. I wish the Bill good fortune. It has so much to commend it. It will serve to remind those in sport of their failings; it will at last offer men and women a proper chance to share equally in all aspects of sport; and it will help to challenge existing discrimination. As such, it is most welcome.

8.19 pm

Baroness Northover: My Lords, my own portfolio is international development. Many men, and especially women and children, around the world would give a great deal to be protected by a Bill such as this. However, this Bill has been a long time in coming, and I pay tribute to my noble friend Lord Lester, whose tireless work and own Bill helped to give birth to this one.

The lateness of the Bill means that we have to be very disciplined in dealing with it. Our colleagues in the other place have done a great deal to get the Bill to where it is today, and I commend their efforts. The noble Baroness, Lady Warsi, said that this is a missed opportunity, but she certainly did not spell out how any Conservative Government, should they be elected, would improve on this. Rather, her few points seemed to seek to weaken the Bill. If the Tories welcome this as they say they do, they will need to demonstrate that.

Is this Bill needed? We have heard much evidence of inequalities in our society. Let me give you one more example. Let us look at what has become our bank, the RBS. It is 70 per cent owned by us—a figure that is soon to rise to 84 per cent. There are 12 members of the board. Not one of them is a woman. There are 22 people on their executive and management committees, of whom only two are women. How in the 21st century can that be the case? How can anyone doubt the need for an equality Bill when you see this sort of thing? How dare they operate like that? This Bill may not deal with that, but it may help people to get to a position where this is less likely to be the case. As the noble Baroness, Lady Afshar, said, the Bill is necessary, if not sufficient.

To the Bill. We still have a number of crucial areas of concern, despite the best efforts of Lynne Featherstone and Evan Harris, my colleagues in the other place. We on these Benches have rigorously and strictly prioritised, given the time constraints. The first area that we wish to address is equal pay. The pay gap between men and women remains wider than 20 per cent. The Bill has not made pay audits mandatory. It surely must. I was the chair of Women Liberal Democrats in the early 1990s, and I remember arguing for mandatory pay audits, drawing on experience from Canada. At that time, my own daughter was a baby. Now she is 16, and it will not be long before she launches into the world of work. Time passes, and this issue has not yet been adequately addressed. Others have worked for many more years on this.

One of our absolutely key areas is homophobic bullying in schools, as my noble friend Lord Lester has said. We also wish to address the Bill's failure to forbid discrimination by religious service providers on the basis of sexual orientation, and the extent to which the public sector duty in Clause 148 includes religion. My noble friend Lord Lester has outlined all these, and I will not add to his remarks here. I also seek clarification of two areas on behalf of my noble colleague Lord

Avebury. He has already raised them with Ministers, and when he is fully recovered from his recent ill health he will take them forward, unless we get satisfactory assurances. I am very glad to see him here this evening.

The first issue that my noble friend will be raising is on caste, a subject which has been very ably discussed by the noble and right reverend Lord, Lord Harries of Pentregarth, and the noble Baroness, Lady Flather. Discrimination is persistent, as we have heard, and severe in south Asia. It would be a miracle if, in the relevant communities in the UK, those practices had vanished, and the noble and right reverend Lord, Lord Harries, indicates that they may well have expanded. The Solicitor-General recognised this and suggested improving the Bill, and she asked the Equality and Human Rights Commission to complete research on this area quickly. Can we be assured that it has been asked to do this? We have heard both replies—that it has not; or that if it has, such research will not be finished while the Bill is before us. Therefore, it is clear that we need to take this forward.

My noble friend will also be taking forward the anomaly that Scottish Gypsies are not entitled to the same protection as their counterparts in other parts of the UK. We welcome a letter from the Solicitor-General expressing sympathy on this and saying that a recent employment tribunal judgment has declared that Scottish Gypsy Travellers are a distinct ethnic group and discriminated against and are therefore covered by the Bill. However, as that judgment is being appealed, we must put this into the Bill.

On the positive side, I am extremely glad to see that the Bill enables stronger positive action, and I would like to highlight its importance in the political sphere. Personally, I enormously welcomed Labour's women-only shortlists. I fought hard in my own party for the zipping that we implemented for the European elections. We now have six women MEPs and five men.

Positive action is compensation for discrimination that exists. I trust that all political parties will seize this opportunity to ensure that their parties are more representative in all respects. It has been extremely striking that the Bill has been pushed forward particularly by women in the Commons. Over 50 per cent of the speakers today are women, even though only 20 per cent of Peers are women. This Bill could help move things forward.

The Bill is very welcome and we should not let it fall. Therefore we must be extremely disciplined. To facilitate that, the key areas that I and others have mentioned must be addressed. We appreciate how much work the noble Baroness and the Bill team are putting in to address Peers' concerns. Despite the wishes of the noble Lord, Lord Graham, clearly they will not have a peaceful Christmas. Let us see what can be addressed before we get to Committee so that we can expedite the Bill and get it into law.

8.26 pm

Baroness Howells of St Davids: My Lords, I am aware that I am in danger of bowling a googly tonight by what I have to say, because the current legal framework is not without deficiencies, omissions and anomalies. I am also aware that introducing nine major pieces of legislation, 100 statutory instruments and 2,500 pages of guidance over a period of over 40 years is not the best method of achieving a coherent legislative landscape. I can see that, from a lawyer's perspective, the urge to tidy things up must be irresistible, and I am sure some will relish the prospect of a mightily increased case load.

The discrimination experienced comes from many different kinds of conditioning, so I trust that you will bear with me if I say that harmony, symmetry, alignment and simplicity are understandable virtues, especially when casting the net so wide and trawling so deep, at least in the public sector. The noble Lord, Lord Morris of Handsworth, touched on some of the things I was about to discuss, so now I will just confine myself to a few words and a few questions.

Is what is proposed in the Bill likely to effect better outcomes than the situation today, imperfect as that is? Will the Bill have the necessary bite to give an individual who is the victim of a discriminatory act redress before the civil courts or at a tribunal? Put bluntly, I think not. To give some telling examples, I ask: will it reduce the eight times more likelihood of a black male than a white male being stopped and searched by the police? Will it reduce a black person having a one-in-16 chance of obtaining a job interview compared to a one-in-eight chance for a white person? Will it add to the five students from the Afro-Caribbean community, 80 per cent of whom are aged 24 and under, to this year's intake of 3,000 students at Oxford? If not, how will they get justice?

Even in the public sector, which accounts for only 20 per cent of the workforce, will not the public sector equality duty result in public bodies, notably local authorities, generating a mountain of paper testifying to their policy compliance, as they have in the past, but on a scale hitherto unimagined? Engagement will then take place with that other recent creation, the Equality and Human Rights Commission, again established as an act of harmonisation and simplification but already riddled with widely publicised fault lines. The engagement will no doubt be dense and deep, but I would argue that what little change there will be will be incremental rather than fundamental. Rather than discrimination being purged, it will be buried in a maze of management-speak, impenetrable to all but the professional policy staff involved.

There are those that would call me a dinosaur, unable to see the brave new world that the Bill will usher in once enacted. My retort is that the new world carries much of the old with it, and disentangling ourselves will not necessarily be achieved just because the Bill is a seamless, streamlined and exhaustive entity. November's report from the schools adjudicator says that more than one in two state schools are breaching the recent supposedly exhaustive admissions regulations designed to prevent a covert selection in their pupil intake. That is instructive of the kind of problems that will be encountered with the Bill and which will be made more difficult to disentangle for the victims.

The EHRC will, especially in the current economic climate, simply lack the resources to undertake the level of activity necessary to work across a vastly

[Baroness Howells of St Davids]
wider spectrum to secure the kind of step change necessary to shrug off the policy countermeasures deployed, unwittingly or otherwise, to frustrate it in enforcing the legislation. Those discriminated against will simply be forced back into the kind of individualised, adversarial and post-event actions with which many are currently faced. This would result in our being in no better situation than we are today, except that those constituencies aggrieved would be greater in number than at present, with less help to present their grievance. To counter that we must secure, as a minimum, a commitment to include in the Bill the possibility for representative actions to be brought by the EHRC or some other such body, if we are to have a piece of legislation that will work in practice.

I know that other Members have spoken on many of the other concerns that I have, so I end by asking the Minister to consider the question that I have posed with her usual courtesy, as it is my belief that we will avoid many of the confrontations that we have experienced on the streets of this country if we consider these matters seriously. If there is no means of the victim getting redress, it will cause this country to go back more than 40 years.

8.34 pm

Baroness Howe of Idlicote: My Lords, I congratulate the Government and especially our talented Leader of the House and welcome the Equality Bill and its two main aims—to harmonise existing anti-discrimination laws in all human rights areas and to strengthen and extend the remit to further promote the whole equality process. In the 1970s both Houses campaigned together to pass the Equal Pay Act 1970 and the Sex Discrimination Act 1975, and set up the EOC. I had the honour of being its first deputy chairman, under the skilful chairmanship of the noble Baroness, Lady Lockwood, who sadly is not in her place tonight. I little thought then that some 40 years later we would be debating a Bill to try and ensure that equal pay, the bedrock of that first piece of legislation, is finally achieved.

Today I want to concentrate on three aspects of the Bill: equal pay—surprise, surprise—age discrimination and pensions. First, however, I shall make a few general points. Clearly, it makes sense to try and ensure that government and other public authority policies that aim to reduce socio-economic disadvantage do not fall foul of this legislation. The Government have shown encouraging beginnings, for example in attempting to break the cycle of deprivation in early childhood—something that many of your Lordships have long campaigned for, and will continue to do so. However, we must make sure that these clauses do not have a counterproductive effect on these policies; I have heard doubts expressed already.

I welcome the additional disability clauses that have been mentioned—with the disadvantages that may exist—by my noble friends Lady Campbell and Lord Low. I am not going to say more about this, other than that I thoroughly agree, because they have covered the areas so completely. However, I want to say that I especially welcome the inclusion of carers of disabled people in positive action schemes which allow them, for example, to request flexible working. I agree with the noble Baroness, Lady Pitkeathley, that indirect discrimination applies to carers as well.

On the political front, I have to admit that I have never been much in favour of women-only shortlists in a positive discrimination sense. However, as all parties now use this to see that more women candidates are selected, and if it ensures a more representative variety of views in the legislative process, then hopefully the proposed sunset clause will be redundant well before 2030.

I have one query about religion; the way it has dominated today's debate has rather surprised me. The noble Baroness, Lady Gibson, has already referred to the Church of England's debate about appointing women bishops—I must say this has my full support. WATCH points out that any measure passed by the General Synod concerning the appointment of bishops will eventually come to the House of Lords for approval, and asks whether the House could, let alone should, approve a measure that discriminates unfairly. Perhaps an even more pertinent question is whether it would be legal to do so once the Equality Bill is law. Cynically, I suspect that the answer is yes. I would be grateful if the Minister could indicate the Government's views on this when she replies—and not just whether the answer is yes, but whether that is actually what should be happening.

I turn to my three main topics. I have already mentioned equal pay. We should remember that the pay gap is not just the result of pay discrimination, but also differences in education and experience, gender stereotyping, occupational segregation and, crucially, the current lack of part-time and flexible work. This is increasingly of equal importance for male as well as female workers. Clearly, this Bill is an opportunity seriously to begin closing the gender pay gap. The pay gap between men and women is something like 16.4 per cent for full-time workers, and higher for part-time workers. The Women's National Commission notes that in the financial sector it reaches as high as 60 per cent.

As we have heard, the Bill contains powers that would allow the Secretary of State to require the reporting of the gender pay gap where a firm employed 250 or more workers, starting voluntarily. This clause would not come into effect until 2013 and only if insufficient progress on reporting had been made. As UNISON has pointed out, this would mean that 50 per cent of private sector workers would be excluded from these somewhat limited measures. Now we have this other series of press rumours, which say that only companies that employ 500 workers would be under pressure to produce data showing that they do not discriminate. Your Lordships will understand why I remain somewhat gloomy about the year by which equal pay for work of equal value will be achieved. We should constantly remind ourselves of the prediction made by the dissolving EOC that it would take until 2085, unless a far more proactive approach was taken.

Returning to how work is organised, it is vital that employers, too, recognise the right to flexible working as valuable for their own bottom line. The Co-operative's analysis of the pay gap shows that in most companies

there is relative equality at junior levels, until it reaches a point where women's representation drops off markedly. That point is often where flexible working practices diminish.

I turn to age discrimination. Those of your Lordships who attended the All-Party Group on Patient Safety initiated last Tuesday by the noble Baroness, Lady Masham, and heard from relatives the horrendous accounts of inadequate care and treatment of elderly patients in NHS hospitals, will certainly welcome the Bill's extension of direct anti-discrimination rights in the provision of goods and services. The Bill will be important, too, for those reaching the current default retirement age who want and need to continue working. It is estimated that non-employment among older workers costs the economy between £19 billion and £31 billion a year. Correspondingly, by keeping the mind active, the years of dependency and cost to the NHS will be equally reduced. Thus, making the right decisions now about the default retirement age will be critical. We have all the results from the Heyday case, and so on. Like other noble Lords, Age Concern, Help the Aged and Business in the Community, I hope the noble Baroness will respond by saying that now, in the Bill, is the time for the default age to go.

Lastly and briefly, I come to pensions. In recent legislation the Government have certainly made progress, with the encouragement of the noble Baroness, Lady Hollis, in seeing that women who play the major role in bringing up families—and either have no jobs or work part-time—are given some extra pension credit. However, the planned upward shift of the state retirement age to 66 or 67 over the next few years will mean that while men must wait an additional one to two years for their state pension, women will not be able to draw theirs for an extra six years.

I am not going to go on about annuities, which is my pet subject, but on this issue it is fairly important. Figures show that even today the majority of pensioners living in poverty are women. Could the situation that women pensioners face be construed as either direct or indirect discrimination under the Equality Bill? Given the considerable price of childcare, as my noble friend Lady Deech has already mentioned, whether provided by the state or privately, if women had received a salary for the role they played in bringing up children, their pension would be very different today.

In conclusion, I again applaud the Government on this legislation. There are clearly issues and problems that will need attention, and I fear that we will need more action on the issue of equal pay. As other noble Lords have said, it is the age discrimination clauses which will have the most important long-term value, especially if a decision is taken now to abolish the default retirement age.

The Archbishop of York: Before the noble Baroness sits down, since women bishops have been mentioned twice in your Lordships' House, is she aware that under the present legislation for ordaining women to the priesthood, the Measure itself as well as the Act of Synod make it possible for parishes with a conscientious objection on theological grounds not to accept that particular ministry and to petition a bishop, like myself, to appoint someone to minister to that particular parish? Some may describe this as discrimination, but I do not think it is; I have ordained women into the priesthood. Those parishes have a right to petition under the present legislation to appoint someone who does not ordain women to look for their sacramental ministry. When women are consecrated bishop, should the Measure come through and be deemed to be expedient—I favour the consecration of women as bishops—someone might decide that I was participating contrary to their theological position because I did so, but I would not see that as discrimination. They might describe it in that way, but I would not describe it as discrimination. I offer ministry in some parishes. I never see it, in religious terms, as discrimination.

Baroness Howe of Idlicote: I hear what the most reverend Primate says, but I take the other view.

8.46 pm

Baroness Turner of Camden: My Lords, I welcome the opportunity to debate this Bill at Second Reading. The Government are to be commended for introducing the Bill, which attempts to harmonise discrimination law and sets out key characteristics that are protected: age, disability, gender, maternity, sexual orientation, religion or belief. This is a massive legislative venture.

I was for a number of years a member of the Equal Opportunities Commission, which has now been taken over by the new Equalities Commission. I believe that the campaigns led by the EOC have had the effect of widening opportunities for women, in particular the WISE campaign—Women into Science and Engineering. This has had the effect of increasing the range of jobs available to women which is very important in an increasingly technical and science-based economy.

We sometimes overlook how far we have come and how much is due to the courageous work of previous generations of women. Problems still exist, of course, and we have heard about a number of them in today's debate, but I believe that the Bill will help by drawing attention to the gender pay gap and insisting on publication of the difference in pay between men and women. Moreover, maternity rights are included in the protected characteristics in the Bill. I support what the noble Baroness, Lady Deech, said about the necessity for further support in that direction.

I am pleased that sexual orientation is also specifically included in the Bill as a protected characteristic and that discrimination on such grounds is to be quite specifically outlawed. There is a problem here which I do not think has been entirely resolved by the Bill, although there has been an attempt to do so. It relates to religion. The Bill seeks to promote understanding and tolerance for the right of individuals to believe in and practice religion. This should not, however, involve the right to impose religious beliefs on persons who do not hold them. There are interpretations of religion—I emphasise interpretations—since most mainstream religions maintain that they support tolerance and regard equality among people as important. I am talking about interpretations which support the repression of women and strongly oppose rights in relation to sexual orientation. In such cases, violence often occurs. There is domestic violence against often very young women—including forced marriages—and homophobic

[Baroness Turner of Camden]
violence against gay and lesbian people. We must make it clear that culture and/or religion offer no excuse for harassment of people protected on grounds set out in the Bill. Our law must always prevail.

There are, however, some provisions in the Bill relating to religious organisations which may need further examination when the Bill is considered in Committee. The issue of employment in state-funded faith schools has recently been brought to my attention. It would appear that religious requirements can be imposed on teachers in such schools that would not otherwise be imposed without the need to establish that it is an occupational requirement.

Schedule 9 sets out a number of exceptions to the requirement not to discriminate. This would appear to permit discrimination on grounds of sexual orientation as a,

"proportionate means of complying with the doctrines of the religion"

That could leave the way open to discrimination against individuals doing teaching or administrative work, and I think that that would be unacceptable.

The Bill also has specific exceptions to allow religious organisations to discriminate in employment and in service provision on religious grounds when they are working under contract to provide public services or performing public functions. This was dealt with in more detail by the noble Lord, Lord Macdonald of Tradeston. I say in passing that I am a vice-president of the Humanist Association.

I am glad that age has been included in the Bill as a characteristic which should be protected against discrimination. We recently debated older workers and employment. It is now generally agreed that we are all living longer and this has caused Governments—and pension providers—to consider raising the retirement age. The default retirement age of 65 is to be reviewed by the Government in 2011. There is surely a case for dealing with it earlier than that, particularly in the light of comments by the judge in the recent High Court case. There is no reason for not dealing with it in this Bill. However, there is little point in raising the retirement age if the individual concerned simply transfers to jobseeker's allowance instead of receiving retirement benefit. It makes sense only if appropriate work is available. It is also an argument for much more flexible working to enable older people to continue in work for much longer.

Our recent debate indicated that unemployed workers aged 50 and above are finding it increasingly difficult to obtain other employment. There is a case for additional support for such individuals, many of whom have skills that are said to be necessary, but they are simply rejected on grounds of age. Clause 78 does empower a Minister by regulation to require an employer to provide information about the difference in pay between male and female employees. As I said earlier, I welcome that; I think it is a good idea. It might be an idea for employers to provide information about the number of employees over 50 and the policy of the company in regard to the employment of older workers. If everybody is to have their working lives extended, there is a case for age profiling in order to assist that process.

There is a great deal in this Bill that is entirely admirable. I have just concentrated on topics in which I have a particular interest, but in general I fully support the Bill and would like to see it on the statute book as soon as possible.

8.52 pm

Baroness Miller of Hendon: My Lords, like other noble Lords, and especially my noble friend Lady Warsi and the noble Lord, Lord Lester of Herne Hill, both of whom represent their—I am sorry, it is two years since I have taken part in a debate, although it does not seem that long, and all of a sudden I find that the words are not coming out properly. But I did get my MA during that time, so that is something which can compensate for it.

I welcome this Bill, but the problem is that it is very large and complex and it has come in very late in the life of this Administration. After listening to all the speeches, I have no doubt at all that there will have to be a lot of looking at and altering things. I know that the noble Baroness, Lady Royall, has suggested that we should not table too many amendments if we want to get the Bill through, but she and all our parties would expect us to do a thorough job on it. It has taken a long time for a consolidation Bill on all these equality matters to come in and we must not neglect anything that is needed.

I will not talk about all the things that other people have. Nobody could fail to be impressed by what the noble Baroness, Lady Campbell of Surbiton, said and what the noble Lord, Lord Low, added on the question of disability. No one could believe that the noble Lord, Lord Alli, does not feel very strongly about civil partnerships. He would like civil partnerships to occur in religious places and so on. However, I have left all that out of my speech and shall not comment on it because it has all been said so well already. We have an awful lot to think about. At the end of the day, we need a culture change and we need to think differently. We should not jump up immediately and say no to that suggestion; we should be prepared to listen much more so that we can be helpful in getting such things through.

Throughout my political life I have been concerned with equality, or perhaps more particularly the inequalities that need to be dealt with. However, perhaps because I am female, my special interest is women. I have always been very concerned about matters relating to women. I remember that when I ran the 300 Group in the early days I used to speak to the noble Baroness, Lady Gould, about what we in our individual parties could do. I do not agree with the noble Baroness, Lady Northover, about all-women shortlists. Frankly, they are somewhat demeaning for women and I do not think that those involved always consider that they have won their seats through fair competition.

Yesterday, the noble Baroness, Lady Deech, asked a Question in this House about the possibility of titles being used by the husbands of women Members. It was suggested that the position of women in the House is not as powerful as that of men because a male Peer's title can be extended to his wife whereas a woman Peer cannot share her title with her husband. Funnily enough, I spoke about that as long ago as

1993 on a Question tabled by the late Lady Castle. She said that it was not right that we keep saying "My Lords" and that we should say "My Lords and my Ladies". I said at the time that I did not mind about that; I simply thought that it was not right that a woman could not share her title with her husband. I added that my husband did not mind a bit; he was quite happy to be called "Mr" as long as he could use the car park outside. That caused a laugh, as it has done now. He is currently sitting in the Chamber listening to the debate. I made him type out my speech for me last night, although I am not using any of it. Therefore, as he is sitting there, I want to mention him, as I do not want him to be cross with me. That is why, when I saw him coming into the Chamber, I tried to signal to him to go out.

Baroness O'Cathain: Stop digging.

Baroness Miller of Hendon: My noble friend is quite right. As I said, the noble Baroness, Lady Deech, asked a Question in the House yesterday on the same point, but I was rather disappointed at the dismissive way in which the Minister responded. He said that,

"the Government are not aware of any great anxiety or urgent desire for change in this respect".—[*Official Report*, 14/12/09; col. 1310.]

If they are not aware that there is a problem, they are not listening. There are fewer than 120 women Peers—a serious disparity in itself, although that is another matter—a very large number of whom have no husband. It is clear that only a few people are really concerned about this matter, but I should not like to think that the Government are not interested in us because we are very small in number. I am sure that the noble Baroness, Lady Royall, does not think that, but I feel that it is something that the Government should look at. It is, in any case, a matter for royal prerogative, so perhaps we should not even be considering it. When I raised the matter in 1993, I was totally ignorant; now I have learnt a little more.

However, there is something that I think we could change. It is not a matter for regulation or legislation but perhaps a matter for the usual channels, and I think that we should change it because this is, after all, the senior House in the Parliament of our country and we should be the ones to show equality in practice. I refer to the allocation of places at State Opening and to where Peers sit in the Chamber. Wives can sit in the Chamber, adding to the glamour of the event, bedecked in their long gowns and many of them in tiaras. However, husbands are consigned either to the vertiginous height and narrow stairs of Strangers' Gallery or to the Royal Gallery, where they can see Her Majesty coming through but cannot hear a word of the Queen's Speech. Alternatively, they may, as my husband does, crouch round a television set in one of the offices here. The usual channels should look into that. It is not proper. We are not talking about a lot of people. Those husbands who would like to sit here should have the right to do so. Maybe they could be balloted or whatever. I have gone on for too long.

I end on a little note of levity on account of the fact that we have listened to some quite harrowing stories today, which is why I mentioned that I think that we need a change in the way we think about these things. It cannot all be legislated for. It has to be about how we behave ourselves.

9 pm

Lord Warner: Well, my Lords, follow that! I rise to support this Bill and the Government's commitment to equality. I also want to raise some concerns about aspects of the Bill's approach. It seems sensible to consolidate existing discrimination law, which has been built up over 40 years, and alongside that to strengthen aspects of it. I, too, support that in principle.

However, let me say a few words about Clause 1, which introduces a public sector duty regarding socio-economic inequalities. Greater socio-economic equality is difficult to oppose in principle, certainly from these Benches, and I do not oppose it in principle. However, what I would call the sceptical pragmatist in me raises an eyebrow about trying to legislate for it and the deliverability of this clause.

Many of the bodies involved struggle already to deliver their core businesses and to meet rising public expectations. Most of the bodies are going to have their budgets cut in real terms over the next five years and will be required to drive efficiency as never before. Adding to their woes with what many will see as a piece of tokenism is in my view ill advised and I believe that the clause should be withdrawn, as others have suggested. I do not think that it would weaken or do any damage whatever to this Bill if it did not have Clause 1.

I shall speak about the Bill's approach to religion in Clause 148, on the public sector equality duty, and to some of the related issues in Schedule 9 on work exceptions and Schedule 23 on general exceptions. In doing so, I declare my interest as a member of the British Humanist Association. Clause 148 imposes a duty on public bodies to,

"advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it".

Like the noble Lord, Lord Lester, I do not think that the Bill is right or sensible to apply this provision to religion or beliefs. This provision would be well outside the delivery capability of most public bodies. Religions and beliefs are not fixed or innate, unlike other protected characteristics, such as race or age. Claims can legitimately be made and argued about, as the noble Lord, Lord Lester, has indicated. Religions or beliefs are treated differently from other equality strands in legislation such as the Racial and Religious Hatred Act 2006. They are a private matter and not for public bodies to meddle in, but Clause 148 encourages public bodies to do so.

I turn to Schedule 9. At present, organisations with an ethos based on religion or belief are given some wider scope to discriminate in their employment practices on the ground of religion or belief, more so than other employers, and are allowed to refer to their ethos to justify that discrimination. As I understood it, the noble Baroness, Lady Warsi, seemed to want to extend this, but I think that we should talk about narrowing it. As drafted, the Bill would apply this discrimination even when a religious organisation was working under a contract to a public body and was paid to provide

[LORD WARNER]
services to the broader public, not just followers of its religion. As my noble friend Lord Macdonald eloquently indicated, this is quite unacceptable. It provides employment prospects in public services to particular religious believers, rules out applicants with the wrong religion or no religion and threatens the employment and promotion prospects of people transferred from a public body under a contracting-out proposal. The Joint Committee on Human Rights has expressed its concerns about the extension of the existing exception for religious organisations, but so far the Government have been unwilling to act on those concerns.

Lastly, there is the related issue of religious organisations effectively being allowed to discriminate against service users on the ground of religion or belief when working under a contract with a public body and paid under that contract from the public purse. The Bill as currently framed allows that, even though the religious organisation cannot discriminate on the ground of sexual orientation, as provided for in paragraph 2(10) of Schedule 23. That seems to me to be a very odd contradiction, but it means that in practice religious groups that get such a contract from a public body could, in time, turn those services into ones restricted to a certain set of beliefs. That would be much more divisive than now.

I have been in the House for 10 years and, like other Members, I have received a large enough number of briefings from religious organisations to realise that my concerns are not fanciful. If we leave the legislation as it is, it will only encourage those who wish to advance the cause of their religion at the expense of taxpayers. I ask the Government to think again about the three issues that I have raised and to bring forward some amendments. I hope that the Minister can give us some reassurance on those issues.

9.06 pm

Baroness Murphy: My Lords, the fundamental principles underlying the Bill cannot be challenged and, in general, I give the Bill my support. For me, the most pressing area of need in the Bill is the intent to ban age discrimination in the provision of goods and services. I note that there will be further consultation on how that is to be achieved. I have belonged to a number of organisations which have decided to subject their people to diversity training—I guess most of us have been through it at some stage—and Members will probably know that the most common outright prejudice is not sexism or racism but common or garden ageism. All my professional life as a psychiatrist for older people, I have had to struggle against NHS and local authority ageism. We desperately need legislation in this area.

The Government's calculations on the possible impact of implementing equality of access to care in mental health services, in general medical and surgical services and in cancer services, will prove extremely costly but it is well worth the investment. I understand the complexity of implementing these provisions and the need for further consultation but I am worried about the proposed delay. There is no timetable outlined and I hope that the Minister will give us some kind of timetable for implementing these vital age-equality provisions.

There are some very disappointing areas in the Bill. From discussions while the Bill was zooming through the other place, I had thought that Vera Baird, the Solicitor-General, had indicated her support for prohibiting the use of pre-employment health-related questions which are not directly relevant to a candidate's ability to do a job. Disappointingly, the Bill arrives unchanged in this respect. People with HIV, mental health problems and many disabilities find themselves asked in application forms about medical conditions, disability and medication. In the United States and a number of EU partners, such questions are unlawful.

We know that 60 per cent of employers will not knowingly employ a person who admits to having had mental health problems and over 40 per cent of mental health service users are put off even applying for a job because of such discriminating questions. A half of those who decide to apply for a job hide their history and I have to admit to colluding with some patients who decided to do this in the past by not seeking to intervene in the process. It is, of course, permissible and necessary to ask a person who has been offered a job about any disabilities which might impact on their ability to do the job. I feel there must be a middle way to ensure that employers feel encouraged to take on people who fall into these groups that is just and fair for both employers and job seekers. I hope we can work on this as the Bill progresses.

A further concern is the impact of a public authority's duty in respect of religion or belief. The noble Lord, Lord Warner, said everything I wanted to say about that and so did the noble Lord, Lord Macdonald. I will add only that I see a real danger of creating parallel, separate services for different religious groups, which lead to further divisions in society and to unfair employment practices. I remember my great shock, at my first visit to Northern Ireland services to older people about 35 years ago, on realising that, when you went into an institution in Northern Ireland, you either went to a Catholic one or a Protestant one, and there was no choice.

Here, we already have separate charitable institutions run by various religious groups and some of them are exemplary. Methodist Homes for the Aged, for example, are rigidly—and blessedly, in my view—an organisation which is an equal opportunities employer of the very best kind and accepts residents of all faiths and none. There are others, such as Jewish Care, which, for understandable historical reasons, have developed along separate lines and take people who wish to go into a particular sort of care, because they are Jewish. This I find perfectly okay, particularly as Jewish Care is also a very clear equal opportunities employer and its care staff, again, are of all faiths and none.

I have also served on a Christian housing association where we had a truly ecumenical board running it. We also had very good, strong equal opportunities policies. I am concerned, however, that the provisions in the Bill will make it possible for religious organisations to discriminate in employment. We already know that this goes on in some providers of public services. People who provide care services at home, where people do not have a choice, because the contract is let by a local authority or primary care trust, need to know

that those who are employed will have employee status which is truly equal, as you would expect. We are truly setting up problems for the future if we allow this to happen.

My last area of concern is the clauses on positive action. In general, I do not have a problem with Clause 154, it seems fine to me. However, I have a strong objection to Clause 155, on recruitment and promotion, where it is permissible, the Bill says,

"where two candidates are equally qualified",

to discriminate in favour of an individual with protected characteristics. In practice, it does not work, mainly because there never are two equally qualified candidates for a job, there is either someone with protected characteristics who is the best fit and properly qualified, or there is someone who is not and who is given the job and somebody else who will be directly discriminated against as a result of the choice.

I am astonished to see Clause 155 in the Bill, because we have had ample evidence of the misguided application of positive action in local authorities, such as Lambeth in the 1980s, and in the NHS, which did not appoint executive trust and PCT executive board members in this way, but has quite often appointed non-executives directors in this way, which, frankly, has led to PCTs and many trust boards becoming white-male-free zones. I remember when many white male chairs were sacked from trust boards in 1987 and 1988. Many women and some ethnic minority candidates came in instead. Too few of them, at that time, had real experience of running large corporate organisations or had serious financial skills—there might have been women who did, but they did not. They were said to be bringing community knowledge and skills. We were creating corporate incompetence on a massive scale, which, I fear, continues to this day.

Positive action in employment is profoundly discriminatory because of this lack of candidates being equal and does nothing to establish confidence in women or people from ethnic minorities being able to do the job. This is usually a matter for allowing time so that those who have had educational opportunities and experience can catch up. Of course, we need to provide special development opportunities for people to be able to make the best of their talents, but we women and ethnic minorities should oppose anything that detracts from our being appointed wholly on merit. I look forward to the Committee stage of this valuable Bill and to some robust debate.

9.15 pm

Baroness Kennedy of The Shaws: My Lords, before the noble Baroness, Lady Miller, goes, I want to start by congratulating her on her speech and saying how wonderful it is to have her back in the House being well after her accident. She is greatly loved in this House, and her speech reminded us all of how we have missed her.

I, too, wish to congratulate the Government on introducing the Bill. I pay special tribute to the Ministers who have championed its introduction: Harriet Harman and our Front Bench in this House. It is a visionary, progressive and long-overdue piece of legislation. Social justice requires the eradication of all discrimination. Although I would have liked to speak about the many hurdles still facing women in fulfilling their aspirations—a part of my life's work—I would also have liked to speak about the continuing problems about race and Islamophobia and, like the noble Lord, Lord Lester, and my noble friend Lord Warner, about religion. I would also have liked to speak about the obstacles that still exist to educational equity, but I am mindful of time constraints, and I am going to confine myself to what I consider a very pressing problem: inequality of income or the gap between rich and poor. It underpins so many of the other disadvantages that people face in our society.

Too much time was spent in the 1970s and 1980s debating which forms of inequity were worse: gender, class or race. The truth is that combinations of inequality are often the hardest to overcome. Lack of resources is so often the killer blow. So I congratulate the Government on the socio-economic duty, which is a brave inclusion in the Bill. It is highly symbolic, but one of the functions of antidiscrimination legislation is to be symbolic, so I hope that the Front Bench will not listen to the sceptical pragmatists in our midst. It has been my lifelong belief that greater equality is the material foundation on which a better society is built. In recent years, that became a very subversive thing to believe and certainly a subversive thing to say. I was never intensely relaxed about people getting filthy rich, although some people within my own party took a different view. The prevailing neoliberal fundamentalism over the past two decades saw financial inequality as an irrelevance at best and, at worst, something to be encouraged.

However, we now have impressive empirical evidence that shows that many of our social ills are directly linked to levels of inequality: from health and mortality through to mental illness, obesity, homicide and other crime. The research of Wilkinson and Pickett, which was published earlier this year in *The Spirit Level*, says it all. Almost all social problems that are more common at the bottom end of the social ladder are more common in more unequal societies. The reason is that in societies where there is greater inequality, people are more inclined to feel inferior and less respected, and that in turn leads to all forms of social pain. We see it expressed in lack of trust in others, mental anguish, comfort eating, binge drinking, crime and antisocial behaviour. In more unequal societies, there is less sense of community and more depression, social isolation and loneliness. It is not just the poor who suffer from inequality; the rich do too because they suffer feelings of angst, insecurity and pressure. They too have mental illness and eating disorders and feed their fears with more consumption of material goods, which depletes our planet's resources, and constantly finding ways to cocoon themselves and their children from people who are not like themselves.

I am afraid that unequal societies breed anxiety and fear of the other, and fear of the other is what leads to discrimination. So what is the answer? It is a reduction in social inequality. The good society means the creation of a different, more egalitarian society. It means greater fairness as between the better off and the poorer. Talk of equal opportunities is not enough. I say this to my liberal friends. All the rhetoric about meritocracy is a

[Baroness Kennedy of The Shaws]
nonsense if people cannot get off the starting blocks. It has to be recognised that there is a link between income inequality and the availability of opportunities.

The National Equality Panel, which has been working on a report for the Equality and Human Rights Commission, is finding that larger income differences tend to reduce social mobility. Greater equality of income should be a national objective and a central focus of national policy because the social effects of inequality have truly profound implications.

It is to the credit of the Government that they are now legislating for change. I shall be supporting this Bill and I just hope that there is time to get it through. This is Labour at its boldest. This is Labour at its best.

9.20 pm

Lord Ouseley: My Lords, it is a great pleasure to follow the wonderful speech made by the noble Baroness, Lady Kennedy. I believe that she is one of the great heroes of this Chamber, as indeed are many who have contributed tonight. I am astonished by the wealth of experience that Members bring not only to this issue but to all issues that come before this House. The Equality Bill offers an opportunity to pay tribute to the thousands of people who over many decades have fought, challenged and sought to help their fellow citizens to achieve greater opportunity, equality, fair treatment and justice.

The Government have brought forward a worthy Bill. I praise and thank those who have fought to bring it to this House in its present form. It offers the basis for us to consider what is good and to reflect on all the contributions made by Members of this House in order to enable the Government to consider those and, I hope, to offer some amendments that will reduce the scope for lengthy debate and discussion that might hold up this Bill. Certainly, we will have to take account of all comments that have been made from a wide variety of experiences by Members to enable us to improve this Bill to the point at which it is enacted.

This is long overdue consolidating legislation and I welcome it. If it is enacted with improvement and, if implemented, enforced effectively, it will help us as a nation to bridge and reduce the widening gap in inequalities. However, in its present form, the Bill is hugely disappointing. It is defective in many respects and unlikely to remove some of the structural barriers blocking the path towards universal equality for all our people.

Having ignored the advice of many experienced individuals and organisations when they introduced the Equality Bill in 2005, the Government put the proverbial cart before the horse and created the enforcement machinery of the Equality and Human Rights Commission ahead of the consolidated Bill we have before us. That was a serious misjudgement, as the past few years have proved. But we are where we are. Perhaps light-touch regulation is now dead, in which case we can all celebrate. I believe that it is shameful that this Bill with its deficiencies is being rushed through in the dying days of this Parliament and it is almost being offered to us on a take-it-or-lose-it basis, which is not acceptable. Some people have suggested that this Bill is better than what we have and that therefore we must not lose it. But they have also suggested that if they were drafting it, they would do it differently. Unfortunately, we do not have that luxury.

There are many positive provisions in the Bill. I welcome the extended protection against discrimination on additional grounds, although from what I have heard from colleagues, such as the noble Lord, Lord Warner, there are some difficulties that we have to consider and seek to overcome. It is flawed by some unreasonable and unduly narrow definitions, such as some in the case of marriage and civil partnerships which are to the detriment of cohabitees and those involved as couples in common law unions.

I would extend the same welcome and support to protection from age discrimination, even though there are flaws in the restriction of protection for young people, and to the comments made about special provision for goods and services for those aged over 50. We heard from the noble Earl, Lord Ferrers, earlier about Saga. I will not repeat what has been said but there are matters that have to be addressed there regarding specific needs. Those are promised in secondary legislation and it is hoped that we will see some of those in the Bill before it is enacted.

The importance of positive action warrants its inclusion in the Bill, but the provision and its likely effects in terms of outcome are totally exaggerated. It adds nothing to what exists now and is more likely to be counterproductive than beneficial. The provisions to deal with multiple discrimination are essential but why are they not applicable to indirect discrimination and harassment? That seems to me a ludicrous oversight and requires addressing. It is not for want of trying over the past decades that we have failed to narrow the pay gap between men and women. The requirement for firms employing more than 250 employees to publish gender statistics will contribute to greater transparency, but it will neither resolve this dilemma nor tackle the root causes of gender inequality in the workplace. A combination of light-touch regulation and political timidity are the main contributory causes of this lamentable scenario. I am delighted to welcome and support the provision for the employment tribunals to be able to make recommendations in individual cases which will be applicable to the workforce as a whole. It is hoped that this provision would be utilised by a body like the Equality and Human Rights Commission to use individual casework to push industries and sectors towards a broader application of best equality practices, using the power of enforcement in the way it is intended.

My concerns about this Bill are numerous but I shall focus on three which I feel can be addressed. Not surprisingly they relate to performance, implementation and enforcement relating to equality. I say those are the important underlying principles because I believe we are what we do and my experience has been right at the frontline of seeking to change institutional practice and eradicate the discriminatory impact on people from all backgrounds. The first is the public sector duty regarding socio-economic equalities. I see it as mere exaltation and posturing. It will make absolutely

no difference to poverty and inequalities unless there are specified requirements on actions, outcomes and monitoring. I welcome it because I think it is symbolic, as was said by the noble Baroness, Lady Kennedy, and that is very important. I agree with the noble Lord, Lord Warner, about the way it is presented at present and its likely impact, but I disagree with him that we should get rid of it. I think we should keep it and build on it. I believe that what we have been doing in this era, and continue to do, is palliative at best and devastatingly destructive at worst.

In 1997 the Government inherited one of the most unequal societies in western democracies and since then, the gulf has widened in spite of all the efforts made to narrow it. Richard Wilkinson and Kate Pickett in their recent publication, *The Spirit Level,* as quoted also by the noble Baroness, Lady Kennedy, pointed to the fact that income inequality in the UK is now 40 per cent greater than it was in the 1970s. How will this Bill contribute to a turnaround in the fortunes of the poor? The newly formed Resolution Foundation highlighted that 14.3 million people are currently living in households earning less than the median income but above the level for state support. They literally are on the edge of serious debt all the time. How will the Bill help them? Our economy has been carefully regulated to concentrate wealth in the hands of the people who are already seriously rich and to make sure that the cost of the risks that they take as well as the cost of the rescue plans when things go wrong are borne by society as a whole. Such disproportionality is not acceptable in the context of equality. How will the Bill address this huge inequality?

The second of the three main concerns I want to deal with is that of the expanded public sector duty, which still falls short of what is required. On the point about public bodies, I think there should be only exceptional exemptions from compliance. All public bodies should be in no doubt about what actions are required to achieve measurable outcomes and the consequences of non-compliance. The continuing specification for public authorities to apply the discredited requirement "to have due regard" is no longer acceptable. "Having due regard" is interpreted as thinking about the need to tackle discrimination and equality, but having to do nothing to achieve it. That is how, in my experience, a lot of local authorities—many of which I have worked with or for—have interpreted or semi-interpreted Section 71 of the Race Relations Act 1976. They were required to make appropriate arrangements and did. They said, "We've made appropriate arrangements, and those appropriate arrangements are to do nothing". Many local authorities today, even with new, enhanced equality duties and public duties, still pay due regard but do very little or nothing, which the law allows. We cannot continue to allow the law to be so feeble. This is a very important part of the Bill. If not amended, it will continue to be a blunt instrument to push forward meaningful activity to achieve equality outcomes and eliminate persistent, deep seated institutional discrimination.

The third and related issue is procurement. We have failed over several decades to ensure that contractors and suppliers who supply goods and services through procurement by public authorities comply with the public sector equality duty. What is proposed in the Bill is welcome but falls short of what is necessary to make meaningful impact.

Much of the Bill relies heavily on secondary legislation, thus leaving many uncertainties. We need answers from government in each of those areas to know what outcomes are expected, how they are to be achieved and what the consequences of non-compliance are.

We have to use this opportunity to get the Bill right. We owe it to all those who are disadvantaged and disaffected, as well as to those who have worked tirelessly with commitment and passion over many decades in support of the goals of equality, justice and fair treatment for all our citizens. I have every confidence that our Leader of the House will guide us through the difficulties and the long journey that we have to take in steering this Bill through the House towards becoming an Act of which we can be proud and which does justice to the people who have given their lives and great commitment to serving their fellow citizens in the name of equality.

9.33 pm

Lord Borrie: My Lords, in the 1990s, my colleagues and I on the Commission on Social Justice, set up by the late John Smith, leader of the Labour Party, took it for granted that equality was an essential part of social justice and that discrimination on any ground was unacceptable. Of course, equality does not mean any equality or similarity necessarily of income, but my noble friend Lady Kennedy of The Shaws made an excellent point, because we on our social justice commission would have been shocked at the widening gap—not a reducing gap—between average earnings and those of board members. I am thinking not just of investment banks but of all sorts of firms where that is so. Recent years have not assisted. Social justice surely requires some reduction in that widening gap.

To us on the commission, equality meant equality of the worth of all citizens; that is, each individual is entitled to consideration, respect and certain basic fundamental rights: rights of citizenship, human rights, a fair chance to develop one's potential and a right not to be discriminated against. In our report of 1994, we said that rather than try to develop a series of separate anti-discrimination laws, government should consider the case for a single law, prohibiting unjustified discrimination, education et cetera. This omnibus approach would provide a legal framework which was both straightforward and flexible.

Both the setting up a few years ago of a single commission, the Equality and Human Rights Commission, and this Bill are extremely welcome. I am bound to express in parentheses some regret at the dissent and recrimination within the Equality and Human Rights Commission and particularly over the resignation of the redoubtable Sir Bert Massie, the knowledgeable and expert guide to disablement problems. The detailed law that we have developed in this country over many years has improved things so far as discrimination is concerned. As other speakers in the debate have pointed out, however, there is far too much of a gender pay gap. Men on average earn 22 per cent an hour more than women. I am pleased to see in

[LORD BORRIE]
this Bill greater transparency in those differences. Lifting gagging orders will certainly assist so that secrecy orders in employment contracts will be banned.

I welcome this Bill in consolidating and harmonising our statute law against discrimination and I welcome the clarification of the law in many areas, including clarifying the differences—it may not be perfect and I am not sure how it could be perfect—between discrimination, which is unlawful, and positive action. When you think of examples such as those given by the Leader of the House at the beginning of this debate in relation to giving preference to male teachers in primary schools in certain circumstances so as to provide male role models, that is a good example of positive action. Similarly you could mention taxi cabs in relation to a preference for women because of the increasing demand by potential women passengers to have women drivers for their safety. Preferences the other way round there would equally be sound. Similarly, most people would agree that when a police force wants to make its force more representative of the area which it polices positive action in favour of ethnic minorities is again justified.

I was much impressed by the speech a short while ago by the noble Baroness, Lady Murphy, making the point that in the health service in particular there had been quite a lot of positive action which had often resulted in less qualified, less suitable people being appointed than had previously been the case. That is a worrying factor. This Bill will allow political parties to use positive action to reserve a specific number of places on electoral shortlists for black and Asian candidates, for example, when selecting a candidate. This would not be black-only shortlists but at least some deliberate attempt to enable the party and the electorate to choose minority ethnic candidates.

I counsel caution in the use of these powers. The Labour Party has used women-only shortlists in many constituencies. In 1997 there were 30 or 40 MPs elected on that basis. Sometimes it was not always done in the most sensitive way. I am saying not that it is bad but that it was not always done sensitively. Sometimes there was dissension and resentment among long-standing active male members, even losing the Labour Party the seat. I hope lessons have been learned from that. It should certainly be remembered that the Bill does not require positive action of this political party or that political party. It is voluntary. If you are going to have any preference of this kind, it must be done so as to carry the maximum number of members of the particular party. The Bill contains a sunset clause with a date that had been 2015 but that was raised to 2030. That strikes me as a rather pessimistic reflection on the advancement of women in political life at the present time.

There is a great deal in this Bill. I am afraid that it will be difficult to reconcile the Government's desire to have their Bill and the desire that we all have to ensure that it is a good Bill.

9.40 pm

Baroness Young of Hornsey: My Lords, as No. 37 on your list, it is quite difficult at this stage in the proceedings not to repeat things that have been said before, so I hope your Lordships' House will forgive me if I stray into the territory that has been covered by other noble Lords, in some cases so brilliantly, today.

In general, I, like many others in your Lordships' House and outside it, support this Bill, and I hope that any remaining doubts can be overcome one way or another. It is therefore in the spirit of a critical friend that I make my brief comments today, and I look forward to working alongside noble Lords across the House to ensure that a strong, fair, effective, and indeed landmark, piece of equalities legislation is enacted. I want the Bill to become law, and swiftly, but the desire to ensure the swift passage of the Bill is tempered by the desire to ensure that we get it right. Principally, we need to ensure that the Bill has teeth, that those who break the law are dealt with accordingly, and that victims can expect to receive appropriate redress.

The experience of more than 40 years of legislation in this field points to a patchy record of achievement: to some successes and some failures. However it is measured, though, we do not have an equitable and fair society at present. We are working against a backdrop of substantial social inequalities that still blight the lives of so many people in this country. In health, education, social services and other areas, this inequality manifests itself in diminished life chances and choices for older people, for people with disabilities, for black and minority ethnic people, and for people from areas of gross social deprivation in which whole communities have experienced long-term unemployment and the issues that go with it: physical and mental ill health, educational underachievement, high infant mortality rates and lower life expectancy.

The Explanatory Notes state that the Bill's two main purposes are to harmonise discrimination law and to strengthen the law to support progress on equality. Within this equalities framework, the provision of exceptions for religion seems to throw up something of an anomaly, as the noble Lords, Lord Macdonald of Tradeston, Lord Lester of Herne Hill, Lord Warner, the noble Baroness, Lady Murphy, and others have pointed out. Under general exceptions in Schedule 23, a religious organisation may practise discrimination against people of the "wrong" or no religion, and services may be shaped, and indeed restricted, in ways that conform to specific religious doctrine rather than to best practice.

The noble Lord, Lord Macdonald of Tradeston, mentioned schools and the education system. I know of a school at which standards continue to be seriously compromised by the reluctance of the senior management and the board to employ teachers from outside this distinctive and particular Christian group. Even other Christians are not expected to work there, and when they do they are hassled. The students have paid the price for this in low-quality and at times inappropriate teaching. Where is the rationale for prohibiting public bodies from discriminating against people on the basis of religion, but allowing religious organisations to discriminate that are sub-contracted to carry out services on their behalf? Surely high-quality public services should be accessible and open to all, whoever is supplying them, and surely the suppliers of the service should be subject to the duty to treat all service users and employees

equally. The British Humanist Association and the parliamentary JCHR have expressed concerns about this exception, and I gather from what other people have said that amendments will be tabled on this matter in Committee.

Like many others concerned about social deprivation and equality, I welcome the principles underlying the new public sector duty to address socio-economic disadvantage. I live in a borough in which young men on the west side of the local authority area are expected to live some seven years longer than those who live on the east side of the borough, which is at a distance of two or three kilometres. This is not an unusual situation. It is no coincidence that many of those young men failing to live up to their potential—in fact, failing to live their full lifespan—are black and all from lower-income groups. Unemployment is rife, and the educational system seems to be failing to engage these young men. All too many are NEETs—not in education, employment or training.

Most of us will recognise that what is bad for these young men is bad for the whole community, and indeed for all society. However, like others, I am not entirely convinced by the wording of Clause 1(1). The public sector duty regarding socio-economic inequalities requires an authority,

"when making decisions of a strategic nature about how to exercise its functions",

to have,

"due regard to the desirability",

of using its powers to reduce inequalities. The terms "due regard" and "desirability" are imprecise terms at best, or are at least open to very wide interpretation. While it seems to be common sense that it should be left to the public bodies themselves to determine what changes they can effect in which sectors, is it right that when,

"deciding how to fulfil a duty",

these bodies are compelled to take account of guidance issued by a Minister? I find this very confusing. I am not sure how this clause will operate, what constitutes "due regard", whether in itself "due regard" is good enough anyway, and what sanctions there will be for public bodies that do not have such due regard or whose due regard is too weak for the socio-economic inequalities in the communities for which they are responsible. Furthermore, what does this ministerial guidance look like?

There is an increasing awareness of the complexity of the ways in which discrimination works within our society. People do not simply experience life in one-dimensional terms, and social identities are multifaceted. Sometimes people are subjected to discrimination for more than one reason. Therefore, like many others, I welcome Clause 14, although it could be argued that it does not go far enough as it disallows cases brought on the grounds of indirect discrimination. This clause also gives Ministers the latitude to make a decision which, in effect, amends the section. Can the Minister give an example of when it might be thought necessary for a Minister to determine what a claimant needs to demonstrate to prove dual discrimination? What circumstances would need to prevail for a Minister to restrict further the circumstances in which dual discrimination is allowed in the Bill?

In terms of public procurement, public bodies can make a substantial impact on equality of opportunity, especially in the job market. They are often among the largest employers in a locality. In addition, they handle billions of pounds-worth of transactions via public procurement contracts. Procurement processes offer an effective means by which public bodies can fulfil their obligation to advance equality of opportunity. By including rigorous, practical equality criteria in contracts for goods and/or services which they put out to tender, public bodies can more effectively meet the needs of all communities as well as improve equality of opportunity in employment and the job market. However, where is the incentive for public bodies to make use of this mechanism, and how will we know if this strategy for achieving equality is operating effectively?

I endorse all of what my noble friend Lord Ouseley said, particularly when he was discussing the effectiveness of previous legislation in terms of public duty. This issue of it being well-written and well-articulated but proving toothless in effect is a very serious one. I hope the Government will take notice of what has been said in that area.

I would like to return to something that was said by the right reverend Prelate the Bishop of Chester earlier in the debate. He made an interesting point. He seemed to suggest that there was too much focus on the individual in terms of individual rights within the Equality Bill and in equalities frameworks generally. I wondered if he had thought about how the notion of acts such as hate crime acknowledges that a hurt—an act of violence perpetrated on one black person, or one woman, or one person with a disability, or one gay person, or one religious or non-religious person—is also an assault on the whole community. This is felt very deeply by a community. It has a disproportionate and very distressing impact on that community. That has been recognised through all sorts of landmark cases such as the Stephen Lawrence case, so I do not think it is quite as bleak as he would suggest.

I conclude by saying that the importance of making this Bill an Act cannot be overestimated for those who really want to build on and strengthen previous legislation for a fairer, more equitable society. Although equalities legislation alone cannot achieve this, it serves to protect the vulnerable, has a symbolic resonance and demonstrates very clearly our society's values and our commitment to social justice.

9.50 pm

Baroness Gale: My Lords, I welcome this Bill very much. It covers many aspects of equality. But as I am one of the last speakers tonight, I will not go through them all, but instead concentrate on Clauses 104 and 105, dealing with all-women shortlists. The Bill allows political parties to adopt all-women shortlists when selecting candidates for elected office. It is a sunset clause, set to end by 2030. This measure was originally planned to end by 2015, and I am pleased to see it extended to 2030, although in some ways I am not so pleased as it is an admission that in no way will there be anything like an equal number of women in the political life of this country by 2015. But I welcome the extension of this measure, which is needed, as today we see in the House of Commons only a small

[Baroness Gale]
number of women MPs—126. That is 19.8 per cent of the total, two less than were elected in 2005, because of by-elections. So the numbers are going backwards.

Since 1918, 292 women have been elected to the House of Commons and, in that same period, 4,378 men. I think that explains why I believe that we should have all-women shortlists. If it was possible to put into the Commons Chamber today all the women who have ever, in the whole of that period, been elected to the Commons, they would still be in the minority. It has been estimated that, at the present rate of progress, it will taken up to 200 years or 40 general elections for women to achieve 50 per cent in the House of Commons. This clause is in place until 2030. If we have general elections every five years up until 2030, starting with the general election in 2010, I estimate that that is five general elections up to 2030. Going on the present rate, we will be nowhere near 50 per cent of women elected by 2030. That is why I advocate having this clause as a permanent feature, at least until there is good evidence that members of political parties will select women without all-women short lists. It is prejudice against women in society, which is then taken into political parties by members at local level, that prevents women getting selected. That is the biggest problem to overcome. However, the clause will work only if all political parties use it. Only the Labour Party has used this legislation so far, which is why Labour has 94 women MPs, more than all the other political parties put together.

This clause means that political parities can implement this policy without worrying whether or not they are in breach of the law, as the Labour Party had to put up with when it tried to implement this policy pre-1997. I would also advocate using similar measures to appoint women to your Lordships' House, as we fare no better than women in the Commons. Women have been able to sit in your Lordships House since 1958 and, to date, 1,044 men have been appointed and 198 women—84 per cent men and 16 per cent women. So whether elected or appointed, women are a minority in both Houses. To put things on a more equal basis, perhaps only women should be appointed as Peers until 50 per cent is achieved. I think that would be a good idea, myself. Think how different this House would look if we could do that. Perhaps we could use quotas.

I am pleased to note that the Government have set targets on new public appointments—on gender, ethnic minorities and disability. This was launched in June 2009. By 2011, the aim across government is for 50 per cent of all new UK public appointments to be women, 14 per cent disabled people and 11 per cent people from ethnic minorities. Such appointments are regulated by the Commissioner for Public Appointments. To underpin this, Ministers announced a cross-government action plan, *Opening Doors—Increasing Diversity*, which sets out action over the next year to increase the visibility of the appointments system, ensuring transparency and accountability and tackling the barriers that people face in putting themselves forward. This is a very good initiative which we hope will produce good results.

I am keen to have more women in elected positions, but not just for the sake of it. Where we see a large number of women in a legislature, there is a different agenda. If one looks at the first elections of the Welsh Assembly in 1999, for the first time a large number of women were elected because the Labour Party had adopted a policy of having an equal number of men and women candidates, using the system which we call twinning. By their second elections in 2003, a record-breaking number of women were elected to the Welsh Assembly: there were 30 women and 30 men. If Wales can achieve this, it can be achieved anywhere—believe me, I know.

Having so many women in a legislature means, first, that it reflects the general population, and secondly, that it can pursue a different agenda. For example, the first Children's Commissioner was in Wales; now England, Scotland and Northern Ireland have one. The Commissioner for Older People for Wales, Ruth Marks, is the only one in the world. Again, Wales takes the lead in these things. These and other innovations have been tried in Wales because of the influence of women politicians, making the difference. That is what is needed. Women can bring that added dimension, providing there are enough of them, as in the Welsh Assembly. While I welcome the measures in this Bill, I believe that it will take a very long time. Women are generally very patient, but perhaps our patience is running out.

Let us look at what other countries in Europe and in Africa are doing to increase the number of women in political and public life. Quotas are used to address this problem. Rwanda now has the highest number of women parliamentarians—57 per cent—by using quotas. It seems to work there and in other countries, but of course it has never been suggested here. I am in favour of such action, but the measures are not in this Bill at the moment. Nevertheless, I welcome the measures in this Bill which I believe will bring about a more just and equal society.

9.58 pm

Baroness Wilkins: My Lords, we have arrived at the last Back-Bench speaker, and I will try to be brief. I, too, warmly welcome the Bill, and the improvements that were made to it in the other place. As we have heard, in tough economic times equality matters more, not less, and we need to make use of everybody's talents—that of course includes disabled people, who still face among the greatest inequalities and exclusions in our society.

I am delighted that the Bill seeks to remedy the major gap in protection for disabled people left by the Malcolm judgment. The changes made to this clause—Clause 15—in the other place are very welcome, but sadly the Bill also introduces a knowledge requirement which was not in the DDA. It means that employers or service providers could claim they did not or could not reasonably have been expected to know about the disability, which leaves people with hidden disabilities or communication difficulties at an inherent disadvantage. We need to make sure that there is sufficient onus on duty holders to inquire about any potential disability before they take detrimental action. Another niggle that I have with this clause is whether it is clear enough that duty holders should be making reasonable adjustments wherever required to avoid less favourable

treatment. I hope the Minister can clarify these two points in her response, though given the number of notes that she has received, I think that it is highly unlikely

I am also delighted that the Bill extends duties on landlords to make reasonable adjustments to the common parts of let residential premises and commonhold properties, as the late and much-missed Baroness Darcy de Knayth would be. We tabled amendments on this issue to both the Housing Act 2004 and the Disability Discrimination Act 2005, and at last they have borne fruit. The Bill will make it unlawful for landlords and management companies unreasonably to refuse permission for a disabled person to make vital physical alterations to such communal areas as hallways and entrances, so that they will no longer be imprisoned in their own home.

I am aware of the time pressures that we face in improving and enacting the Bill. However, there are outstanding issues which we must address. We must ensure that the Bill does not regress on the DDA. I will not repeat these points, since other noble Lords have dealt with them. A major disappointment is that the Bill has not seized the opportunity to adopt a more "social model" definition of disability, as recommended by the Joint Committee on Human Rights in its legislative scrutiny of the Bill. It is a travesty that much tribunal time is wasted in arguing about how disabled someone is, rather than focusing on the discrimination that may have taken place. The Joint Committee recommended:

"At a minimum … the requirement contained in the current definition of disability that the effects of an impairment be 'long term' in nature should be removed".

Currently discrimination can only be proved for an impairment which has lasted for 12 months or more. Should the Bill pass in its current form, it will still be perfectly lawful for an employer to sack someone for taking time off for a shorter episode of severe depression. There are also cases where people face benefit sanctions because of this rule, such as the one brought to RADAR by a distraught disabled woman who had been summoned for a work-focused interview. She could not get to the bus stop to get to the jobcentre because of a serious, though short-term, injury; but the jobcentre would not make reasonable adjustment and send a taxi because she was not covered by the long-term requirement defining disability.

Let us make sure that the Bill deals with the discrimination and not with fruitless arguments about the extent of disability. This is a good Bill which contains many helpful improvements in protection against discrimination and, with a little more work, could prove to be a great landmark in transforming the British economy and our society for the better.

10.03 pm

Lord Wallace of Tankerness: My Lords, it is a great privilege to take part in this debate, a debate which has shown the rich diversity of the House in experience and background, all of which are of such importance and relevance to the issues that we have debated today.

The Liberal Democrats support the Bill; it is a good Bill. Our political creed has at its core the importance, freedom and dignity of the individual. We believe that the right to equality without discrimination is an individual right. It is not a right for communities, although it goes hand in hand with the responsibility to respect the rights of others. Discrimination offends that fundamental dignity and, while inequality is invariably a barrier on the road to individual fulfilment and freedom to fulfil one's potential, we believe that fulfilling one's potential is something that is done in society and the community. That is why we support the Bill. It brings together in one piece of legislation a plethora of Acts and orders, or, as the noble Lord, Lord Low, more graphically said, "an overgrown and impenetrable jungle". It gives a coherence and consistency that ought to make its application more effective, although I echo the concerns expressed by the noble Baronesses, Lady Campbell of Surbiton and Lady Wilkins, and the noble Lord, Lord Low, that there should be no regression, especially with regard to disability.

Nor should we be starry-eyed about the capacity of legislation to right the wrongs of the world. In his book, *Strength to Love*, published in 1963, Martin Luther King said:

"Morality cannot be legislated, but behaviour can be regulated. Judicial decrees may not change the heart, but they can restrain the heartless".

Arguably, over many years, perhaps a culture can be changed. It is undoubtedly the case that today language and attitudes that were all too common at the time of the original Race Relations Act are simply not acceptable.

In supporting the Bill, we on these Benches do not accept that it cannot be improved. We will challenge what we believe to be misguided or unnecessary and we shall seek to correct omissions through constructive amendment. Already we have been engaging positively with Ministers and officials, and I hope that across the House we can improve the Bill as it makes it way through your Lordships' House and secures a successful passage.

One immediate improvement would be to drop Part 1. Tackling socio-economic inequality is important and desirable, but it is wholly questionable whether the three clauses can achieve that end. I join the noble Lord, Lord Warner, in the sceptical pragmatist camp. The noble Baroness, Lady Young of Hornsey, analysed the vagueness of the wording and referred to "desirability". The noble Lord, Lord Ouseley, said that "due regard" was the ultimate cop-out for organisations that wanted to do nothing. I do not think that they will assist in achieving the objectives that no doubt underlie the insertion of that provision.

Poverty and inequality are so often different sides of the same coin. I do not question the good faith of Labour Ministers who came to power in 1997 desiring to tackle poverty, but Britain has become a less equal and less fair society under their tenure of office. Today, a person born into a poor family is more likely to remain poor throughout their adult life than a person born 30 years ago. One gets the feeling that as their period of office possibly comes to an end, Ministers wish to atone and are trying to salve their consciences by inserting well intentioned but practically limited provision in this legacy legislation. It is abundantly clear that as a result of Clause 3 it would never be put to the legal test, except perhaps through a costly judicial review, which those at greatest socio-economic disadvantage could never afford.

[LORD WALLACE OF TANKERNESS]

There is a legal maxim: ubi ius ibi remedium—where there is law, there is a remedy. But this part of the Bill seems to turn that on its head: ibi ius ubi remedium—here is the law, where is the remedy? I do not believe that that is what we should be doing. Aspirational legislation which, as the Solicitor-General was quoted as saying, "might do no harm" is not a suitable substitute for substantive policies with regard to education, health and taxation to tackle inequality.

My noble friends Lord Lester of Herne Hill and Lady Northover indicated areas on which we would wish to concentrate. I shall go over them very briefly. Equal pay was mentioned by the noble Baronesses, Lady Gould and Lady Howe of Idlicote. There is the comparison with predecessors, discussion of pay with colleagues and the scope of the employer's defence. We will be looking at ways of strengthening that to try to ensure that the objectives of equal pay are more likely to become a reality sooner rather than later. The noble Baroness, Lady Howells of St Davids, mentioned representative actions in equal pay claims. While it was important to do that ahead of the civil justice review, perhaps the Minister can indicate whether that can be done under existing tribunals legislation by bringing forward procedural rules rather than by means of an amendment. If it can, we would need to debate one amendment fewer in Committee.

The noble Lord, Lord Macdonald of Tradeston, referred to employment and religion. The noble Lord, Lord Warner, commented on Schedule 9, feeling that the exemptions are too widely drawn, whereas the noble Baroness, Lady Cumberlege, would probably suggest that they are too narrowly drawn. That links to the issue that was also raised by the noble Lord, Lord Warner, about discrimination on grounds of sexual orientation in the provision of public services. Many people are concerned that when public money is spent on public services, discrimination that in other circumstances would not be acceptable somehow seems to get in under the shield of religion.

We understand that the European Commission has recently given two opinions on UK equality legislation with regard to areas of discrimination and whether it gives insufficient protection against certain forms of it. I think it would be helpful if the Minister could indicate whether the Government have received these opinions and, if so, whether it is possible to put them in the public domain because they will properly inform our debates at subsequent stages of this Bill.

My noble friend Lord Lester of Herne Hill reflected on the public sector duty in Clause 148 and these points were picked up by other contributors, not least the noble Baroness, Lady Murphy, the noble Lord, Lord Warner, and the most reverend Primate the Archbishop of York. In its present form, there is a possibility of reaching the stage where different services could be provided for different groups by different people, which would not be a sensible outcome. There are clearly issues which still need to be addressed. This also raises the tension which inevitably exists between free speech and equality, particularly when we deal with issues of religion or faith. If people have to declare interests, I am certainly not the president of the Humanist Association, being an elder of the Church of Scotland. We will do service if we concentrate on these important issues in Committee.

I want to raise again another point in terms of the balance between equality and free speech, which was referred to by my noble friend Lord Lester. Broadcasters are concerned that the Bill could lower the bar for complaints to be made, making it easier for complaints via the EHRC, when there is already an established route through Ofcom and the BBC Trust agreement. We should be concerned if, by implementing the provisions as they stand, we somehow dilute creativity. This is not a fanciful situation; there has already been a complaint to Ofcom that Channel 4's "Undercover Mosque" might have included material that was likely to cause an incitement to racial hatred. The Government have already indicated that they do not intend to interfere with editorial independence and, with regard to the positive duty to promote equality, they have indicated a willingness to meet that. There is concern, however, on the other side of the coin, that they have not yet made their position clear on the non-discrimination duty. I hope that the Minister can address that tonight or give some indication ahead of the Committee stage that that point is understood and acknowledged.

Another point at which we will want to look is the issue of homophobic and transgender bullying. There are provisions with regard to harassment in schools, but why do they not apply on grounds of gender reassignment and sexual orientation, or indeed of religion and belief? In her opening address, the Leader of the House referred to tackling homophobic bullying at work. The Government seem to be in denial about homophobic or transgender bullying in schools. The briefing which noble Lords will have received from Barnardo's makes it clear that there is an issue here. Sixty-five per cent of young lesbian, gay and bisexual pupils have experienced direct bullying. Less than a quarter of young gay people have been told that homophobic bullying is wrong. Significantly, where they were told that it was wrong, young gay people were 60 per cent more likely not to have been bullied. If the issue was sufficiently important for the Department for Children, Schools and Families to have issued guidance last week on tackling this bullying, one would wish to ask the Government what steps they intend to take to extend the provisions to tackle the issue of homophobic bullying at school.

In conclusion, we wish to ensure that this Bill is properly delivered. We do not want it to be dealt with in the wash-up and we certainly do not want it to be washed up. I wish to pay tribute to my colleagues in the other place, particularly Lynne Featherstone and Evan Harris, who have raised a variety of issues by way of amendments—for example, that there should be anonymous applications; the issue of discrimination against gay men in the collection of blood; the issue of Scottish Gypsy Travellers, as mentioned by my noble friend Lady Northover; and, as raised by my noble friend Lady Northover, the noble and right reverend Lord, Lord Harries, and the noble Baroness, Lady Flather, the issue of discrimination by caste, in which my noble friend Lord Avebury has certainly taken an interest. As I think my noble friend Lord Lester indicated, if the definition of race in Clause 9 could include

descent, then possibly the Convention on the Elimination of All Forms of Racial Discrimination might cover the question of discrimination by caste. I ask the Minister to look into that.

The Bill is up against a tight timetable, although that is not an excuse for not giving it proper scrutiny. I think we should ensure that the best does not become the enemy of the good, but I think that with some work we can make it better.

10.15 pm

Baroness Morris of Bolton: My Lords, given the wide-ranging nature of the Bill, I think that I have to declare all my interests as set out in the Register, because, quite rightly, this Bill should reach every part of our lives.

This is an important Bill on a complex and emotive subject and your Lordships' contributions to the debate have been suitably thorough, thoughtful and heartfelt. There is no doubting the passion and determination all around the House—I think in particular of the noble Baroness, Lady Campbell, and the noble Lord, Lord Alli. I am pleased to be able to contribute to the first stage of what I hope will be a more detailed and lengthy consideration of the Bill than was possible in the other place.

The noble Baroness, Lady Northover, said that my noble friend Lady Warsi did not seem to spell out our views in any positive way. My noble friend said that we want to achieve a workable piece of legislation. I do not think that anyone can doubt her commitment to equality, because anyone who knows her knows her commitment.

I join those who have welcomed the general principles of the Bill and I thank the noble Baroness the Leader of the House for her sensitive and thoughtful introduction. The fact that there is much for us on this side to welcome should not be too surprising. The majority of the Bill's provisions are, after all, concerned with consolidating existing pieces of equal rights legislation, which were passed with a large amount of cross-party support and, in several cases, under Conservative Governments.

I think that we should take a moment to pay tribute to those of all parties who pioneered the measures that form the backbone of this new Bill and who, in doing so, made a real difference to the lives of millions of people over the years. The list of repeals at Schedule 27 to the Bill is a roll-call of 40 years of social progress in this country: from the Equal Pay Act 1970 and the Sex Discrimination Acts of 1975 and 1986 via the Race Relations Act 1976 to the Disability Discrimination Act 1995. We can on all sides of this House feel proud that those Acts are on the statute book and it is right that we record that fact as we discuss replacing them.

Equality and fairness are objectives to which almost all of us aspire in today's society. There are very few people whose views are genuinely bigoted or who would defend deliberate discrimination against people on the grounds of race, disability, gender or sexual orientation. However, there remain otherwise decent people who express frustration at what they perceive to be special treatment or preferment in favour of one group or another in society. I was pleased that the Leader of the House said that this Bill does not give preferment to one group. Much indirect discrimination and negative attitude can be traced to this unease and, when addressing inequality, we must be constantly wary not to take measures that risk fostering more resentment.

The Minister for Women in another place made much of the traditional Labour commitment to equality, so I hope that I may be permitted to say that such a commitment has also played a prominent part in my party's history over the years. I have, I think, mentioned before in your Lordships' House a favourite election poster of mine from the mid-1990s, which featured in John Major's handwriting the message "Opportunity for All". That, for me, summed up a simple but fundamentally Conservative commitment to true equality: not a fruitless search for equality of outcome or a pretence that we are all the same, but the belief that we should all, whatever our background, gender, race, sexual orientation or disability, have access to the same opportunities to get on in life and that we should all be treated in accordance with who we are. I think that the noble Lord, Lord Alli, said that we should be judged on who we are. That message is made more, not less, important by the current economic climate. It is in the interests of a productive economy that we should not allow anyone's talent to go to waste, a theme articulated by the noble Lord, Lord Adebowale. We are all in this together, as someone wisely said.

However, as we all know, the subject often has its controversy. That is true of this Bill as well. We on this side may applaud the Bill's broad objectives but we cannot help but feel that, in its detail, it contains some ill conceived measures which make it difficult for us to give it the wholehearted support that we would wish to. That is why we tabled a reasoned amendment in another place and why we continue to seek amendments to parts of the Bill. Many people are sceptical of attempts by the state to bring about a better society through legislation. They are right to be. We have no magic wand. Increasingly, however, it seems that Ministers are waving around the legislative equivalent of a magic wand.

It is against this background that we view the first part of the Bill, with its duty on public bodies to help to reduce socio-economic inequality. This is a worthy objective, but not one that is necessarily within their competence to achieve, even with the promise of guidance from Ministers. On this side, we sincerely agree with the need to reduce such inequalities. We are, however, complacent or naive if we think that an edict from this place will achieve that. The first part is, therefore, at best ineffective and at worst a damaging distraction from what should be this Bill's main purpose. Although we cannot conjure up equality, we can enact measures that restrict unfair discrimination and unacceptable practices. That is a proper role for legislation.

On that subject, I commend my noble friend Lady Miller of Hendon for her wonderfully entertaining speech—vintage Lady Miller—and the noble Baroness, Lady Deech, for highlighting yesterday the discrimination that exists here in your Lordships' House over the different treatment of our spouses. Although yesterday the issue raised a smile or two—and it is not the most

[Baroness Morris of Bolton]
pressing inequality facing society—it hardly sends the right message. We should reflect on that in the context of this Bill.

Eliminating unfair practices does not mean, nor should it mean, ignoring differences. As the most reverend Primate the Archbishop of York said, you do not get equality by concealing difference. The richness of our society is its diversity and that is undoubtedly a good thing. The question is how we ensure that such differences are respected and not used to discriminate unfairly. My noble friend Lady Cumberlege talked about accommodating difference. In relation to gender, where would we be without differences in the sexes? Certainly not here is the biological answer.

In an amusing section of her speech, the noble Baroness, Lady Royall, told us exactly what the Bill was not about. I, too, should like to address a concern that was expressed to me and illustrates a point. This Bill will not require "Top Gear" to have a woman presenter or "Loose Women" to have a man. The appeal of these programmes is not restricted wholly to men or women, even though their formats are based primarily on assumptions of differing interests. Should we be legislating for their presenting teams to be evenly balanced? Would we want to see Jeremy Clarkson swapping relationship advice with Coleen Nolan, while Lynda Bellingham demolished a caravan with James May?

Noble Lords: Yes! Yes!

Baroness Morris of Bolton: My Lords, I do not think so. There is a role for differences in society and we should not be afraid of them.

I want to mention a number of areas of the Bill where we have specific concerns about the detail of what is proposed. The first is equal pay, a subject about which I feel particularly strongly, as do a number of noble Lords, particularly the noble Baronesses, Lady Gould and Lady Howe. I introduced a Private Member's Bill on this subject earlier in the year. We applaud the measures designed to eliminate the gagging clauses that prevent staff from discussing what they earn. In today's climate it seems that we do little else but discuss levels of remuneration. As bankers have recently discovered, greater transparency seems to focus the mind and makes it harder for employers to get away with clearly unequal levels of pay.

However, as my noble friend Lady Warsi explained in her powerful opening speech, we are not convinced of the Bill's intention regarding compulsory pay audits, which are costly and time-consuming. We would welcome the hints given on the "Today" programme and in the *Times* that the Government might row back on this. However, we regard equal pay as a matter of social justice and we would not wish to see the plight of women working in smaller firms ignored. We believe that the more sensible solution would be to require an audit in all companies in which an employee had brought a successful case on these grounds. That would greatly strengthen the current position by providing meaningful sanctions against unfair employers, while not burdening the majority of fair employers with a new administrative burden. We will bring forward amendments on this in Committee.

My right honourable friend Theresa May said in another place:

> "We have consistently supported positive action on the basis that it could be used as a tiebreaker when there are two equally qualified candidates".—[*Official Report*, Commons, 2/12/09; col. 1228.]

But some people are nervous about any suggestion of positive discrimination. There should be discretion for employers but we should be wary of going further down the road towards allowing the whole recruitment process to be unfairly weighted. That concern lay behind the discussion in Committee and on Report in another place about the Bill's reference to "as qualified" versus our preference for "equally qualified". That important distinction is one to which I know we shall return; as well as being substantively important, it will provide hours of productive activity for the armchair lexicographers in your Lordships' House.

It goes without saying that we are supportive of the extension of the Sex Discrimination (Election Candidates) Act 2002. The noble Baroness, Lady Howe of Idlicote, said that all parties were introducing all-women shortlists. We have not yet had all-women shortlists, although we have had a number by desire rather than design. David Cameron has said that he will use them if necessary. I say to the noble Baroness, Lady Gale, that the Sex Discrimination (Election Candidates) Act is not just about all-women shortlists; it allows political parties to use positive action in a number of ways and through that we set up our priority list.

Getting the balance right on these issues is, of course, fraught with difficulty, but I return to the basic premise that it is possible and desirable to acknowledge and to celebrate differences while being utterly intolerant of practices that seek to discriminate unfairly using those criteria. If we blindly follow the principle that there should be no differentiation in what can be provided for specific audiences or in who is best to provide them, we could end up with all sorts of unintended consequences. A good example is the provision of goods and services to particular sections of the community, such as car insurance for women and holidays for older people, to which my noble friend Lord Ferrers spoke.

This leads me to my final points about the potential impact of the Bill on religious organisations. We on these Benches have listened to the arguments of the Church of England, the Catholic Bishops' Conference and others who have a real concern that the measures in the Bill will cause them difficulties. As the most reverend Primate the Archbishop of York, the right reverend Prelate the Bishop of Chester and my noble friends Lady O'Cathain and Lady Cumberlege so ably explained, it revolves around a tightening of the definition of employment for the purposes of religion, which would appear to exclude many of those who currently work in religious organisations. I am sure that we shall discuss this issue in some detail in Committee. We would do well to remember that the principle underpinning this Bill is respect for diversity. It would be wrong, and not a little odd, if in the same Bill we were to show intolerance of the deeply held views of different faiths and restrict their right to employ those who share a commitment to their way of life.

It is important that we give this Bill the detailed scrutiny that it deserves. It affects the lives of everyone in this country and we must ensure that what emerges is equal to the task. Building a fairer society is not a matter of one Bill and we cannot simply legislate for a better world. The measures that we put in place must recognise the world as it is if they are to have any chance of shaping the world as it should be. Empty gestures have no place in our law. If we concentrate on effective measures to tackle discrimination and on providing a fair legal framework, we can help to build on the social progress that those before us fought so hard to achieve.

10.30 pm

Baroness Royall of Blaisdon: My Lords, this has not just been an interesting and wide-ranging debate, in many ways it has been a celebration of equality. As my noble friend Lord Alli said, we have come on an extraordinary journey together over the last few years. My noble friend Lady Turner and others reminded us not to overlook how far we have come—we should be proud not only of our achievements, but of those of our forefathers and foremothers.

Concerns have been expressed that the Bill nurtures the culture of individualism. I, too, would be concerned if that were the case, but it is not. The Bill is about the right to be different and the right to be equal. It is about enabling individuals to fulfil their potential as members of their communities and of wider society, a society that will be healthier in economic and social terms as a consequence of the Bill, a society that will be more socially just. I well remember the Social Justice Commission, so ably chaired by my noble friend Lord Borrie. Perhaps we are getting there in the end. It has taken some time, but we are getting there.

The noble Baroness, Lady Miller of Hendon, rightly said that we need a culture change as well as legislative change. It is indeed good to have here back on her feet. The noble Baroness, Lady Warzi, mentioned the proposal made by my noble friend Lord Rooker about a certificate stating which Commons amendments had been debated. I share her enthusiasm for that proposal, but that is for the future, it is not for the present and the present Bill.

Yes, we all want to address the root causes of equality, that is precisely what this Government have been striving to do over the last 12 years and we have achieved a lot. We have tax credits for children, we have enabled many pensioners to come out of poverty, we have got Sure Start, the minimum wage—I could go on—but there is so much more to be done. I recognise that, and the Bill will help not least with the socio-economic duty, which I believe will have a real impact, but to bridge the gap between rich and poor. I am grateful for the support from my noble friend Lady Kennedy of The Shaws. It is not a panacea, it is not a magic wand, but it will help.

To the noble Baroness, Lady Young of Hornsey, I say that we are expecting the guidance to be published, or made available before Committee stage. I was expecting the views of noble Lords opposite on Clause 1, but I was disappointed to hear the views of the Liberal Democrat Benches, particularly as I understand that their colleagues in the Commons voted in favour of that. That is what I was informed earlier; forgive me if I am wrong.

Many views have been expressed about the gender pay gap and I well understand the frustration expressed by my noble friend Lady Gould that 2013 seems distant, but we very much hope that before that date, companies will voluntarily publish gender pay gap information. I had an encouraging letter from the chair of the Equality and Human Rights Commission yesterday, in which he said,

> "I can confirm that we are close to an acceptable solution relating to voluntary proposals that will be supported by the TUC, the CBI and other employer representatives".

I think that that is good news. I recognise that many among us favour mandatory equal pay audits and we will discuss this further in Committee, but no one should doubt our unswerving commitment to narrowing the pay gap. I must tell the noble Baroness, Lady Morris, who I know is passionate about these issues also, that it is not true that parts of the Bill are going to be dropped.

The noble Baroness, Lady Warsi, asked whether the Human Rights Commission would publish the gender pay gap measures before Committee. As I mentioned, we think that we are getting towards some sort of agreement between the parties and we hope that the proposals will be published in January, but it is, of course up to the Commission to decide exactly when publication will take place.

Many noble Lords, including the noble Lord, Lord Lester, the noble Baronesses, Lady Greengross and Lady Howe of Idlicote, and others, expressed concern that the Bill will not remove the default retirement age, which the 2006 age employment regulations permitted and which was the subject of an unsuccessful legal challenge. As noble Lords will know, the Government have responded to those concerns by bringing forward their planned review of the default retirement age. The review will take place next year. On 15 October, we announced that we are calling for evidence to be submitted by 1 February 2010 to inform the review. One issue that has been raised in submissions of evidence received so far is that it would be unfair for the default retirement age to be set at an age lower than the state pension age. Of course, changes to the state pension age are not envisaged to begin until 2026. However, I want to place on the record that, whatever the outcome of the review, the Government agree that it would not be tenable to have a situation where the default retirement age was lower than the state pension age.

I come to Saga, which was mentioned by the noble Earl, Lord Ferrers, and my noble friend Lord Davies of Coity. Our position is clear: as my honourable friend stated in the other place, there will be a specific exception for age-related holidays, such as Saga, but it will not be in the Bill. It will be in regulations, and I will ensure that during the passage of the Bill, we set out in writing exactly what the regulations will provide. I assure all those who benefit from Saga holidays that they will be able to continue to enjoy them and that the exceptions will come into force at the same time as prohibitions in the Bill. Therefore, there is no question that people will not be covered.

Earl Ferrers: My Lords, can the Minister add a bit to that and confirm that the exception will be in the regulations, not the guidance?

Baroness Royall of Blaisdon: My Lords, it will be in the regulations.

The noble Baroness, Lady Murphy, asked about the timetable for implementing the age discrimination ban in services and public functions. We are aiming for the legislation to be in force in all sectors, including health and social care, in 2012. She also talked about positive action and said that candidates are never truly equally qualified. "Equally qualified" does not mean that each candidate has the same level or number of GCSEs, A-levels, diplomas or degrees. It means "qualified" in the sense of fit or suitable. In that sense, there may be a range of people who are equally fit or suitable to do a job, and there must be no blanket rule to appoint candidates with protected characteristics.

I now come on to religion. I heard the deep concerns expressed, and I shall attempt to address some of them. Like the right reverend Prelate the Bishop of Chester, I will read the speech of the noble Baroness, Lady Afshar, with care. Of course, the Government recognise the important role that faith plays in shaping the values of millions of people in this country. Before I turn to the most reverend Primate, I should say to my noble friends Lord Warner and Lord Macdonald of Tradeston, the noble Lord, Lord Lester, and other noble Lords that I listened carefully to the views they expressed about the public sector duty and religion or belief, and I will consider them carefully.

The most reverend Primate, the noble Baronesses, Lady Cumberlege and Lady O'Cathain, and other noble Lords asked whether the Equality Bill narrows or removes the employment exceptions for organised religions and religious organisations. It will not change the existing legal position regarding churches and employment. It clarifies the existing law to ensure that a balance is maintained between the right of people to manifest their religion and the right of employees not to be discriminated against because of a protected characteristic, such as sexual orientation. The most reverend Primate asked whether priests would not be covered by the Bill's definition of employment for the purposes of organised religion because they do not wholly or mainly spend their time leading or assisting in the observance of liturgical or ritualistic practices, and he cited the case of the priest in Cockermouth, I think it was. To clarify, the term "wholly or mainly" involves leading or assisting in the observance of liturgical or ritualistic practices. In paragraph 2(8) of Schedule 9, it is not intended to mean simply that 51 per cent or more of time spent must be spent on those activities to be covered by the definition. It should be interpreted as leading or assisting in the observance of liturgical or ritualistic practices being a major or fundamental part of the job. It is unlikely that a court or tribunal would consider a priest not to be in employment for the purposes of an organised religion. In addition, the Solicitor-General made it clear during Public Bill Committee that the definition in the Bill is intended to cover ministers of religion.

I was also asked whether the Bill inadvertently narrowed the exception for organised religion under paragraph 2(8) of Schedule 9. That is not correct. The Equality Bill will not alter the scope of the current law which allows an exception in the case of employment for the purposes of an organised religion. These exceptions include ministers of religion plus a small number of posts outside the clergy, including those who exist to promote and to represent religion. The exception allows requirements to be made of these employees related to sex, being married or in a civil partnership, gender reassignment and sexual orientation. For example, a church may require a priest to be unmarried and celibate, but could not impose similar requirements on other employees, such as accountants.

The noble Baroness, Lady Young of Hornsey, and others spoke of faith schools. We believe that they provide a spiritual ethos as well as a strong moral education and it is this ethos which is so important to parents. In order to maintain their religious character, it is common sense that they must be able to appoint teachers of the same faith. When we are talking about religion, there are occasions where to be of a certain belief is demonstrably of the utmost importance to a particular role or post. When we look at faith schools and, in particular, voluntary aided faith schools, the Government feel that the question of religion is potentially relevant to any members of the teaching staff because all teachers at these schools may be called on to play an active role in maintaining that strong religious ethos.

My noble friend Lord Alli asked whether it would be right for civil partnerships to be able to take place on religious premises. I, too, celebrate the fourth anniversary of the enactment of the civil partnership legislation. I note the fact that the right reverend Prelate said that he would be happy to discuss these issues. But we believe that civil partnerships were established by this Government to provide an equal provision for same-sex couples to that provided for opposite-sex couples within civil marriage, as the right reverend Prelate said. Neither civil marriages nor civil partnerships can take place in religious premises and it is important that that parity remains. The issue was debated at length during the passage of the Civil Partnership Act and the Government see no need to revisit it now.

On disability, I have listened carefully to the views expressed by the noble Baroness, Lady Campbell, my noble friend Lady Wilkins, the noble Lord, Lord Low, and others about the public sector equality duty under Clause 148. I am considering this issue carefully. Of course, there must be no going back and no regression. We are clear that this clause does not take us back, but I want to ensure that that is clear for all public authorities and everyone else concerned. Hence, my further consideration.

I believe that we have strengthened the reasonable adjustment provisions in the Bill. We have introduced a common lower threshold of substantial disadvantage and have removed the possibility of justifying a failure to make a reasonable adjustment. I should like to discuss the issue of costs further with noble Lords. My noble friend is right that for too long we did not do anything about disabled people and housing. Now we are doing something and I celebrate that too.

My noble friend Lady Wilkins spoke about Clause 15 and discrimination arising from disability—the Malcolm clause—which introduces a knowledge requirement. The judgment of the House of Lords was unanimous in that knowledge of a disability must be a factor in determining where there has been a disability-related discrimination. We believe that it is right to reflect that in legislation rather than rely on case law.

The noble Lord, Lord Low, expressed concerns about special educational needs and, I believe, auxiliary aids in education. We have commissioned Ofsted to review all special educational needs and disability provision in schools to look at how well the existing policies are meeting the needs of disabled people and those with special needs. I know that Brian Lamb, chair of the Special Education Consortium, has just conducted an inquiry into parental confidence in the system in schools and his findings will be published tomorrow. One recommendation will be that schools should be subject to the duty to provide auxiliary aids. Therefore, we are considering this recommendation.

My noble friend Lady Gibson spoke of trade union equality representatives. The Government are grateful for the receipt of the TUC's helpful report on this and will consider it carefully. I should like to take the opportunity to make clear that my right honourable friend the Solicitor-General was misinformed when referring to the TUC's report on Report in the Commons. The final TUC report was indeed received prior to the debate in the other place.

My noble friends Lord Morris and Lord Parekh and the noble Lord, Lord Ouseley, raised the important issue of procurement. They suggested that we should have a contract compliance for public procurement like in America. In situations where a public body has entered into a contract, we do not agree that any and every branch of discrimination law should automatically result in the termination of that contract. Any decision to terminate a contract must be proportionate and in accordance with the terms of that particular contract, and a breach of the law may be inadvertent or minor and easily rectified. However, good contract compliance would mean that in serious cases the contract may well be terminated.

My noble friend Lady Gould and the noble Lord, Lord Lester, raised the issue of protection against pregnancy and maternity discrimination in education in schools. We are clear that pregnant pupils and those who are new mothers are best supported on an individual basis in schools and, under the equality duty in the Bill, schools will have to advance equality of opportunity between pregnant pupils or new mothers and others, and to foster good relations between the two groups. At the same time, we are sympathetic to the arguments for extending legal protection against discrimination to pregnant schoolgirls and school-age mothers and we are giving this further consideration.

The noble Lord, Lord Lester, asked about the impact on the editorial independence of public sector service broadcasters. We have no intention of encroaching on public service broadcasters' editorial independence. It is our view that broadcasting output and editorial functions are not public functions for the purposes of the Bill. To the noble Lord, Lord Adebowale, I would say that in respect of the public sector equality duty, we intend to add more bodies to the list of public bodies covered by the duty. When we do so, we will add the BBC and Channel 4, but we will explicitly exclude their broadcasting and output functions. We are also considering bodies such as the Arts Council because at present the Bill lists only the core public bodies which must be included as a minimum—government departments, local authorities, education bodies. We are talking further to the additional bodies that we would like to add to the list.

My noble friends Lord Morris, Lady Gould, and others, suggested that the Bill should have a purpose clause. We share the aim of those who call for a purpose clause—that is to say, clear legislation—but we do not think that a purpose clause would achieve that.

The noble and right reverend Lord, Lord Harries, raised the issue of caste, as did the noble Baroness, Lady Flather, to whom we are grateful for sharing her personal experiences. I will look into the issue of dissent further. We believe that further detailed work would need to be carried out to test the assertions of the study produced by the Anti-Caste Discrimination Alliance since much of the study relies on anecdotal evidence. We consider that at this stage a sensible approach is for a research project to be undertaken on caste discrimination. Indeed, the ACDA report itself calls for the Equality and Human Rights Commission to do this. The Government are currently in discussion with the HRC about this recommendation.

I was delighted to see the noble Lord, Lord Avebury, in his place. I have noted his concerns about Scottish Gypsies but we are clear that while the judgment relating to the Scottish Gypsy Travellers has gone to appeal, it has set a precedent for public authorities to recognise them as a minority group.

I noted the dismay of the noble Baroness, Lady Deech, about Clause 45. I think she means Clause 47. The reason for its inclusion is completeness. The clause carries forward existing legislation. It is encouraging to hear of progress towards equality in any area of work, but it is not the same as giving areas of work a complete exemption.

My noble friend Lady Pitkeathley mentioned carers, as did others. The Bill protects carers by protecting people who associate with those who are elderly or disabled. I do not believe that protection against indirect discrimination and entitlement to reasonable adjustments as a separate characteristic for protecting carers is the way forward. We have enough protected characteristics based on what people are rather than what they do, but I am sure we will come back to that in Committee.

My noble friend Lady Billingham spoke of the need for more women in sport. We celebrate that. To my noble friend Lord Graham I say thank you for a splendid speech and we will discuss it further in due course.

I noted the concerns expressed by the noble Baroness, Lady Northover, as well as her enthusiasm for other parts of the Bill, including all-women shortlists. I am glad that the noble Baroness, Lady Howe of Idlicote, is now a convert. My noble friend Lady Gale has

[Baroness Royall of Blaisdon]
great experience in these issues. The sunset clause is dispiriting, but, from her calculations, it seems to be necessary.

The noble Lord, Lord Lester, the noble Baroness, Lady Northover, and my noble friend Lady Gould expressed concern that the Bill does not cover homophobic bullying in schools. We recognise that this is a problem and that Stonewall and others have done great work on it, but, in any situation that we can envisage, it would be unlawful discrimination for anyone working in a school to bully a pupil because of their sexual orientation. However, the evidence shows that the real problem in schools is pupil-on-pupil bullying, which is not covered by discrimination law. There would therefore be no practical benefit to extending harassment protection for children in schools.

My noble friend Lady Howells made many important points to which we will return. I say to her that the new single equality duty in the Bill is designed to focus public bodies on achieving real equality outcomes for disadvantaged groups. It is aimed particularly at moving away from a tick-box approach and a lot of process, which has been the criticism levelled at the existing race equality duty in particular.

Representative action was mentioned by the noble Lord, Lord Wallace of Tankerness, and others. We recognise that introducing representative actions could bring benefits both for individuals bringing claims under the Bill and potentially also for defendants faced with multiple claims. However, it would be premature to legislate for representative actions now. In our view, Section 7 of the Employment Tribunals Act 1996 contains the power to make regulations or procedures to enable equal pay claims to be made in representative proceedings. Introducing representative actions would be a significant change. If we decided to legislate in this way in the future, a full and open debate should be held on the issue. We are committed to continuing to look at this and are considering recent research, which will inform our next steps.

Many other points were made in today's debate. I give a commitment to respond in writing to noble Lords where at all possible. We have already considered a huge number of issues, but I know that we shall consider them in detail in the weeks to come. I look forward to our future debates. I am not seeking to curtail scrutiny, amendments or debates, but I simply urge noble Lords to focus on what is in the Bill, because it will be a challenge to make as much progress as we can in the time available to us. As the noble Lord, Lord Lester, said, we need to be disciplined.

This is an important Bill which is powerful in its aims and wide-ranging in its ambitions. It is a Bill which is a crucial element in achieving our aspiration of a country committed to being free of unjustifiable discrimination. That is an ambition worth pursuing; I believe that it is an ambition which we all share.

Bill read a second time and committed to a Committee of the Whole House.

House adjourned at 10.54 pm.

Grand Committee

Tuesday, 15 December 2009.

Arrangement of Business

Announcement

3.30 pm

The Deputy Chairman of Committees (Lord Colwyn): My Lords, perhaps I may start with the usual procedural statement. I remind noble Lords that, in the case of each statutory instrument and legislative reform order, the Motion before the Committee will be that the Committee do consider the instrument or order in question. I should perhaps make it clear that the Motions to approve the statutory instruments and legislative reform orders will be moved in the Chamber in the usual way.

Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009

Considered in Grand Committee

3.30 pm

Moved By ***Lord McKenzie of Luton***

That the Grand Committee do report to the House that it has considered the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009

Relevant document: First Report from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, I am grateful for this opportunity to explain how these regulations are going to help 467,000 business properties with their rate bills over the next five years through the transitional relief scheme.

First, I should begin by explaining a little about the rating system and revaluations as this provides important context for the regulations. The system of business rates is a stable and important part of how we pay for local government in England. Rates have existed in one form or another for more than 400 years but the current system of national non-domestic rating was introduced in 1990. Since then, central Government have set the multiplier which is used to calculate rate bills and, between revaluations, that multiplier has not increased by more than inflation. This has provided welcome and valuable certainty for business. The 1990 reforms also introduced a statutory requirement to have regular revaluations of rateable values every five years. Regular revaluations update rateable values, which are based on rental values, to ensure that everyone pays their fair contribution and no more.

The process of revaluation is done independently of government by the Valuation Office Agency, which uses experienced and professional valuation staff. They have collected and analysed more than 300,000 rents nationally, which is more rents collected than ever before. From this rental evidence, they have prepared valuations for all 1.7 million properties and, six months ahead of when bills are sent out, they have published those draft rateable values on the internet. They have also sent out summary valuations so that ratepayers can check for any errors and ensure these are corrected in time for rate bills on 1 April 2010. To date, the Valuation Office has received 82,000 inquiries on those summary valuations, of which almost 60,000 have already been resolved.

However, the rateable value is only one part of the rates bill. The amount payable also depends on the rating multiplier and any reliefs, including the transitional relief which we are discussing today. Despite what we may hear, it is not the case that the high property market at 1 April 2008, on which rateable values are based, will lead to higher rate bills. The rules we have in place ensure that not a penny extra is raised in revenue for the Government from the revaluation. To achieve this, the rating multiplier has been reduced for 2010-11 by 15 per cent, taking it to its lowest level for 17 years.

We are aware that some ratepayers struggle with their rates bills. That is why we have introduced relief schemes such as the small business rate relief scheme, which provides up to 50 per cent relief, and this transitional relief scheme. But these schemes also add complexity to the rates bills. To ensure ratepayers understand how these different types of relief affect their rates bills, my department has worked with the Valuation Office and Business Link to produce a business rates calculator on the Business Link website. This business rates calculator is one of the most popular applications on the Business Link website and to date has received something like 100,000 visits. Measures such as this are ensuring that ratepayers have an accurate understanding of their rates bills for next year.

As I said, revaluations do not raise a penny extra for the Government and more than 1 million business properties—60 per cent of all business properties—will see an average decrease next year due to the revaluation of £770 before inflation. The revaluation will provide a welcome and timely boost to sectors such as industry, which will see rates bills fall by 3 per cent, and regions such as the east Midlands where 84 per cent of business properties will see their rates bills fall as a result of the revaluation. The regulations we are discussing today provide a transitional relief scheme to help the minority of ratepayers who are facing increases. This £2 billion relief scheme will ensure that, after adjusting for negative inflation, no small property will face an increase due to the revaluation of more than 3.5 per cent in 2010-11, or 11 per cent for larger properties. This relief will help 467,000 business properties with their rates bills next year. We have adopted this relief scheme after a consultation exercise in the summer which provided more information than ever before about the revaluation. Our chosen scheme secured widespread support. Sixty per cent of respondents agreed that we should provide relief over the full five years of the rating list rather than the four years adopted for the previous revaluation in 2005. Sixty-eight per cent supported the proposed caps on increases for small properties, including the

[Lord McKenzie of Luton]
Federation of Small Businesses, and 55 per cent supported the caps on increases for large properties.

Transitional relief works by placing annual caps on the changes in rate bills. Those caps are contained in Regulation 8 of the draft regulations. For instance, the caps on increases for small properties over the five years, before inflation, are 5 per cent, 7.5 per cent, 10 per cent and then 15 per cent in each of year 4 and year 5. So, if a small property is seeing a rise in its bill of 15 per cent before inflation due to revaluation, its bill would be capped at a 5 per cent increase in the first year and a further 7.5 per cent increase in the second year. By the third year, it will have reached its full bill. Other rate reliefs, such as small business rate relief or rural rate relief, are applied after the transitional relief is calculated.

Transitional relief must be self-financing, which means that relief for some payers must be funded from other ratepayers. We considered this carefully at the consultation stage, and 66 per cent of respondents agreed that we should fund the transitional relief by also placing a cap on annual reductions in bills, rather than by levying a supplement on all other ratepayers. Therefore, the regulations also provide that those seeing reductions due to the revaluation should have them capped to help pay for the relief. For example, the caps on reductions for large properties are minus 4.6 per cent, minus 6.7 per cent, minus 7 per cent, then minus 13 per cent in each of year 4 and year 5.

These regulations also have to cope with the various changes that can happen to a property during the five years of a rating list. For instance, the transitional relief scheme must have rules to decide what happens when a property splits or merges with another property, or where rateable value changes. These rules are sometimes complex, but they ensure that no ratepayer is treated unfairly. The rules are not new and both local authorities and other practitioners are well versed in their application.

To ensure that these regulations can be implemented in time for new bills on 1 April 2010, my department has worked closely with the Institute of Revenues Rating and Valuation and the Local Government Association, and we have maintained good working relationships with the software companies that support local government. As a result, we are very confident that accurate bills will be sent out on time for 1 April 2010. For the majority of business properties, the 2010 revaluation will provide a welcome boost in the current economic climate. As I said, more than 1 million business properties will see an average decrease next year due to the revaluation of £770 before inflation. The revaluation will help important sectors such as industry in regions such as the Midlands, which are vital to economic recovery.

The relief scheme before us will provide help for the minority facing increases. After allowing for the effect of negative inflation in September 2009, which will adjust bills for all of 2010-11, next year no large property will see an increase of more than 11 per cent due to the revaluation, while no small property will see an increase of more than 3.5 per cent due to it. The scheme has been widely supported at consultation and I therefore ask the Committee to join in that support today.

Earl Cathcart: My Lords, I thank the noble Lord, Lord McKenzie, for introducing these regulations and declare an interest, being involved in companies which pay non-domestic rates. Despite much criticism in this place and elsewhere, Ministers are pushing ahead with their planned 2010 rates revaluation. New bills will be issued to businesses in March 2010 for payment in April. Although I of course support the transitional arrangements, I am concerned that the Government have adopted a flawed approach to this. Of particular concern is the methodology that has been adopted. April 2008, which was right at the peak of the property boom, has been the time selected on which to base this revaluation snapshot. Certain sectors which were artificially buoyant in April 2008 will now have boom values effectively baked in to their rates bills for the next five years before the next revaluation. Additionally, many small shops could no longer be eligible for small business rate relief as a result, further increasing their bills. Businesses find themselves being forced to pay boom taxes in bust economic circumstances.

In 2007-08, the Government took in £17.4 billion. Next year, it will be £20.8 billion—a huge increase over the recession. Does the Minister really mean to tell us that all businesses will be able to pay and will not go bust in the mean time, and that those projections are accurate? I very much doubt that he can, as the Government have refused to conduct any impact assessment on the effect of the forthcoming 2010 revaluation to gauge its likely effect on businesses. That seems particularly irresponsible given the potentially destabilising economic impact of making changes to a £20.8 billion tax during a recession, changes which businesses could not reasonably have foreseen.

The consultation on the transitional relief scheme closed before the draft rateable values were published, preventing a considered assessment of the implications by respondents. In the previous 2005 revaluation, all details were published a full month before the consultation closed, enabling informed responses. Even if the figure of £20.8 billion is to be believed, we are told that the Government expect to distribute £21.5 billion back to local authorities in the form of grant. Where will the extra £700 million come from? The Government's figures are in a mess. There is already a £700 million black hole, which will increase as small businesses go bust.

The Government claim that the revaluation should be revenue-neutral. Some firms in some parts of the country may see a fall in rateable values and business rates, although that may be because of a lack of regeneration in those areas, but a significant proportion of firms—40 per cent, or about 700,000 businesses—will face large and destabilising rises during the worst recession on record. It is those 700,000 businesses which will be financing the rest, regardless of their profitability and of whether they are a going concern. We could do worse than consider the decision by the Executive in Northern Ireland to defer the 2010 revaluation to allow the localised effect of the recession to be taken into account. Noble Lords may wonder if the middle of a severe recession is the time to be rocking the boat in this way.

The background to this is worth considering. Without proper consultation, as Chancellor, Gordon Brown slashed empty property rate relief for commercial and

industrial premises to raise £1 billion a year, which came into effect in April 2008. That tax rise is particularly harmful in a recession, as firms are often unable to pay rent out of vacant property due to the lack of economic demand, but they must still somehow find the cost of business rates. That is money that firms could otherwise have used to reinvest in premises or regeneration, to create new jobs and business opportunities.

The Local Government Association has noted that four out of five councils have reported an increase in empty properties in town centres during the recession. Two-thirds of councils warned that these empty properties are having a significant impact on high streets.

3.45 pm

Yesterday, when these orders were being debated in another place, my honourable friend Justine Greening pointed out the costly effects of the revaluation that make these transitional arrangements necessary. Petrol stations, for example, are likely to be hit with a 33 per cent increase, while the Association of Convenience Stores has pointed out cases where the hike will be more than 200 per cent. Cricket grounds in England and Wales will owe an extra £62,000 each and rugby league grounds can expect a rise in their business rates of 60 per cent. London Zoo will see a rate rise of 155 per cent, up from £260,000 a year to £660,000—a £400,000 hike.

The urban regeneration companies, established to promote regeneration, have warned Ministers that these tax rises have resulted in the prospect of a pre-emptive demolition to avoid the risk of payment and have a deterrent effect on the slow and painstaking business of assembling sites in multiple ownerships. They also talk of the detrimental effect on new speculative factory or office developments that are essential for securing new jobs in deprived areas. Such regeneration is already commercially risky; the prospect of rates payments on newly built but unlet spaces risks killing off private-sector interest altogether.

The effects of the revaluation are therefore potentially disastrous for many businesses. I and my colleagues in the Opposition have urged the Government to postpone the revaluation, and I do so again. If the Minister does not agree to do so, I have no choice but to back the transitional scheme. However, that scheme is not, as I have pointed out, without its flaws. These regulations have been ill thought out.

Lord Tope: My Lords, the noble Earl, Lord Cathcart, has made some of the points that I was going to make so I will not repeat them. I look forward to the Minister's reply.

I will give a qualified welcome to the regulations. The transitional relief scheme is necessary because we are where we are. I am certain that the Government would not wish to be where they are. Hindsight is a wonderful thing. When this process started, I am sure that none of us would have wished to be in the depths of the recession that we are in now. But we are where we are. We all recognise the effects on businesses, some of which face a significant increase, even after transitional relief. This is a further unwelcome blow.

I shall say it again: I am a London borough councillor. That makes me responsible for paying the business rate as well. It is often forgotten that it is not just businesses that pay but those who run public buildings, those who are responsible for schools and so on. I suppose that I am responsible as a business ratepayer.

I wanted to say a few words about what I am going to call "the London effect". I am delighted to see that the noble Baroness, Lady Valentine, is here too; she will know far more about that than I do. I see that, before the transitional arrangements, London and the south-west are the only regions that face a huge increase in the valuation. The increase in London before transitional relief is 10 per cent. Because of that, much of the benefit of transitional relief will go to London as well, I recognise that, but can the Minister, or maybe the noble Baroness, tell us what the net effect on London will be? We need to add to that. On the same date—1 April next year—larger London businesses will, in addition, pay what has become known as the Crossrail supplement, the business rate supplement. I believe that I am right in saying that the transitional relief scheme does not apply to the Crossrail levy. I say again: this does not apply to just the large multiple retailers. Some 34 schools in my small London borough will be liable for the Crossrail supplement. No one thinks of them as large businesses. Many of them are relatively small schools, but they have a rateable value in excess of £50,000. Therefore, what someone once called a double whammy will come in on the same date: the revaluation—the greatest effects of which are in London—and the Crossrail supplement in London. I look forward to hearing more about that and anything that the Minister can tell us about its double effect.

In his helpful opening remarks, the Minister talked about good working relationships with the producers of the software. I am pleased to hear that; I have no reason whatever to doubt it, but I understand that there have, perhaps inevitably, been problems. Can the Minister give us an update on the exact position now? Do the local authorities have in place software packages that are tested, trialled and operating in order to implement the regulations and, if not, when will they have them? I know that that is not yet the case in my own authority, although it is expected in January.

I began by saying that I give the regulations a qualified welcome. I repeat that, but only because we are where we are—and most of us wish that we were not where we are.

Baroness Valentine: I should declare that I am chief executive of London First—a non-profit-making business membership organisation.

The 2010 revaluation is based on rateable values at April 2008 and, therefore, as has been noted, reflects property values at the peak of the market. Given that boom has since given way to bust, these figures are a long way from current reality. London will see a 32 per cent increase in its overall rateable value. However, this is not a homogenous rise across London. In the run-up to 2008, the West End in particular experienced soaring rents and, therefore, will experience a huge hike in business rate bills. Many properties' rateable values will increase by up to 150 per cent. I should be

[Baroness Valentine]
grateful if the Minister could clarify some of these numbers, because mine are slightly different—although they may relate to the application of a negative RPI, if I understood the Minister's introduction.

The Government's proposed transitional arrangements will mean that the related business rate increases will be phased. However, under these arrangements they still propose that the business rates for properties with large increases in their rateable values will increase by 12.5 per cent—although I think the Minister suggested 11 per cent—which is thoroughly unhelpful, just at the time that we are all seeking slowly to climb our way back out of recession. Furthermore, 20,000 London properties will experience a 30 per cent increase over the next two years.

The Government could help these businesses and the fragile economic recovery by freezing business rates in 2010. I note that both the CBI and the British Retail Consortium, which represent businesses across the UK, recommend that there should be lower upward caps and that this should be funded by smaller decreases. That is an eminently sensible proposal.

Lord McKenzie of Luton: My Lords, I thank all noble Lords who have contributed to this debate. I think that we had a qualified welcome, a reluctant acceptance and a qualified comment on the proposals. A lot of questions were asked, each of which I shall try to answer.

The noble Earl, Lord Cathcart, asked about the timing of the consultation paper. I am aware of concerns that the consultation period for the transitional arrangements finished before actual rateable values were published at the end of September. However, we are required by statute to ensure that these regulations are in force by 1 January. Even on the timetable we follow, it was extremely difficult to secure this debate before the House rose. Therefore, extending the consultation period would not have allowed us sufficient time to make these regulations, and that could have meant that billing authorities and their software providers did not have sufficient time to calculate rates bills before next April. Ultimately, this could have meant that ratepayers would not have received the transitional relief they need and deserve. Nevertheless, we released information on the revaluation at a regional and sectoral level in the summer—more information than has ever been released previously at that time in the revaluation cycle. We believe that this allowed ratepayers to respond to our consultation exercise.

The noble Earl referred to these being exceptional times and asked about help for the 700,000 businesses facing an increase. We are putting in place exceptional measures to help businesses with the revaluation. The transitional relief scheme provides more than £2 billion of relief to 467,000 ratepayers to cap and to phase in rises, and it extends this protection for longer—for five years instead of four. I reiterate that no small property will see more than a 5 per cent increase next year, before inflation, because of the revaluation benefiting 366,000 small properties which, on average, will receive £1,000 per property over the five years. After inflation—the difference between the figures we are talking about is because of negative inflation from the base—the maximum increase for small properties will be only 3.5 per cent and 60 per cent of ratepayers, more than 1 million in total, will see their bills fall because of the revaluation The Government's preferred option for transitional relief proposes that the increase for large properties would be capped at 11 per cent after inflation. We have also increased the thresholds for rate relief with effect from April 2010.

We have given a range of other support measures to businesses: we have deferred tax payments, there is an additional £1.3 billion of lending for small and medium-sized businesses and a working capital guarantee for businesses. There is assistance for the automotive industry, health checks for businesses to help them ride out the downturn and prompt payment codes. There is a great deal of support quite apart from these transitional relief provisions.

The noble Earl said that local government settlements show that the Government are increasing revenue from the revaluation. That is absolutely not the case. The distributable amount shown in the local government settlement is not the amount of business rates collected from business in any one year but the amount estimated to be available for redistribution to local authorities as part of formula grant. A change in the distributable amount has no effect on the rates bills paid by businesses. Over the five years of the new revaluation list, the revaluation does not raise any extra money. I stress that. Initially we would have collected 1.5 per cent more in 2010-11, but this would then be reduced in later years because of assumed appeals that arise in the system. Once all appeals have been settled, we would expect the amount collected in respect of 2010-11 to be less than that in 2009-10.

The noble Earl referred to the extent to which rates have gone up since 2005. While revaluations do not raise any extra revenue for the Government, the total amount paid in business rates can vary for other reasons. In particular, inflation can increase the multiplier and therefore the rates' yield, and the RPI inflation between 2005 and recent times is generally between 3 per cent and 4 per cent. Furthermore, physical growth in the tax base—by which we mean extensions and new properties—will also increase the total paid in rates. These factors will contribute to the increase in rates paid since the 2005 revaluation. However, for those properties whose rateable value has not changed since 2005, the ratepayers know that their rates bill before reliefs will not change beyond inflation.

As to why we have not done an impact assessment, the five-yearly revaluations are required by statute and have been a regular part of the rating system since 1990. They maintain fairness by ensuring that rateable values are based on up-to-date information and, as no decisions were required to proceed with revaluation in 2010, no formal impact assessment has been prepared. However, an impact assessment on the transitional arrangements was available from July of this year and contained a great deal of information on revaluation in 2010. From 1 October, ratepayers have been able to put their new rateable values into the excellent business rates calculator on the Business Link website to see the impact of the revaluation on their property. A great

deal of information is available to ratepayers and the wider rating profession on the impact of the 2010 revaluation.

4 pm

The noble Earl raised the issue of empty property rates. The Government stand by their decision to reform empty property rate relief. A £1.3 billion subsidy to owners of empty commercial properties is no longer justified. The reforms to empty property rate relief introduced from 1 April 2008 are principled and right for the long term. Charging rates beyond the initial rate-free period when properties stand empty increases the incentive to re-let and to reuse empty property.

However, the Government have listened to concerns expressed by property owners. PBR 2008 therefore announced that for 2009-10, the year that we are just about to exit, all empty properties with rateable values up to £15,000 will be eligible for full relief. That has been extended for a further year for properties up to £18,000 rateable value in PBR 2009. It is estimated that up to 70 per cent of properties are rated under that threshold and, if empty, will pay no rates in 2009-10. Introducing relief for all empty property would be costly and not well targeted.

The noble Earl referred to certain types of properties—petrol stations, in particular. I say again that revaluation does not raise any extra revenue, it simply ensures that each business pays its fair contribution and no more. Ratings for all properties, including petrol stations, are based on rental value. In the past five years, alongside rising petrol prices, the profitability and turnover of many petrol filling stations has grown significantly. It is only fair to all ratepayers that that is reflected in rates bills. Rental values for petrol filling stations are determined by the market according to the trading potential of the individual site. That is regardless of whether they are independent or part of one of the multinational chains. As I said, the majority of businesses—60 per cent—will see their overall rates liability decrease because of the revaluation.

The noble Earl asked why we are doing this now. Regular revaluations are important, as they maintain fairness in the rating system and keep bills up to date, which is necessary as relative property values change over time. Postponing revaluation would hit hard those businesses which most need our help, such as businesses in the Midlands and in industry, whose relative property value has fallen since the last revaluation and which therefore should pay less in rates. The noble Earl concentrated on those businesses facing increases, but if we were to do as he urged, many businesses would miss out on a reduction. Businesses facing increases are in sectors and locations which have performed better than average since the last revaluation, such as inner London and such as supermarkets. It is only fair that they should pay a proportionately higher share of the total rates bill.

In particular, I instance the fact that the revaluation was based at the height of the property market. It would have been wrong to delay or postpone revaluation, as to do so would, as I said, deprive the majority of business properties—1 million in total—of a deserved reduction in their rate bills. The high property market of April 2008 does not mean higher bills or more money collected by government nationally in aggregate, because rateable values, as we have discussed, are only one part of the rates bill; the other is the ratings multiplier—which, as I recall it, used to be called the rate poundage—which is applied to calculate final bills.

The noble Lord, Lord Tope, who gave the regulations a qualified welcome, instanced issues concerning software. We are not aware of any software problems connected with the revaluation. As I said in my opening presentation, we do not expect any delays. If the noble Lord has more information that he would like to share with us, I am happy to have a discussion outside the Committee, or we could correspond on the matter.

The noble Lord and the noble Baroness, Lady Valentine, talked in particular about London. Of course, London is a key player in our economy, with the highest concentration of business properties, particularly in inner London and the City of Westminster. It has seen the highest economic growth of any region in the UK, and it is only right that it makes a proportionate contribution through business rates. Nevertheless, nearly 45 per cent of businesses in London—124,600—will see their rate liability fall as a result of revaluation. Small shops are expected to be winners, and could see rate bills fall by 3 per cent on average in 2010-11, an overall reduction of £6.5 million. Furthermore, more than 55 per cent of business properties in outer boroughs in the capital will see their rate bills fall next year by an average of £950 as a result of revaluation. We estimate that 16 London boroughs in total will see their total rates liability fall due to the revaluation and transitional relief.

For those ratepayers facing increases, London will benefit more than anywhere else in the country from the transitional relief scheme to help with future business rate liability. While London is expected to see a 10 per cent increase, the transitional relief scheme would see this reduced to 3 per cent in 2010-11. In total, 466,000 ratepayers will benefit from transitional relief, of whom 112,000 are in London—some 24 per cent. Over five years the transitional relief will be worth £2 billion. Of that, £934 million would go to London.

The noble Lord, Lord Tope, asked about London's so-called "double whammy". The business rate supplements provide a new tool for local authorities to invest for the longer-term economic development of their area. The GLA and the Mayor of London have just finished consulting on proposals to levy a BRS as part of the funding arrangements for Crossrail, as I am sure the noble Lord is aware. Under these proposals, properties with a rateable value of £50,000 or less would be exempt from the supplement, which would mean that more than 80 per cent of properties in London would not have to pay the supplement. The Mayor of London also has discretion to set a higher threshold exempting additional properties. Furthermore, London will benefit more than anywhere else in the country from the transitional relief scheme, as I said a moment ago.

The noble Lord asked for confirmation that the transitional relief scheme does not apply to the business rate supplement. He is right: the transitional relief is designed to limit and phase in significant increases in

[Lord McKenzie of Luton]
business rate liability resulting from the regular five-yearly revaluation of business rates. The majority of business properties, 60 per cent, will see their rates liability fall as a result of that revaluation.

Transitional relief is a national scheme that is funded by other business ratepayers. Extending it to the BRS would mean that ratepayers in parts of the country where rateable values have gone down as a result of the revaluation could be asked to contribute to relief on an increase that did not result from revaluation but was instead the result of a local BRS that had not been levied in their area and therefore would not bring any benefit to them.

I hope that that has covered each of the points raised. The noble Baroness asked what the levels of potential increase were. The 12.5 per cent is before inflation; it becomes 11 per cent after inflation. The 5 per cent is before inflation and becomes 3.5 per cent after inflation because of the 1.4 per cent reduction.

Earl Cathcart: I did not want to interrupt the Minister when he touched on this point, as he was on a roll at the time and fired up by the subject. In my remarks I mentioned the figure of £20.8 billion, which I believe is the amount expected to be received from all these business rates. In response to a Written Question, the Government said that they expect to distribute £21.5 billion back to local authorities by way of the formula grant. I raised the point that there is a £700 million deficit between the two. I think the Minister tried to touch on that, but I did not get it. How is this going to be funded? How will not doing an assessment on the effects of these rate revaluations affect businesses? Will they be able to pay? How many businesses are going to go bust between October last year and next April? That will reduce the £20.8 billion expected, thus increasing the £700 million black hole. Will the Minister respond to that?

Lord McKenzie of Luton: I will try. On the general point about businesses going bust, the recession—from which we are not immune because of what has happened across the globe—has given rise to policy changes and initiatives. For example, we have introduced the fiscal stimulus and rescued the banks; we are ensuring that the banking system is working properly; and £5 billion has gone into the DWP to increase its capacity and to help people move back into the labour market. These are all parts of a package of measures to help dampen the impact of the recession, particularly its impact on employment. Given the environment we are in perhaps I should not press the point, but the noble Earl's party opposed the fiscal stimulus on the general principle of its effect on business and that recovery from the recession would be made more difficult. On the precise point that he raised, I do not have in front of me that figure of £20.8 billion but I shall write to him on the matter.

In principle, two things will happen: first, the business rate will be paid into the fund and, over time, it will be redistributed back to local authorities. There may well be a mismatch in the early years and I shall write to the noble Earl to explain that in more detail. Secondly, no surplus will come out of this for the Government and no cost will go into it; it will be self-financing. It may help the noble Earl if I wrote to him to give him greater clarity on the timescale.

Motion agreed.

European Communities (Definition of Treaties) (1996 Hague Convention on Protection of Children etc.) Order 2009

Considered in Grand Committee

4.11 pm

Moved By ***Lord Bach***

That the Grand Committee do report to the House that it has considered the European Communities (Definition of Treaties) (1996 Hague Convention on Protection of Children etc.) Order 2009

Relevant document: First Report from the Joint Committee on Statutory Instruments

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): In debating this draft order on 8 December, my colleague in the other place explained its purpose and outlined some of the provisions of the 1996 Hague convention. I hope it will be helpful if I do the same today.

The 1996 Hague convention on the protection of children applies between contracting states across the world. It established uniform rules on jurisdiction, choice of law and the recognition and enforcement of judgments in relation to measures for the protection of children. We believe that the convention will improve outcomes when orders are made for the better protection of children. That is why the Government decided in favour of ratification.

The draft European Communities (Definition of Treaties) (1996 Hague Convention on Protection of Children etc.) Order 2009 will declare that the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children is to be regarded as a Community treaty as defined in Section 1(2) of the European Communities Act 1972. Section 2(2) of the Act provides that an international agreement specified as a community treaty may be implemented by regulations.

The 1996 Hague protection of children convention can be specified because it is a treaty entered into by the UK as ancillary to the Community treaties. There is European Union legislation which partly covers the same subject matter, known as Brussels 2a, concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility. This overlap gives the European Union competence over certain provisions of the convention, and this power is shared with member states. However, the convention can be ratified or acceded to only by states parties. The European Community cannot ratify the convention in its own right and, therefore, by

Council decision, has authorised member states to ratify the convention on its behalf, in the interests of the Community.

4.15 pm

The draft order does not implement the detailed provisions of the convention. It is an enabling measure. The order will specify the 1996 Hague convention as a Community treaty, enabling detailed secondary legislation to be introduced, implementing all aspects of the convention. The draft order was approved in the other place last week. Subject to approval of the draft order by both Houses of Parliament, the order will be made by Her Majesty in the Privy Council. We shall then bring forward next year a statutory instrument to implement the convention for England and Wales, and Northern Ireland. The Scottish Government have indicated that they are preparing their own statutory instrument to implement the convention under Section 2(2) of the 1972 Act.

The Government decided in 2001, following public consultation, that the UK should ratify the 1996 Hague convention whenever it was brought forward for implementation by the European Community. The EU Council decision in 2003 was the subject of scrutiny in both Houses at that time. The UK signed the convention in April 2003. If all the EU member states which have not already done so are ready to ratify by June 2010, the convention could be in force in the UK as early as October 2010. All member states need to be ready at the same time for ratification to proceed. We intend that the UK should be ready to ratify the convention in June next year.

What does the convention do? Measures for the protection of children which may be dealt with under the 1996 Hague convention include residence, contact, and care orders. The main basis for jurisdiction is the child's habitual residence. As noble Lords will understand well, the court in the state of the child's habitual residence will generally know more about the child's situation and is, therefore, best able to take decisions about the child.

Uniform rules of jurisdiction should achieve this and ensure that decisions on children properly made in one country are respected in others, so that there is no need to go to court again about the same issues in cases with an international element. Jurisdiction can be transferred by agreement if this is in the child's best interests. The convention will also lead to an enhancement of existing mechanisms for administrative co-operation between courts and public authorities in different countries concerned with the protection of a child.

The 1996 Hague protection of children convention will complement and strengthen the operation of the 1980 Hague child abduction convention between states which have ratified both conventions. The 1996 convention is in force between the countries which have ratified it. We hope that ratification en bloc, by the 17 EU member states which are yet to do so, will send a powerful signal to other countries that the convention merits signature and ratification. This is certainly the expectation of the secretary-general of the Hague Conference on Private International Law.

Community rules for recognition and enforcement of judgments are at least as favourable as the rules laid down in the 1996 Hague convention. A declaration made by the UK and other EU member states in 2003 has the effect that relevant internal rules of Community law will apply for the recognition and enforcement of judgments between EU member states. Where a child is habitually resident in an EU member state, Community rules will also apply to determine jurisdiction.

As some noble Lords will know, the decision of the European Council in June last year to authorise certain member states, which have yet to do so, to ratify the 1996 Hague convention was not issued sooner because of disagreement relating to communications between Gibraltar and other contracting parties. Following resolution of this issue in December 2007, the European Union was able to proceed with its approval of this and other conventions. In coming before the Committee today, I am glad to be able to highlight the fact that the decision of the European Council in June 2008 has enabled us to make progress towards UK implementation of this important instrument. I commend the order to the Committee. I beg to move.

Baroness Seccombe: My Lords, I thank the Minister for explaining this important measure in great detail. I wish to ask a couple of questions. As I understand it, the Hague convention improves the international protection of children by providing uniform rules on jurisdiction, applicable law, recognition and enforcement for decisions on parental responsibility and measures for the protection of children, which is so important in a violent world. I am sure we all agree that that can only be to the good.

I also take note of the 2008 decision of the European Council, which authorises member states that have not yet ratified or acceded to the convention to do so. That, of course, includes the United Kingdom. In view of depositing their instruments of ratification or accession simultaneously, these member states are to exchange information on the status of the related procedures with the Commission and the Council. This exchange should have taken place before 5 December 2009, after which the date of the simultaneous deposit—that will preferably be before 5 June next year—will be established.

I have two questions for the Minister. What steps have other member states taken to deposit their instruments of ratification and what progress can the Minister report on the implementation of the Hague convention? According to the Explanatory Memorandum, a full impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or voluntary bodies. Can the Minister give an assessment of the impact on UK law, for the sake of all parties—children, families and legal practitioners—to family law proceedings, that the incorporation of the Hague convention as a Community treaty will have?

Lord Dykes: My Lords, I, too, thank the Minister for clearly explaining this important order, the background to the Hague convention and how the European Union will fit into it. As he said, we hope that will be by the end of next year. I also thank the chief Opposition

[LORD DYKES]
spokesman for her remarks and her two interesting questions that command attention. I certainly endorse them and would welcome the Minister's answer to those points.

Gradually, and at long last, I think we are getting there with the beginnings of the universal protection of children—that will, of course, take much longer—and at least the protection of children in Europe, as we know it, and other advanced territories of the so-called first world. I say that with no condescension in regard to other parts of the planet. This measure has been a long time coming and much pain and agony has been endured by families as it has been developed.

This is a very welcome step; it is progress that is to be welcomed. As the Minister explained, it is an interesting hybrid whereby, although the individual jurisdictional implications are dealt with by the member states only and are not part of EU jurisdictional law, the EU itself comes into the other crucial parts of it that imply the beginnings of the European unified system of child protection. This will enormously help the courts in different member states that have been grappling with these problems for many decades already. It got worse after the Second World War, when there was a lot of movement of families and children for all sorts of reasons.

I welcome the Government's endorsement of the order. I hope that it will be carried today and that the two Houses will then proceed to ratification, so that the other 17 member states that the Minister referred to will proceed as rapidly as they can to this point. Some of the newer member states may need somewhat longer. Perhaps the Minister has some indication and enlightenment on that point, because we need to reach the conclusion of this in the European context and make sure that justice is done, certainly to families but particularly to children, in these often painful human matters and matters of jurisdiction, control, family welfare and child welfare that are so important in modern society.

Lord Bach: I am grateful to the noble Baroness and the noble Lord who have spoken for their support for this measure. On the question of what steps other member states have taken, seven already ratified in 2001. Interestingly, some of them were not members of the European Union, so they ratified before they became members. I am advised that a number are ready to proceed and approximately 11, including us, have proceedings taking place in national parliaments. What steps is the UK taking to implement this? The enabling measure will allow us to use the powers in Section 2(2) of the 1972 Act to ensure that the treaty has the force of law and implements the necessary arrangements.

The noble Baroness asked what the impact would be on UK law. Brussels 2a, which I referred to in my opening, will primarily control jurisdiction and enforcement within the European Union, but the 1996 Hague convention that we are debating today will do a similar job for the UK between other contracting states, which may not necessarily be members of the EU. It will not have an internal effect except in a few circumstances where Brussels 2 does not apply. I have a feeling that my answer is not complete, though. The 1996 convention will also introduce applicable law to the United Kingdom. I hope that that goes some way towards answering the noble Baroness's questions.

Motion agreed.

Legislative Reform (Revocation of Prescribed Form of Penalty Notice for Disorderly Behaviour) Order 2009

Considered in Grand Committee

4.30 pm

Moved by ***Lord Bach***

That the Grand Committee do report to the House that it has considered the Legislative Reform (Revocation of Prescribed Form of Penalty Notice for Disorderly Behaviour) Order 2009

Relevant document: 18th Report, Session 2008–09, from the Regulatory Reform Committee

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My Lords, this order was laid before Parliament on 21 October and seeks to remove the requirement for the penalty notice for disorder—or PND, as it is widely known—form to be prescribed by law.

Penalty notice disposal provides the police with a quick and effective way of punishing minor nuisance offending by minimising the paperwork and processing required from the police. It has been in existence for some time. Cases do not have to be taken to court, which also relieves the burden on the courts.

Currently, all penalty tickets are in book form and issued manually. However, a number of police forces, including the British Transport Police, have developed electronic hand-held devices for front-line officers and would like to issue PNDs electronically. It has become clear that the current PND form is unsuitable to be reproduced using the latest technology and that the changes the forces wish to make to it may currently be unlawful. This is because the format of the ticket is required to be prescribed under Section 3 of the Criminal Justice and Police Act 2001. In view of this, the Association of Chief Police Officers requested that changes be made to the current legislation to de-prescribe the form. The Government agreed, a consultation paper was issued and the majority of the respondents were in favour of making this change.

The purpose of the order is to give police forces the freedom to design their own forms, should they so wish, and to remove the obstacle to the electronic hand-held issue of tickets presented by an inflexible format. Electronic completion of the forms would also improve accuracy of recording and may lead to better enforcement. However, I want to make it clear that de-prescription of the form will not affect the legal rights of recipients as the order will not change the statutory provisions of the scheme, such as the right to have a case heard in court. Furthermore, tickets will still contain the remaining six requirements

under Section 3 of the Act such as details of the offence, the amount of the penalty and the rights of the recipient. We will also continue to publish detailed operational guidance for police forces, which will contain a model ticket.

The aim of removing unnecessary prescription is to reduce bureaucracy and costs to forces and is in accordance with the recommendations of the *Independent Review of Policing* by Sir Ronnie Flanagan and the policing White Paper. The Government are convinced that de-prescription will result in efficiency savings and operational benefits, in particular to those forces wishing to automate ticket issue. I invite the Committee to support this statutory instrument. I beg to move.

Baroness Seccombe: My Lords, I thank the Minister for not only the detailed explanation but his demonstration in producing one of the necessary books.

As he explained in his introduction, these penalty notices for disorder—I shall refer to them, as did the Minister, as PNDs—are a way of dealing with minor criminal offences without the need for prosecution and court proceedings. As he pointed out, fixed penalty notices have existed for many years. They were introduced for litter and noise offences in the 1990s and were applied to other offences by the Criminal Justice and Police Act 2001. That Act sets out some 21 offences for which PNDs can be issued.

The Minister was at pains to stress that these notices are used as a way to streamline the disposal of minor offences but that, of course, the option is still there for a person issued with a notice to elect for court proceedings if they so wish. As regards this order, the noble Lord has explained that, because PNDs are issued by means of a paper notice, the exact form of which is prescribed in regulations under Section 3 of the Criminal Justice and Police Act, officers must carry with them books containing four different types of ticket—one each for upper and lower-tier offences for adults, and one each for upper and lower-tier offences for juveniles. I think that all noble Lords will agree that that arrangement is overcomplicated and unsatisfactory.

As the Minister tells us that most police forces have now developed electronic hand-held devices in the form of personal digital assistants—or PDAs, as we may call them—for use by officers, it seems sensible to de-prescribe the form in which the notices must be issued. Where the Government are prepared to reduce regulation, cut red tape and apply some common sense, we are only too glad to support those efforts. Sadly, we do not see nearly enough of that. However, I have a few questions for the Minister about the more general application of the disorder notice scheme.

This order has been presented by the Government as a way to simplify how penalty notices are issued. However, I would like an assurance from the noble Lord that these measures, which facilitate the use of electronic equipment, will not lead to an unnecessary increase in the database state. The Lord Chancellor, the right honourable Jack Straw, announced last month that the Office for Criminal Justice Reform will be reviewing the use of fixed penalty notices by the police. Which specific areas of the penalty notices for disorder scheme do the Government expect to be reformed, and is this one of the areas that they have looked at? Can the Minister please also inform us about the consultation that took place, and when it was conducted?

My colleagues in opposition have raised repeated concerns that the Government's persistent use of fixed penalty notices is letting certain criminals off with what amounts to a glorified parking ticket. We believe, absolutely, that it is vital that people are innocent until proven guilty, and I seek assurances that the streamlining of the regulation is designed to assist police efficiency and that this order is not being used to up the number of notices issued. If the Government are thought to be using penalty notices to raise revenue rather than to check crime, they will only be undermining their own rather weak record in that area.

Lord Thomas of Gresford: My Lords, this gives us an opportunity to look at what a penalty notice should contain. One of the major problems arising under fixed penalty notices, which we have always opposed in my party, is that they allow what amounts to an offence brought to justice to be recorded against an individual. There are specifically notifiable offences for which penalty notices can be issued: under Section 5 of the Public Order Act, under Section 1 of the Criminal Damage Act, for theft under the Theft Act and for the possession of cannabis, in particular.

An acceptance of a penalty notice is recorded and notifiable; presumably, it remains on some form of list or computer record. If that is so, I should like to know for how long. Can these penalty notices be used as part of an individual's record against him in future proceedings, both for the purposes of proving guilt under the provisions which permit that or in the fixing of a penalty? I think that that is the case; I wait for reassurance on that. If it is the case, then the penalty notice itself should make it absolutely clear to an individual that by accepting such a notice and paying what amounts to a minimal figure of £80 or £50—which must be very attractive to an individual who would otherwise lose a day's work to go to court and contest something—he may cause considerable prejudice to himself, not just in the event of any future proceedings but in applications for jobs, if such a record is recorded and can be produced.

It is a serious matter. The current statutory provisions to which the Minister referred require a penalty notice to state the offence, give particulars, specify the suspended enforcement period during which the penalty notice can be paid, state to the justice's chief executive where the penalty may be paid, and inform the person of their right to ask to be tried for the alleged offence. As regards penalties, all that is required under Section 3 of the Criminal Justice and Police Act 2001 is for the notice to,

"state the amount of the penalty".

That legislation extended the use of penalty notices way beyond what was initially intended when they were introduced for littering and other minor matters.

A person may be issued with a penalty notice, as I have said, for something that may count against him in the future—either as regards jobs or possible further proceedings. If I am right in that, will the Minister

[LORD THOMAS OF GRESFORD]
consider whether the consequences of accepting a penalty notice after this addition should be on the face of a form—in whichever form a police force decides to issue it. That is my main concern.

My secondary concern is that if you send police officers out on the street with an electronic device to give out notices, such as the devices carried by traffic wardens, there is an enormous temptation to use them in circumstances when police action would not normally be taken. The notices can be issued like confetti—not just to the perpetrator of a particular offence, who, for example, is causing a disturbance, but to the people standing around nearby. They may be dragged unwittingly into a system which is highly prejudicial to them.

It is extremely important that the Government review the way in which these penalty notices are being used, report to Parliament on how many are being issued and on whether there has been an increase as a result of the passing of this statutory instrument, report that they have looked at the forms that individual police forces use around the country and state that they are satisfied that the forms comply with the Act as it stands and that, as I argued in my main point, they give fair notice to people of the consequences of accepting a penalty notice, as opposed to contesting it—with all the trouble that that involves. These are the assurances that I am looking forward to hearing from the Minister.

4.45 pm

Lord Bach: I am grateful to the noble Lord and the noble Baroness for their contributions, particularly to the noble Baroness for her support for this measure.

Penalty notices were introduced as part of the Government's strategy to tackle low-level anti-social and nuisance behaviour. We believe that they enable the police to deliver swift and effective justice for lower-level criminality, freeing up the courts to concentrate on more serious offences. The aim is to provide the police with a swift financial punishment to deal with misbehaviour and a practical deterrent to future reoffending. PNDs free up the courts to concentrate on more serious offences and ease the position of the police. Issuing a penalty notice takes an officer approximately 30 minutes, compared with two and a half hours to prepare an evidential case file. The police officer is then freed to return to patrolling the street and does not have to attend court.

We think that PNDs have been successful, but the noble Lord, Lord Thomas of Gresford, is right to point out that there are possible dangers in such a system. As the Committee knows, and as the noble Baroness mentioned, my right honourable friend the Secretary of State has set up a review. Indeed, there is a Written Ministerial Statement with yesterday's date on it that sets out the Government's concerns. We are looking at the use of tickets to seek to avoid inappropriate use, because there have been recent suggestions that they have been used inappropriately for offences that are too serious for a ticket and should, in the interests of both the community and the defendant, end up in court.

The noble Baroness asked me some questions. How long did the consultation last? It ran for six weeks from 22 August to 3 October 2007. Will the electronic devices not lead to even more on-the-spot fines being issued? There is no reason to think that the device itself will lead to an increase in the number of PNDs issued. As I said, issuing tickets electronically will save the police considerable time and reduce the amount of paper that an officer is required to carry.

In response to the noble Baroness and the noble Lord, for a PND to be issued, an officer still needs to be satisfied that an offence has been committed that is suitable for the disposal option, following operational guidance. The noble Lord was concerned that if a policeman went around with a machine that was so easy to use, it might be used inappropriately and too often. One hopes that in the normal course, police officers would not do that. An offence must be committed before they can use that method, and the defendant always has the right to choose trial.

As for reporting, which was the first line of questioning from the noble Lord, PNDs will continue to be recorded as at present. One reason for that is to ensure that no offender receives a string of tickets. They are for recordable offences, and exist on the police national computer. They can be included in an enhanced form and can remain on the computer indefinitely, but I remind the Committee that they do not represent a conviction in the same way as would a court appearance followed by a finding of guilt.

Should a court be able to take note of previous PNDs when sentencing? The Independent Sentencing Guidelines Council's new magistrates' courts sentencing guidelines, which came into force in August last year, state:

> "The fact that an offender has previously been issued with a penalty notice does not increase the seriousness of the current offence and must not be regarded as an aggravating factor".

So the court may not sentence more severely just because the offender has been issued with one or more PNDs, but that may properly, so the guidelines state,

> "influence the court's assessment of the offender's suitability for a particular sentence, so long as it remains within the limits established by the seriousness of the current offence".

It can be used in criminal proceedings as evidence of bad character and can be cited in civil proceedings too.

Lord Thomas of Gresford: In those circumstances, would it not be highly desirable that those consequences should appear on the form? After all, the purpose of the form is not for the police officer to collect the money there and then but for the individual to take that form away, and he then has 21 days in which to pay it or to take the option of appearing in court. Should that not therefore be on the form so that he can study it and decide which option to take—to pay the fine or to contest it?

Lord Bach: The noble Lord makes a fair point. Of course, the individual has the 21 days in which he or she can, if they so choose, take legal advice. They may choose not to do so. The review is just beginning. I invite the noble Lord to put into the review—indeed, I may do so on his behalf—the notion that a model ticket in future should contain such a reference.

Lord Thomas of Gresford: I would be grateful if the noble Lord could take that on board and give an assurance that he will make a submission to the review that it should be considered as a highly desirable practice.

Lord Bach: I am afraid that I cannot guarantee that will be done. I can guarantee that I will pass back the idea so that it is discussed by the review. I am grateful to the noble Lord for the suggestion.

Baroness Seccombe: I am not quite sure what the Minister said about the database. Does the order mean that if you get a ticket, in whatever form, it goes onto a separate database, or does it go onto a general police database?

Lord Bach: As I understand it, it goes on to the police national computer and may also go onto a local police database.

Motion agreed.

Community Radio (Amendment) Order 2010

Considered in Grand Committee

4.53 pm

Moved By ***Lord Faulkner of Worcester***

That the Grand Committee do report to the House that it has considered the Community Radio (Amendment) Order 2010.

Relevant document: First Report from the Joint Committee on Statutory Instruments

Lord Faulkner of Worcester: My Lords, community radio was established in the UK in 2005 following the Community Radio Order 2004. In a relatively short period of time the community stations have established themselves as an essential part of the radio landscape. More importantly, they have become both a voice and a focal point for the communities they serve.

To date, the regulator, Ofcom, has awarded over 200 community radio licences, of which approximately 150 stations are currently broadcasting. Stations can be heard the length and breadth of the country, from Orkney to the Isles of Scilly, Wales and Northern Ireland, and the range of programming they produce is equally as broad.

A station produces on average 77 hours per week of live broadcasting. Over 30 per cent of daytime output is speech-based, the vast majority of which is highly localised. Stations play a wide range of musical styles, often promoting local musicians and bands. What makes community radio unique, though, is that this content is delivered by an army of volunteers—on average, 75 volunteers per station per year. For these reasons we believe that community radio, while still in its infancy, has already proved a valuable addition to the local cultural and social landscape.

The Community Radio Order 2004 placed limitations on the sources of revenue and licensing of community radio stations. These restrictions were intended to reflect our concerns that a new tier of local radio that would have access to public funding could have a detrimental impact on existing local stations. More fundamentally, the restrictions sought to ensure that community radio be complementary, rather than just a new tier of competition, to the existing radio industry.

However, we have kept these restrictions under review to assess both their impact and the extent to which the protection they afforded remained appropriate. The most recent of these reviews, published in late 2007 by Ofcom, recommended a relaxation of the current regime. Recommendations were also made in the Government's own review of local radio, conducted as part of the Digital Britain programme. It is in the light of these recommendations and our own subsequent consultation that we now propose the changes set out in the draft Community Radio (Amendment) Order 2010.

The draft order addresses three main issues, as well as some more minor points. I propose to deal with the key issues first. The first proposal is to remove the restriction that currently prohibits community radio stations from taking more than 50 per cent of funding from any one source. This restriction was put in place to prevent stations from becoming overly reliant on a single source of funding and, to a lesser extent, to protect against a majority funder influencing the editorial content of a station.

We still believe these principles to be valid, although we also now accept that they can be achieved in different ways. Not least of these are the impartiality rules set out in the Communications Act 2003, which provide a sufficient safeguard of editorial impartiality for all other types of broadcasting. We also note that Ofcom's decision in 2008 to allow volunteer time to be offset against revenue has in practice already allowed stations to take single-source funding of greater than 50 per cent.

The second set of proposed changes would remove the restriction prohibiting a community radio station from being licensed in an area that overlapped with a commercial station with a coverage area of 50,000 adults or fewer. The effect of this has been to prevent some areas where there is obvious demand from having access to a community station. In light of our experiences to date, we are now satisfied that the advertising and sponsorship restrictions are sufficient to protect even the smallest of stations. This restriction can therefore be removed.

The third major change would allow existing community radio licence-holders to apply for an extension of their licence for a period of up to five years. This is because we recognise that, in many cases, community radio stations are taking longer than anticipated to become fully established, particularly in building relationships within communities and a volunteering network. We will keep this change under review, alongside the others introduced in this order, to consider their impact.

We have also taken the opportunity of a new order to clarify the licensing regime set out in the Community

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Radio Order 2004. This sets out more clearly for licence-holders and Ofcom the considerations that need to be made before a community radio licence is granted. However, these two minor amendments are entirely consistent with the policy as we agreed it in 2004.

We believe that the changes set out in the draft order, taken together, will help to build on the successes of community radio and to establish a more sustainable sector for the longer term. I assure the Committee that I am satisfied that the draft order is compatible with convention rights. I beg to move.

5 pm

Lord Luke: My Lords, I thank the Minister for his thorough explanation of the effect of this order. However, I wish to make one or two points. We on these Benches are very positive about the future of radio. We think that local and community radio will continue to make up an integral part of this media sector. These stations provide a vital service that can cater for very specific tastes or a very specific area and so fill a need which risks being overlooked by larger national or commercial broadcasters who deal with broader areas or tastes.

Of these local community stations, 14 per cent, for example, are aimed at minority ethnic groups, 9 per cent are aimed at young people and 7 per cent at religious groups. Local community radio is, therefore, clearly an important part of the network of media available in this country. It helps to define local communities by allowing increased local involvement and a focus on local issues. For example, in Newport on the Isle of Wight there is a station catering specifically for the needs of the elderly; in Belfast there is a station particularly for Irish Gaelic speakers; and in London there is a station for those people interested in experimental radio art. I do not know whether the Minister knows what that is; I certainly do not. There is something for all tastes.

The demand for, and popularity of, these stations is shown by the fact that since the Community Radio Order 2004, Ofcom has licensed 214 stations—the Minister mentioned that—159 of which are already broadcasting. Stewart Purvis, Ofcom's content and standards partner, said:

"Community radio is now an established third tier of radio broadcasting in the UK. This new tier of radio adds richness and variety to the services already provided by the BBC and commercial radio and offers opportunities for people to get involved in local broadcasting".

With this in mind, we are very supportive of two of the substantive amendments which this order makes. Article 5 modifies the 2003 Act in relation to community radio. It introduces new Section 253A, which gives Ofcom the power to extend community radio licences for one period of not more than five years. We approve of this development because we think that a regulatory regime which is light touch and allows genuinely successful local radio stations to operate as part of a viable local media business is an important development and is to be encouraged. For this reason, we also support the first part of Article 3, which, as the Explanatory Note states, would remove,

"the restriction that a community radio licence may not be granted to an applicant who proposes to receive more than 50 per cent of the income the applicant needs to provide the proposed service from any one source".

This change is also a step in the right direction towards lighter regulation and allows freedom to grow for genuinely successful local stations which attract significant investment and donation from one source.

However, the Minister will not be surprised to hear that our support is not unequivocal. We have reservations about the change the order brings in which would allow Ofcom to award licences to community radio stations in areas that overlap with small commercial stations; in other words, those with a potential audience of fewer than 50,000 adults. We object to this amendment because, in this instance, the commercial station operates on a very local level anyway. These stations will often be not-for-profit, very locally focused and have significant community involvement. To allow another publicly funded community station a licence in this area would simply mean that it would have the potential to upset the fragile economic balance of this station by competing for listeners. We think it is very important to create a regulatory regime which helps rather than hinders the commercial radio sector—particularly in this difficult economic climate, with the additional instability caused by the big switchover from analogue to digital.

In response to the Government's consultation on this matter, RadioCentre quoted the then Secretary of State for Culture Media and Sport, the right honourable Andy Burnham, who, on 2 March 2009, stated:

"We already have established radio stations that provide an excellent service to their community and we want to work pragmatically to ensure not only that community radio can continue to develop but, with one eye on the rest of the media industry, that it does not threaten the development of commercial services"—[*Official Report*, Commons, 2/3/09; col. 570.]

Can the Minister inform us what effect this change to the Community Radio (Amendment) Order is expected to have on the status of small, locally based commercial stations? Does he not agree that this amendment will have a potentially damaging impact on their survival by allowing small community stations to compete with local commercial stations which are already suffering? Given the supposedly reassuring words above, and the fact that currently local stations are already handing licences back to Ofcom because they cannot make their businesses work, why do the Government think that this is an appropriate change? What other action is being taken to ensure that the development of commercial services is not threatened?

In more general terms, my Lords, can the Minister give us some idea of hopes for the future regarding community stations and the small commercial stations as we move into the digital age? What impact do the Government expect the switchover to have on local radio? Moreover, what is being done actively to ensure that successful local radio stations can survive to become part of a viable local media sector?

Lord Clement-Jones: My Lords, I thank the Minister for his introduction to the order. As he said—and we agree—community radio forms a vital part of the broadcasting landscape. Indeed, as both he and the noble Lord, Lord Luke, said, its growth since 2004 has

been a great success story, with now more than 200 community stations. We on these Benches share the motives and agree with most of the actions of the Government and with their intent in the order.

The lead-up to the order has not been for want of documentation: there is the Ofcom review of 2007; the interim *Digital Britain* review; the Myers independent review of the rules governing local content on commercial radio; the final report of *Digital Britain*; the consultation on amendments to the community radio licensing regime in June; the summary of responses to the consultation and the Government's response of October; and the impact assessment and Explanatory Memorandum to the order. The Government have made their position and their motives clear in the run-up to the order.

We share what the Government have to say, particularly in respect of loosening the regulation on sources of funding, licensing overlap and extension of licence periods. The key thing that the Government have done is to maintain the restrictions on advertising. That is a vital safeguard. We support the general thrust of the amendments, including the retention of those advertising restrictions.

At the same time, we understand the concerns of RadioCentre and others about the impact on small commercial radio stations. Although the impact assessment is welcome as such, it is very thin; it says very little about the impact on smaller radio stations. It states:

> "The effect of allowing community radio stations to co-exist with the smallest commercial stations is difficult to quantify. However, it is likely that community radio stations will attract some listeners from local commercial stations. This could affect the value of an advertising slot to a local commercial station".

The request of the commercial industry for impact assessments when new licences are granted to community radio stations is a valid one that the Minister needs to answer. The general impact assessment is not adequate; the impact in a particular area, however, will be crucial. I hope that the Minister will be able to give a favourable response on that.

The issue of funding for local community radio in this context is very important. I can see the Government's motives in wanting to allow single-source funding up to a greater figure—75 per cent, I think—but one of the key sources of funding has been the community radio fund. That started off, rather disappointingly, at £500,000; since then, the spending commitments of that fund have increased massively from something like 14 stations to over 200, as we heard today. If the Government are changing regulations and wishing the community radio industry well, I hope that at the same time they will give some indication that the funding for community radio will be improved. It is all very well to wish community radio well and say what an important part of the broadcasting landscape it is but, without willing some additional resource to it, it will be difficult, particularly in the current climate, for it to sustain itself.

I hope that the Minister will be able to answer those two questions, which are highly pertinent to both the future of small commercial radio stations and the community radio movement itself.

Lord Faulkner of Worcester: My Lords, I thank both noble Lords for their contributions to this debate and for the general welcome that they have given to the order. There is no disagreement between us on the value of community radio or on the value of the small local commercial stations which feel that they are in competition with it.

I will not go over the points that the noble Lord, Lord Luke, covered when he effectively endorsed what is in the order and which I covered in my speech. However, I will attempt to address the questions that he asked, particularly about the proposal to allow community radio in areas of 50,000 or fewer where a commercial station is already in existence. This is indeed in contradiction to one of the majority views in the consultation. The proposals set out in the draft order have been made following significant discussions with the commercial radio sector, and it was a recommendation of the former chief executive of GMG Radio that this change should be made. The advertising and sponsorship restrictions that will apply to all the community radio stations with audience potential of up to 150,000, including the newer stations that will come in with this order, will, we believe, provide the protection for the commercial stations that the noble Lord is seeking and to which the noble Lord, Lord Clement-Jones, also referred.

I will return to the question of the impact assessment in a moment. The noble Lord, Lord Luke, asked about the future of community radio after the digital switchover. The intention is that the digital radio upgrade programme will retain a proportion of FM to help what one might call the ultra-local stations to stay in existence and continue to provide community radio. In practice, we believe that the vacated spectrum will allow for a greater number of community radio stations in future, particularly in areas where stations have been limited by a lack of spectrum.

5.15 pm

The noble Lord, Lord Clement-Jones, referred to the funding of community radio through the community radio fund. He raises a good point. The availability of funding is committed until 2010-11. Decisions beyond 2011 have still to be taken but the Government have been working closely with Ofcom and the community radio sector to ensure that we make the best use of the funding that is available by promoting best practice and employing fund raisers. In addition, the Minister for Creative Industries has met representatives of the community radio sector to discuss the future of the community radio fund. He has agreed to write to other government departments to highlight the benefits of community radio in delivering wider government objectives and to seek a financial contribution from them to the fund.

On the impact assessment, we accept that there is little evidence which qualifies the impact of community radio on small commercial stations. However, we are not aware of any commercial station that has closed as a result of the licensing of a community station. Ofcom is required to consider the impact of a community radio station on a commercial station before a community licence can be granted. I understand that Ofcom's

[Lord Faulkner of Worcester]
watch on this will be maintained and, if there is an impact on commercial radio stations, Ofcom will intervene and act on it.

I hope that I have answered the questions raised by both noble Lords in this brief debate. If I have missed anything I shall, of course, write to them.

Motion agreed.

Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2009

Considered in Grand Committee

5.17 pm

Moved By ***Lord Davies of Abersoch***

That the Grand Committee do report to the House that it has considered the Legislative Reform (Insolvency) (Miscellaneous Provisions) Order 2009

Relevant document: First Report from the Regulatory Reform Committee

The Minister for Trade and Investment (Lord Davies of Abersoch): My Lords, I am being shadowed for the day by a graduate intern, Angela Wynne. I am not sure whether she should be shadowing me or the noble Lord, Lord Hunt. This is an attempt to get her name into *Hansard*.

I shall start by putting the proposals in this legislative reform order into the context of what we are trying to do as a Government and as a department. We have been working determinedly over the past year to provide real help for businesses, including advice, access to finance and tax relief, to support them through the downturn and to safeguard jobs. The reforms today give certainty to the business climate by simplifying an essential part of business law so that businesses can take risks and concentrate on what they do best—creating wealth and jobs. That is why we are reforming the UK insolvency regime, so that it reflects modern business practices and strikes the right balance between the respective interests of debtors and creditors.

The order makes amendments to the Insolvency Act 1986 and forms part of a package of measures being taken to modernise the insolvency legislation. Changes to the regime for publicising insolvency events were implemented in April of this year and some of those changes were facilitated by an earlier legislative reform order. This next phase of amendments, along with parallel changes being made to the insolvency rules 1986, will substantially change the law. These changes will be implemented next April and thereafter a consolidation of the insolvency rules will be undertaken to make the legislation easier to use. That is planned for April 2011. My officials have worked very closely with insolvency stakeholders as we have developed these proposals, and I am very grateful for the valuable contributions that those stakeholders have made.

The purpose of the order is to reduce the cost of administering insolvency cases and thereby increase the amount of money that can be returned to the creditors. It will do this by amending the Insolvency Act 1986 to enable new and more efficient ways of carrying out certain actions within insolvency procedures and to remove requirements to carry out unnecessary actions. The provisions in this order will operate alongside changes to the Insolvency Rules 1986, which are also being modernised. The changes will come into effect at the same time as this order.

There are seven proposals in all. They are: to allow insolvency office-holders to convene meetings as part of their conduct of insolvency cases other than by attendance at a specific venue; to make communication between insolvency office-holders and creditors more flexible, such as by allowing the use of websites; to make it explicit that electronic communication is permitted within insolvency procedures; to remove the requirement for certain documents to be sworn by affidavits and replaced with less burdensome requirements for such documents to be verified by a statement of truth; to remove a statutory requirement on voluntary liquidators to summon annual meetings for the purpose of laying an account of their actions over the preceding years—instead, the liquidators will be required to send out progress reports; to remove the need for certain documents in individual voluntary arrangements to be filed at court; and, finally, to simplify the procedures relating to realisation of certain assets in bankruptcy and liquidation.

Perhaps the most far-reaching of these seven proposals are those designed to enable the use of electronic communication and websites as a means for communicating information within insolvency cases. We have put in place safeguards to protect the interests of those who cannot or prefer not to use this form of communication. We know from responses to the consultation that this change will be very widely welcomed.

We estimate that the savings across the whole body of insolvency cases from the seven proposals for change to the Insolvency Act 1986 in this draft order, and to the Insolvency Rules 1986, will be more than £30 million a year.

The Delegated Powers and Regulatory Reform Committee of this House is satisfied that the order in its present form meets the tests in the Legislative and Regulatory Reform Act 2006 and is appropriate to proceed as a legislative reform order. The Regulatory Reform Committee in another place has also recommended that it be approved, and the Government intend to bring it forward for approval there early in the New Year.

This order will bring real benefits to those unfortunate enough to be owed money by failed businesses. We must do all we can to ensure that the insolvency processes are administered as efficiently as they can be to help those creditors recover as much as possible of what they are owed. The proposals in this order will help to achieve that.I commend this order to the Committee.

Lord Hunt of Wirral: My Lords, I first declare my interests, in particular as a partner in the national commercial law firm Beachcroft LLP, and the other interests set out in the Register.

The order forms part of a long-running project designed to modernise and streamline various administrative aspects of formal insolvencies under the Insolvency Act 1986. The subject matter of this order was the subject of an Insolvency Service consultation

which commenced in September 2007. The measures we have before us today were to have been implemented somewhat earlier than now but, despite the delays, they are to be welcomed.

We are all grateful to the Minister and his shadow, whom I welcome to the club of shadows, for setting out so clearly the seven different areas ranging from remote attendance at creditors' meetings to allowing insolvency practitioners to distribute information creditors by sending a link to a website. Other measures, as the Minister explained, dispense with the requirement to hold annual meetings, which reflects the practice for administrations following the changes to that procedure introduced by the Enterprise Act 2002. Further, the order removes the anomaly in the insolvency rules that required many documents to be verified by affidavit rather than by a statement of truth, which has been standard practice by the civil courts for many years.

The day-to-day business of insolvency practice is much more than administrators or liquidators serving businesses and recovering assets. Insolvency practice is probably one of the most heavily regulated sectors in the UK, and insolvency practitioners, all of whom are licensed, must comply with a host of professional, regulatory and statutory requirements in the day-to-day conduct of their duties. While these requirements are intended to safeguard the interests of creditors and other stakeholders in formal insolvency, and indeed to a large extent they do, they impose considerable compliance and time costs on insolvency practitioners. In most instances, these costs must be borne by the creditors of insolvent companies every time an insolvency practitioner is required to hold a physical meeting or to post information to hundreds, sometimes thousands of creditors. This ultimately comes at a cost to the creditors themselves. We therefore expect that in most insolvencies there may well be material cost savings, once the provisions relating to modernising and streamlining communications with creditors are in place from 6 April next year.

I particularly welcome the provision dispensing with the compulsory requirement to hold annual meetings in members' and creditors' voluntary windings-up. The original aim of those meetings was of course to enable creditors to question insolvency practitioners directly about the progress of liquidations. The reality, however, is that most such creditors' meetings, some of which I have attended, are sparsely attended. It is not uncommon, and I have known this, for no creditors to be present at all. The expense of organising such meetings can often be a material one, particularly in smaller insolvencies.

Alongside the possible practical benefits of these provisions, some of which I have just tried to outline, it is pleasing to see that on this occasion they are in line with the original intention of the legislative reforms introduced by the Enterprise Act 2002. The insolvency provisions of that Act, while principally dealing with the administration process, had the aim of streamlining the insolvency process, reducing the cost and increasing returns to creditors, once we—I had the honour to serve on that Committee—had persuaded the Government to drop some of the unrealistic timetables that they originally proposed.

5.30 pm

I pay tribute to the skill of the Enterprise Bill team at that time. They understood the problems and we were able to reach reasonable agreement over the progress of that legislation. Although it has taken some time for the proposals we are discussing today to reach implementation stage, the changes are entirely consistent with the aims of the Enterprise Act. It is pleasing to see in these proposals some recognition of the high administrative burdens on insolvency.

I commend the Minister and his colleagues for recognising in this case that the lifting of a regulatory burden can be in the best interests of those whom the former rules were designed to protect. Many aspects of these provisions give a higher degree of discretion to insolvency practitioners, who, as experienced professionals, are accustomed to making decisions designed to facilitate optimal recoveries for creditors. I acknowledge also their valuable work on turnaround and preventing insolvency in the first place. I welcome the Minister's commendation of the way in which insolvency practitioners have responded in seeking to increase the efficiency of the process. I pay particular tribute to R3, the trade body which represents 97 per cent of all licensed insolvency practitioners; much of its advice has been extremely valuable. I applaud any change which gives insolvency practitioners greater discretion to do their jobs, rather than being constrained by increasingly burdensome and outdated rules. We look forward to many more proposals designed to streamline the insolvency process and, ultimately, increase returns to creditors.

A criticism one often hears of the insolvency regime is how poor the returns to unsecured creditors usually are. Although returns to creditors are largely a function of the deficit between how much creditors are owed and the assets of the company, any measures to reduce administrative time and costs in insolvency should be welcomed. In some cases, they should at least provide better returns to creditors and, by doing so, help to enhance the standing of the insolvency regime in England and Wales. There is much further work to be done in order to improve and modernise the insolvency regime and we look forward to further proposals to achieve these ends being introduced as soon as possible. Although these provisions are long overdue, they are welcomed as a step in the right direction.

Lord Newby: My Lords, I apologise on behalf of my noble friend Lord Razzall, who is unable to be present today. However, it gives me an opportunity to dip my toe into the deep pool of insolvency legislation, although I am not sure whether I shall be taking it out at the end of the debate or taking the plunge.

I have a couple of comments on issues coming from another part of the legislative woodwork, if you like. It is commendable that the order brings the rules up to date with how people want to do the business, which is not a situation in which we find ourselves in every last respect. For example, we recently debated bank note regulations under the Banking Act which make provision for the Bank of England to contact a bank by post, and they explain what sending a letter by first-class post is deemed to mean in terms of the number of days it takes to get there. It is much more sensible to

[LORD NEWBY]
recognise the reality that, in this day and age, no one does any business by post if they can get away with it because they want to move more quickly. This order will allow them to do that.

It is also very sensible to allow remote attendance at meetings. It will be very interesting to see how that works in practice. Speaking to people with whom I work in a professional capacity, I have found a significant reluctance to get involved in video conferencing, even when the facilities are available, and even though it often saves time and money. I suspect that in the case we are discussing it might be more regularly used but it would be a welcome development in terms of efficiency, the environment and reducing carbon footprints. One is always telling companies to use these facilities more, not least because it enables them to reduce their carbon footprint rather than dashing around unnecessarily.

I have a general question about remote attendance at meetings and the use of websites. How far do these provisions reflect the situation under the Companies Act in terms of the way in which companies are allowed to communicate with their shareholders and the extent to which remote access to meetings is legally allowable under the Companies Act 2006? It seems to me that we are looking at these provisions in respect of insolvency but they might have wider applicability. I say this in part because I am a minority shareholder in a small unquoted company and I have just had all the documentation from it on its AGM and its accounts by e-mail, which makes absolute sense. It had no intention of sending that to me in the post, but I wondered whether, technically, it was allowed to do that, or whether there is still a legal requirement for hard copies to be provided. I suspect not, but I would welcome reassurance from the Minister on that point.

I always enjoy looking at the cost-benefit figures. I would love to see the detailed workings that have produced them as in a case such as this it is virtually impossible to know what the savings are. However, I am sure that the basic orders of magnitude are right in that the costs must be significantly outweighed by the benefits of doing all this. With that very much at the forefront of my mind, I am very happy to support the order.

Lord Davies of Abersoch: I thank noble Lords for their comments. This is my first insolvency discussion since I have taken up this role. This draft order will undoubtedly bring insolvency procedures into the 21st century. The LRO process is sound, brings huge benefits and requires considerable consultation. However, we are going to have to find a way to speed up the modernisation of the procedures involved at the AGMs of big, small and medium-sized corporations, and I have asked officials about this. This will have a fundamental impact and is long overdue. We will have to amend the insolvency rules considerably, and we cannot take too long over that. The question is, how do we consult but at the same time move speedily? I shall send all the details and the breakdown of the cost-benefit to the noble Lord, Lord Newby.

Clearly, modernising the insolvency rules is long overdue. This is a move in the right direction. Companies can hold meetings remotely. I will write to the noble Lord on the detail of the overall workings of an AGM. This is a very sound move, reflecting good progress, but we now need to reflect on how we might introduce further changes with greater speed. This is all about helping business and the insolvency profession, which is clearly well regulated and plays a key role in the economy. For the reasons I set out earlier, I believe that this order will be helpful to the business community and to creditors. I again commend the order.

Motion agreed.

Committee adjourned at 5.40 pm.

Written Statements

Tuesday 15 December 2009

Animal Health: Exotic Diseases

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My honourable friend the Minister of State for Food, Farming and the Environment (Jim Fitzpatrick) has made the following Written Ministerial Statement.

I have today laid before Parliament the National Contingency Plan for Exotic Diseases of Animals in accordance with Section 14a of the Animal Health Act 2002 which came into force on 24 March 2003.

This plan sets out the operational response arrangements Defra will put in place to deal with any occurrence of foot and mouth disease, avian influenza or Newcastle disease. The plan is also applicable to all other exotic diseases of animals. It is composed of two elements:

Defra's Framework Response Plan for Exotic Diseases of Animals, outlining the systems and structures which are established and detailing the key roles and responsibilities of Ministers and officials during an outbreak of disease; and

Defra's Overview of Emergency Preparedness which provides details of our preparedness and operational response.

It replaces Defra's Contingency Plan for Exotic Animal Diseases which was laid before Parliament on 9 December 2008.

Defra's contingency plan is very much a "living document". It will be subject to ongoing revision taking on the latest developments in science, research, and epidemiological modelling together with lessons identified from outbreaks.

To meet the provisions of the Animal Health Act, the plan will also be subject to formal annual review.

Armed Forces: Future Rotary Wing Strategy

Statement

The Minister for International Defence and Security (Baroness Taylor of Bolton): My right honourable friend the Secretary of State for Defence (Bob Ainsworth) has made the following Written Ministerial Statement.

I am today announcing a new strategy that will see the Ministry of Defence deliver increased levels of helicopter capability for our Armed Forces. The strategy's priority is support to operations, and through it we will deliver, by 2016, an increase of some 40 per cent in the number of helicopters suitable for deployment in hot and high conditions, such as Afghanistan.

At the heart of the strategy is the procurement of an additional 22 new Chinook helicopters, with a further two expected to replace those that were destroyed in Afghanistan this summer. The current Chinook fleet has seen continuous service on operations over the last 20 years, and it has performed superbly in Afghanistan. It is a proven capability that is highly regarded by those who fly it and troops who use it. Delivery of these aircraft will not only mean more aircraft able to operate in the kind of conditions seen in Afghanistan but also a significant increase in the overall lift capacity of our helicopter fleet. We anticipate delivery of 10 new-build Chinook during the course of 2012 and 2013, including two to replace the aircraft recently lost in Afghanistan. The proposed investment in these new Chinook builds on the £400 million that the Ministry of Defence has invested this year to improve the operational performance of the existing Chinook fleet by delivering enhanced engines and cockpits.

Beyond increasing levels of capability, our other main focus has been on simplifying the delivery of helicopter capability. As the HCDC set out in its recent report, Helicopter Capability [HC434], the optimum means to achieve efficiencies is through reducing the number of different types of helicopter fleet; with each fleet type comes an associated support cost overhead and training cost. The new strategy will enable the department to reduce the number of fleet types.

We aim to remove all marks of our Sea King fleet by 2016, with its roles to be delivered by our Merlin helicopter fleet or, in the case of UK peacetime search and rescue capabilities, by a joint private finance initiative service that we intend to provide with the Maritime and Coastguard Agency. To enable this transition, we intend to capitalise on our past investment in Merlin and its over-water capabilities and safety features, including by modifying our Merlin Mk3/3a helicopters to enable them to operate effectively from amphibious shipping as well as continuing to contribute to our battlefield lift requirements.

The £300 million Puma Life Extension Programme, which will deliver a step change in the aircraft's capability, will proceed, delivering vital battlefield lift capability for operations alongside Chinook until at least 2022. Beyond the retirement of Puma, we intend that the Ministry of Defence will operate four broadly equal-sized core helicopter fleets comprising Chinook, Apache, Wildcat and Merlin, with much smaller niche fleets for specialised roles. As a result of the measures set out above, we do not intend to proceed with the Future Medium Helicopter competition.

We anticipate that the reduction in fleet types will produce substantial through-life cost savings over the next decade and beyond. We are also exploring the possibility of further benefits that might arise through, for example, estate rationalisation and the more efficient delivery of training solutions.

Although the major components of this strategy will be subject in due course to separate investment decisions, the new approach represents excellent news for the overall helicopter capability available to our Armed Forces and provides industry with a clear vision of our investment priorities over the coming

decade against which they can align their resources. While a significant percentage of the planned investment will be made on a US product (Chinook), we anticipate that much of the investment required to deliver other elements of the strategy will be made in the UK, supporting UK jobs, and sustaining essential onshore skills as well as delivering value for money.

Bernard Lodge Inquiry

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My honourable friend the Parliamentary Under-Secretary of State, Ministry of Justice (Claire Ward) has made the following Written Ministerial Statement.

I have today laid before Parliament the report of the inquiry that the Parliamentary Under-Secretary of State, Ministry of Justice (Shahid Malik) announced on 23 February 2009 into the death of Bernard Lodge, who died at HMP Manchester on 28 August 1998.

I should like to thank the chair of the inquiry, Barbara Stow, and the solicitor to the inquiry for the way in which they handled the inquiry and for fulfilling the terms of reference so efficiently.

Buses

Statement

The Secretary of State for Transport (Lord Adonis): In December 2008 the then Secretary of State for Transport, the right honourable Geoff Hoon MP, announced a range of reforms to bus service operators grant (BSOG) to bring this subsidy better into line with government objectives. As promised in that announcement, we have since been developing the detailed arrangements with stakeholders, and continuing to discuss possible longer-term reforms.

In April this year the Government introduced two changes to the current BSOG scheme. First, bus operators who have achieved a 6 per cent improvement in fuel efficiency will receive a 3 per cent uplift in their BSOG rate from April 2010. Secondly, with effect from April 2009 operators have been able to claim an additional payment of 6p for each kilometre operated by a low carbon bus, ie one that is capable of achieving at least a 30 per cent reduction in greenhouse gas emissions compared to a similar size conventional diesel bus.

I can now confirm the details of two further changes that were first announced in last December's Statement and will come into effect in April 2010. From that date operators will receive an 8 per cent increase in their BSOG rate if they have operational ITSO smartcard systems and, separately, a 2 per cent increase if they have fitted their buses with GPS equipment. To qualify for the higher rate smartcard equipment will need to accept all English concessionary passes and the incentive will also be linked to accepting integrated ticketing products. To receive either the smartcard or GPS incentive, operators will also have to commit to share specific data with local authorities, central government and other relevant bodies. Together these incentives could be worth around £1,000 in additional grant per bus each year.

The smartcard and GPS incentives will not apply to London operators. The contractual arrangements for bus services in London already provide the mechanism for securing the outputs that the Government are seeking, such as installation of GPS equipment and availability of GPS data. There is a separate project to enable the Transport for London Oyster network to read ITSO smart cards, to which the Department for Transport has committed £60 million.

The smartcard incentive is part of a package of measures designed to encourage the introduction of smart and integrated ticketing across the country. These are the subject of a separate announcement today. Encouraging the take-up and use of GPS systems will help realise the potential for passengers to receive real-time information about bus services and bus performance.

I can also announce today our intentions for a more fundamental reform of BSOG, which we aim to introduce in the next two to three years.

As last December's Statement made clear, we want our buses to be as green and clean as possible. That is why we are reforming BSOG to ensure it contributes to the Government's strategic objectives, particularly in relation to tackling climate change. Drawing on the results of our consultation in 2008 on options for longer-term reform, and from discussions with stakeholders, the Government wish to move away from paying support on the basis of how much fuel is consumed. We will therefore bring forward new arrangements for support on the basis of passenger numbers. This will act to make public transport more attractive thereby delivering environmental benefits through reduced congestion and improved air quality.

These new arrangements will mean that operators will face the full cost of the fuel they use. This will strengthen the commercial incentives for operators to find ways to reduce their fuel consumption and improve the business case for investment in driver training and low-carbon buses. It also builds on the fuel efficiency target and the distance-based payment for use of low-carbon buses that are now part of the current BSOG system.

The new incentive per passenger arrangements, which build on the work done by the Commission for Integrated Transport, will rely on accurate recording of passenger numbers. This will require audited data of the sort that can be provided through the use of smart ticketing equipment. The move to per passenger payments will therefore be underpinned by the delivery of the Government's smart and integrated ticketing strategy, which has been announced today, and which is itself supported by the new smart ticketing incentive described above. We recognise that it could take up to 10 years for the national bus fleet to be equipped, and we therefore propose a managed transition from BSOG to the new system.

Introduction of this new form of bus subsidy will also require the approval of the European Commission for reasons of state aid. Given the fundamental nature of the changes that we are proposing, approval is

likely to take two to three years. Until the new system has been approved the existing BSOG scheme will continue. Once approval has been given, the per passenger system will be rolled out as quickly as operators can install ITSO smart ticketing systems. The existing fuel-based system will continue in parallel for those operators without smartcard equipment, although the rate of payment may decline over time. Eventually, by around 2020, the BSOG system will end and be replaced entirely by an incentive per passenger.

We will discuss the detailed implementation of these proposals with members of the Bus Subsidy Advisory Group and with other government departments. In particular, we recognise that an incentive per passenger will have different impacts in areas of high and low demand. While the bulk of resources available for bus support will therefore move to an incentive per passenger basis, we will wish to discuss with stakeholders how best to make appropriate arrangements for supporting socially necessary services that become less commercially viable as a result of introducing a per passenger system. This might mean, for example, some of the current BSOG budget being transferred to local authorities.

It remains our intention as part of these reforms to stop providing BSOG direct to London operators, as announced last December. We will seek to agree detailed arrangements with TfL at the appropriate time.

The changes I have announced today set the long-term direction of changes to bus subsidy and introduce important new incentives to the current system. In summary they will:

provide strong incentives for bus operators further to improve their fuel efficiency, building on the changes introduced in April 2009 which have sent decisive signals to the industry about the need to improve their environmental performance;

give operators real incentives to attract more passengers to their services and out of their cars;

underpin the ticketing strategy also announced today and pave the way for widespread smart ticketing; and

support the take up and use of GPS systems that will increase availability to passengers of real-time information about services and bus performance.

CCTV: Regulator

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My right honourable friend the Minister of State for Crime and Policing (David Hanson) has today made the following Written Ministerial Statement.

I am today announcing the arrangements we are putting in place to take forward implementation of the National CCTV Strategy and to approve an interim CCTV regulator with immediate effect.

CCTV enjoys a high level of public confidence in tackling crime. Home Office research published in 2005 showed that over 80 per cent of respondents supported the use of CCTV to deal with crime in their neighbourhood. A similar high level of confidence is reflected in the IPSOS MORI poll conducted last year and which we will be publishing shortly. CCTV played a key role in a number off investigations including the London terrorist outrages in July 2005 and the Steven Wright murders in Ipswich as well as offences such as burglaries, robberies, violence and anti-social behaviour across the country. The changes are aimed at ensuring that those involved across the CCTV industry, whether from the public or the private sector, can be actively involved in the development and implementation of national standards on the installation and use of CCTV. Importantly, it also aims to maximise public engagement by raising public awareness of the benefits of CCTV and accountability of owners and users of CCTV systems.

It is important that we retain and build on that high level of public confidence by demonstrating the important contribution to preventing and detecting crime and anti-social behaviour which CCTV can make. We have already announced in *Building Britain's Future* that we will make sure that local people have a say on the use of CCTV in their area and will be publishing guidance for crime and disorder reduction partnerships next year on communicating with their community on the role of CCTV in public protection.

It is also important that we address public concern about how CCTV is used. I am, therefore, pleased to announce the appointment of the Forensic Science Regulator, Andrew Rennison, as the Interim CCTV Regulator with immediate effect. The interim CCTV Regulator will advise the Government on matters surrounding the use of CCTV in public places, including the need for a regulatory framework overseen by a permanent CCTV regulator, which enables the police, local authorities and other agencies to help deliver safer neighbourhoods while ensuring that personal privacy considerations are appropriately taken into account with supporting safeguards and protections. The establishment of a permanent CCTV regulator would rightly be a matter for Parliament. That is why we are, at this stage, considering the regulatory arrangements function through an interim appointment and the revised governance structure for implementation of the national CCTV strategy.

The interim appointment will be for a period of up to 12 months. The appointment is an important step in implementation of the National CCTV Strategy. The interim Regulator will work with the National CCTV Strategy Board on six key areas. These are to: develop national standards for the installation and use of CCTV in public space; determine training requirements for users and practitioners; engage with the public and private sector in determining the need for and potential content of any regulatory framework; raise public awareness and understanding of how CCTV operates and how it contributes to tackling crime and increasing public protection; review the existing recommendations of the National CCTV Strategy and advise the Strategy Board on implementation, timelines and cost and development of an effective evidence base; and promote public awareness of the complaints process and criteria for complaints to the relevant agencies (e.g. Information Commissioner, local authority or private organisation) or how to deal with complaints relating to technical standards.

The appointment of the Forensic Science Regulator will bring to his CCTV role the expertise, knowledge, and standing he has gained in operating a suitable framework for forensic services. He will play a leading role in identifying and helping meet the needs of both users and the public.

While the Interim CCTV Regulator will not have responsibility for deciding whether individual cameras are appropriately sited or how they are used, he will be able to help explain to the public how they can complain about intrusive or ineffective CCTV placement or usage.

Part of the process of promoting greater accountability is engaging directly with key stakeholders. We will shortly be establishing an Independent Advisory Group with representatives from business, CCTV operators, community and third sector groups to monitor and provide direction on implementing the national strategy. The Advisory Group will advise the Interim CCTV Regulator and the National CCTV Strategy Board. These arrangements provide for partnership working at strategic and neighbourhood level. Through these new arrangements, we intend to ensure that CCTV continues to be an important tool available to communities to help tackle crime and anti-social behaviour.

Civil Law Reform Bill

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My honourable friend the Parliamentary Under-Secretary of State, Ministry of Justice (Bridget Prentice) has today made the following Written Ministerial Statement.

In accordance with the Government's legislative programme for 2009-10, the Lord Chancellor and Secretary of State for Justice has today laid before Parliament the draft Civil Law Reform Bill for pre-legislative scrutiny (Civil Law Reform—A Draft Bill Cm 7773).

The draft Bill contains provisions to:

reform the law of damages to provide a fairer and more modern system, particularly in relation to bereavement and dependency damages under the Fatal Accidents Act 1976;

give greater flexibility in setting the interest rate on pre-judgment debt and damages and on judgment debts so that it can be adapted more readily to different circumstances, making it fairer to debtors and creditors alike;

reform the law relating to the distribution of estates of a deceased person where an inheritance is forfeited or disclaimed, so that where a person is disqualified or refuses an inheritance, his or her heirs are not disinherited; and

bring the disciplinary hearing appeal process for barristers into line with the appeal process for solicitors by transferring the jurisdiction to hear appeals to the High Court

To accompany the Command Paper the Ministry of Justice has today published a consultation paper Civil Law Reform—a draft Bill containing the draft Bill, the accompanying Explanatory Notes and the impact assessments relating to the reform. The consultation period will close on 9 February 2010.

Community Safety Accreditation Scheme

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My right honourable friend the Minister of State for Crime and Policing (David Hanson) has today made the following Written Ministerial Statement.

An Employers' Guide to Community Safety Accreditation Schemes and the 2009 audit of Community Safety Accreditation Schemes have been published today.

This year's Community Safety Accreditation Schemes audit shows an increase in the number of participating forces from 23 in 2008 to 26 this year. The Metropolitan Police was one of the three forces to begin operating a scheme. Over the same period, the number of accredited persons rose from 1,406 to 1,667 (an 18.5 per cent rise) and the number of employers with accredited persons rose from 95 to 109. This growth reflects the benefits of the scheme for the police and businesses. Accredited persons help to tackle anti-social behaviour, to provide a visible and reassuring presence on our streets.

The Employers' Guide is intended to improve the information available to employers about the scheme and to raise its profile. Four employer case studies (presented in the Employers' Guide) demonstrate clear benefits, both for the organisation and for the accredited staff, in greater information sharing and closer partnership with the police.

Copies of the audit and the guide are available on the Home Office website and in the House Library.

Control Order Powers

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My right honourable friend the Minister of State for Crime and Policing (David Hanson) has today made the following Written Ministerial Statement.

Section 14(1) of the Prevention of Terrorism Act 2005 (the 2005 Act) requires the Secretary of State to report to Parliament as soon as reasonably practicable after the end of every relevant three-month period on the exercise of the control order powers during that period.

The level of information provided will always be subject to slight variations based on operational advice.

Control orders continue to be an essential tool to protect the public from terrorism, particularly where it is not possible to prosecute individuals for terrorism-related activity and, in the case of foreign nationals, where they cannot be removed from the UK.

As stated in previous quarterly statements on control orders, control order obligations are tailored to the individual concerned and are based on the terrorism-related risk that individual poses. Each control order

is kept under regular review to ensure that obligations remain necessary and proportionate. The Home Office continues to hold Control Order Review Groups (CORGs) every quarter, with representation from law enforcement and intelligence agencies, to keep the obligations in every control order under regular and formal review and to facilitate a review of appropriate exit strategies. During this reporting period, six CORGs were held in relation to the orders currently in force. In addition, further meetings were held on an ad-hoc basis as specific issues arose.

During the period 11 September 2009 to 10 December 2009, three non-derogating control orders have been made and served. No control orders have been renewed in accordance with Section 2(6) of the 2005 Act in this reporting period. In this reporting period there have been six revocations of control orders that were in force. Three control orders were revoked because it was not possible to meet the disclosure test set out in the June 2009 House of Lords judgment (AF & Others) on Article 6 of the European Convention of Human Rights (ECHR) (right to a fair trial). One of these orders was not replaced. In the other two cases new non-derogating control orders with significantly reduced obligations were imposed in their place; the Government argued before the court that in such cases Article 6 was not engaged—or, even if it was, the level of disclosure required in AF & Others did not apply. Two control orders were revoked because they were no longer considered necessary. One control order was revoked on the order of the court. In addition to the six revocations of current control orders, one non-derogating control order previously made but not served was also revoked in this quarter.

In total, 12 control orders are currently in force, nine of which are in respect of British citizens. Seven individuals subject to a control order live in the Metropolitan Police Service area; the remaining individuals live in other police force areas. All of these control orders are non-derogating. There were no prosecutions for breaching a control order during this reporting period. However, one individual was charged with seven counts for breach of a control order obligation.

During this reporting period, 77 modifications of control order obligations were made. 29 requests to modify control order obligations were refused.

Section 10(1) of the 2005 Act provides a right of appeal against a decision by the Secretary of State to renew a non-derogating control order or to modify an obligation imposed by a non-derogating control order without consent. One appeal under Section 10(1) of the 2005 Act has been lodged with the High Court during this reporting period. A right of appeal is also provided for by Section 10(3) of the 2005 Act against decisions by the Secretary of State to refuse a request by a controlled person to revoke their order and/or to modify any obligation under the order. During this reporting period four appeals have been lodged with the High Court under Section 10(3) of the 2005 Act.

Six interlocutory judgments were handed down by the High Court during this reporting period in relation to disclosure required to make control order judicial review proceedings under Section 3(10) of the 2005 Act compliant with Article 6 following the June 2009 House of Lords judgment in AF & Others.

Two of these judgments were handed down in the case of Secretary of State for the Home Department v BB & BC. In the first judgment, handed down on 5 October 2009 in closed only, the court required the Secretary of State to make further disclosure in order to ensure compliance with Article 6 despite the court's acknowledgement that the disclosure of this material would cause damage to the public interest. The Secretary of State elected not to make the disclosure identified. Both control orders were revoked and new control orders with significantly reduced obligations were imposed. In the second judgment, handed down on 11 November 2009, the court found that, notwithstanding the new control orders impose less stringent obligations, Article 6 applied and that the House of Lords in AF & Others had identified an "irreducible minimum" of disclosure which must be made in all control order cases regardless of the stringency of the obligations. The court granted the Secretary of State permission to appeal and an appeal has been lodged.

A further two judgments were handed down in the case of Secretary of State for the Home Department v. AS. At the hearing on 6-8 October 2009, the court handed down a judgment in closed only requiring the Secretary of State to make further damaging disclosure to comply with Article 6 or to withdraw reliance on the relevant allegations. The Secretary of State elected to make some further disclosure to maintain the control order in force. In an open judgment handed down on 21 October 2009 the court set out the principles of how the court should apply the decision in AF & Others.

An interlocutory judgment was handed down in the case of Secretary of State for the Home Department v. AN on 27 November 2009. The court handed down a judgment in closed only requiring the Secretary of State to make further damaging disclosure to comply with Article 6 or to withdraw reliance on the relevant allegations. The Secretary of State elected to make some further disclosure to maintain the control order in force.

A further interlocutory judgment was handed down, about which it is not possible to say any more for legal reasons.

Two judgments have been handed down by the High Court in relation to modification appeals during this reporting period. The court handed down judgment in Secretary of State for the Home Department v. BH on 17 November 2009. The court found that the Secretary of State's decision to refuse to modify BH's geographical boundary to let him attend legal appointment outside his boundary was lawful. This was against the background that the Secretary of State had offered to modify the control order to allow the visit subject to BH agreeing to submit to a personal search as part of a police escort to and from the appointment. BH had refused to agree to this condition and the Secretary of State had therefore refused the modification. The court decided this refusal was lawful, noting that BH's legal representatives were able to visit him within his boundary instead. However, he commented that in circumstances where it would not be proportionate to refuse to modify the boundary for a purpose such as attending an urgent medical appointment, the Secretary of State

would not be able to insist that a controlled person be escorted by the police, if the police would not escort the individual without searching him first.

The court handed down a judgment in Secretary of State for the Home Department v. AS on 23 November 2009. The court dismissed AS's appeal against the decision of the Secretary of State to refuse to modify his control order to enable him to stay overnight in London during the judicial review hearing of his control order.

During this reporting period, the Court of Appeal refused permission to appeal in one case. In Secretary of State for the Home Department v. AU, the Court of Appeal found AU did not have any real prospect of success in his arguments that the judicial review of his control order had not been Article 6 compliant and that when the Secretary of State decided to impose a control order in this case, he was not entitled to consider allegations which formed part of the previous criminal prosecution and sentence.

Full judgments are available at http://www.bailii.org/.

Department for Culture, Media and Sport: Autumn Performance Report

Statement

The Minister for Trade and Investment (Lord Davies of Abersoch): My right honourable friend the Secretary of State for Culture, Media and Sport (Ben Bradshaw) has made the following Written Ministerial Statement.

I am pleased to announce the publication of my department's Autumn Performance Report.

We report strong progress against our Public Service Agreement to deliver a successful and inspirational Olympic and Paralympic Games in 2012 that provides for a sustainable legacy and gets more children and young people taking part in high quality PE and sport. That is also one of our departmental strategic objectives.

We are maintaining decent progress against our other departmental strategic objectives—the digital switchover programme is on track and more data is becoming available to assess enjoyment of and excellence in culture, media and sport. I expect to be in a position to report more fully on them next year.

We continue to maintain a strong track record of delivering value for money savings. We have significantly exceeded our Lyons relocation target and maintain good progress towards our Comprehensive Spending Review 2007 value for money target.

A copy of the Autumn Performance Report will be deposited in the House Libraries.

Department for International Development: Autumn Performance Report

Statement

Lord Brett: My right honourable friend the Secretary of State for International Development has made the following Statement.

I have today laid before Parliament my department's autumn performance report for 2009. The report is in the Library of the House and copies are available for honourable Members from the Vote Office.

The report provides details of progress on DfID's departmental strategic objectives and value for money as well as progress on Public Service Agreement 29: reduce poverty in poorer countries through quicker progress towards the millennium development goals.

Department for Work and Pensions: Autumn Performance Report

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Secretary of State for Work and Pensions (Yvette Cooper) has made the following Written Ministerial Statement.

I will shortly be publishing the autumn performance report of the Department for Work and Pensions. The report is intended to supplement the department's annual report published in June 2009.

The report is the department's third report under CSR2007 on its cross-governmental public service agreements, its departmental strategic objectives and its value for money delivery agreement.

This publication has been specifically designed to be accessed online, on the grounds of sustainability and potential financial savings, and will be available on the department's website. For the convenience of Members, some printed copies will be placed in the Library and supplied to the Vote Office and Printed Paper Office.

Door Supervisors: Training

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Parliamentary Under-Secretary of State for the Home Office (Alan Campbell) has today made the following Written Ministerial Statement.

I am pleased to announce the publication of a consultation document and partial impact assessment on enhanced (or top up) training for door supervisors renewing their licences.

Copies of the report will be available in the Vote Office and in the House Library.

EU: Energy Council

Statement

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): I represented the United Kingdom at the EU Energy Council in Brussels on 7 December 2009.

The first item on the agenda was an update from the Swedish presidency on the energy efficiency package (made up of separate directives on the energy performance

of buildings; the indication by labelling and standard product information of the consumption of energy and other resources by energy related products; and the labelling of tyres with respect to fuel efficiency). The presidency noted that the package was close to final agreement. The UK is happy with the progress made on these directives.

The Commission reported on progress on the proposal for a Regulation on the Security of Gas Supply. This was followed by a policy debate in which member states commented on the current draft of the proposal, in particular responding to questions about the roles and responsibilities of different actors in preparing for and during an emergency, of the need for mandatory infrastructure and supply standards; and the definition of protected customers. The UK raised concerns over some of the powers envisaged for the Commission.

There was also an exchange of views on the recent Commission Communication on investing in the development of low-carbon technologies under the Strategic Energy Technology (SET) Plan. The UK indicated that it shared its support for the SET Plan but raised concerns over the sources of funding for the programme in the current financial climate.

In addition, the Commission updated Ministers on progress in a number of other areas, including implementation of the European Economic Recovery Package, the Baltic Energy Market Integration Programme and the Regulation on the notification of investment projects in energy infrastructure within the European Community. Some delegations used the opportunity to raise concerns about Biomass Sustainability Criteria. Finally, the Spanish Minister outlined the energy priorities for Spain's forthcoming presidency. These included a new Energy Action Plan for 2010-14, a focus on renewables, energy efficiency, low-carbon technologies, relations with external energy suppliers and further progress on current legislation.

Over lunch, Ministers discussed a number of items on international relations in the field of energy including relations between Ukraine and Russia.

Separately, Ljubljana was selected as the seat for the Agency for the Cooperation of Energy Regulators, following a vote.

EU: General Affairs and Foreign Affairs Council

Statement

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): My honourable friend the Minister for Europe (Chris Bryant) has made the following Written Ministerial Statement.

The General Affairs Council (GAC) and Foreign Affairs Council (FAC) were held on 7 and 8 December in Brussels. My right honourable friend the Foreign Secretary (David Miliband) represented the UK.

The agenda items covered were as follows:

General Affairs Council

The full text of conclusions adopted, including "A" points, can be found at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/111832.pdf.

Preparation of the 10 and 11 December European Council

On economic issues, my right honourable friend the Foreign Secretary emphasised that governance of the financial markets was a global issue, not just an internal matter for Europe. He stated that the EU should take account of the International Monetary Fund work on renewing the social contract between the financial institutions and wider society, including by ensuring that the financial sector bear the full costs associated with its activities. My right honourable friend the Foreign Secretary congratulated the presidency on its help in resolving the financial supervision and regulation package.

On climate change, my right honourable friend the Foreign Secretary underscored the importance of tackling this issue against the backdrop of the Copenhagen conference of parties. He called for the European Council conclusions to reinforce the EU's commitment to the Kyoto Protocol, and to be clearer and more specific on climate financing.

On external relations, my right honourable friend the Foreign Secretary, with support from a number of member states, argued for a European Council declaration on Afghanistan, reflecting President Obama's 1 December announcement on troop reinforcements, and the London conference in January 2010. The presidency agreed to draft a declaration, which was discussed at the FAC on 8 December. We also requested conclusions language on development assistance.

Enlargement

Ministers adopted conclusions, which the Government broadly support, welcoming the Commission communication dated 14 October 2009 entitled "Enlargement Strategy and Main Challenges 2009-10". Broadly, the conclusions took stock of progress in accession negotiations with Turkey and Croatia, while urging both countries to implement outstanding reforms.

On Turkey, the council welcomed recent initiatives including on the Kurdish issue and recognised that Turkey is an important regional player, playing a key role in energy supply. However, it expressed disappointment that Turkey has not yet fulfilled its obligation to open its ports to trade with Cyprus under the additional protocol to the association agreement and agreed that further efforts are needed to accelerate the pace of Turkey's accession negotiations. On Croatia, the council commended progress made but stressed further efforts are needed to meet accession criteria in order to be able to conclude negotiations in 2010.

On Croatia's co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) the council welcomed the creation of a new investigative task force, noted that substantial progress had not been reported, and called on Croatia to take the necessary steps to complete a comprehensive and credible investigation into missing documents without further delay. On Iceland, the council noted its application for EU membership in July and agreed to come back to the issue when the Commission presents its assessment on whether Iceland is ready to open accession negotiations.

The council reaffirmed EU support for the European perspective of the western Balkans; noted that the Office of the ICTY Prosecutor was content with Serbia's

current levels of effort in their co-operation, and that the EU would start implementing the interim agreement; welcomed the fact that Macedonia had substantially addressed the key priorities of the accession partnership, noting the Commission's recommendation to open accession negotiations and agreeing to return to the matter during the next presidency; expressed concern about political developments in Bosnia and Herzegovina and called on its leaders to speed up key reforms; welcomed the Commission's study on furthering Kosovo's political and socio-economic development and invited the Commission to take the necessary measures to support Kosovo's progress towards the EU; and welcomed progress in Albania and Montenegro, while urging the countries to intensify efforts on reforms in a number of areas and agreeing to return to their membership applications once the Commission had presented its "Avis" (opinions).

EU Disaster Management

Ministers approved a presidency report on reinforcing the EU's capacity for preventing and responding to disasters, which the Government support while recognising the primary role of national responsibility in disaster management.

Trio Programme of the Spanish, Belgian and Hungarian Presidencies

Spain, Belgium and Hungary briefly presented their programme, looked forward to chairing the GAC under their presidencies, and to close co-operation with the President of the European Council and the High Representative. The Government welcome the trio's emphasis on finalising the international climate change negotiations, putting in place a Lisbon strategy fit to take the EU beyond the aftermath of the economic crisis and bringing Europe closer to its citizens.

External Relations Council

The full text of all conclusions adopted can be found at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/111833.pdf.

Western Balkans

The presidency briefed on the EU/US initiative to unblock progress on reforms in Bosnia and Herzegovina and Ministers held an exchange of views on the future of EUFOR Operation Althea. They agreed to revert to the latter at their next meeting in January.

Iran

Ministers also approved a draft European Council declaration on Iran which draws attention to Iran's continued failure to comply with international obligations and signals the EU's readiness to begin a new phase of work on the pressure side of the dual-track approach, which the Government welcome.

Middle East Peace Process

Ministers agreed conclusions that called for the resumption of negotiations leading to a two-state solution within an agreed time-frame; referred to Jerusalem as the future capital of two states and declared that the EU will not recognise any changes to the pre-1967 borders; emphasised the importance of the United States' efforts; welcomed and encouraged Palestinian efforts on state-building and improving law and order; reiterated commitment towards the security of Israel and its full integration into the region; and welcomed and encouraged Israel's steps to ease restrictions of movement in the West Bank.

Afghanistan

Ministers agreed to forward the presidency's draft declaration to the December European Council for adoption, which the Government welcome. The declaration notes that an international conference is to be held in London in January 2010, underscores the EU's readiness to support President Karzai in meeting his commitments, and highlights the need to maintain a comprehensive approach to the challenges in Afghanistan, building on a combination of political, civilian/development and military instruments.

Burma

France briefly raised the EU approach to Burma. The presidency underlined that EU action was in train.

AOB: Honduras

Spain called on the EU to monitor progress on reconciliation, as well as the views of the US and key states in the region, and keep the situation under review.

"A" points

The council adopted the following conclusions or decisions without discussion:

conclusions on Iraq;

conclusions on Horn of Africa;

conclusions on climate change and international security;

conclusions on promoting compliance with international humanitarian law; and

conclusions on human rights and democratisation in third countries.

EU: Transport Council

Statement

The Secretary of State for Transport (Lord Adonis): My right honourable friend the Minister of State for Transport (Sadiq Khan) has made the following Ministerial Statement.

I will attend the second Transport Council of the Swedish presidency which will take place in Brussels on 17 December.

The council will be asked to reach a political agreement on a regulation on the rights of passengers in bus and coach transport, which also amends Regulation 2006/2004 on co-operation between national authorities responsible for the enforcement of consumer protection laws. While the scope of the regulation remains unresolved prior to the Transport Council, other key UK concerns with the original proposal have been addressed and the Government hope that a satisfactory political agreement can be reached.

The council will be asked to reach a general approach on an amending regulation on structures for the management of the European satellite radio-navigation programmes. The Commission will also give a progress report on the Galileo programme. Regulation 683/2008

significantly changed the role of the Galileo Supervisory Authority (GSA). The amending regulation amends earlier legislation on the GSA to bring it all in line with the 2008 Regulation. It changes the name of the body concerned to the European GNSS Agency and gives the European Commission more power in the Administrative Board. The UK is content that this is a sensible compromise. The UK has been a strong supporter of the need for a security accreditation body which can operate independently. We were also keen that, should the accreditors take a decision which would significantly increase cost or introduce delay, the Commission cannot overrule them without going to the council and the Parliament. It would be for council to decide whether the risk of not doing what the accreditors wanted was manageable. The Commission and member states have agreed with us that this is a sensible way forward.

There will be a progress report on a directive on the deployment of intelligent transport systems (ITS). My officials have been negotiating to secure amendments to the draft directive which better align it with UK interests. Good progress has been made on those areas of concern to the UK.

There will also be a progress report on a proposed directive on aviation security charges. The UK will work towards achieving a fair and proportionate outcome that balances the interests of passengers and airports.

The council will be asked to reach a general approach on a directive on reporting formalities for ships arriving in and/or departing from EU ports. The UK supports this measure in principle as it should lead to a streamlining of administrative procedures to be followed by ships. It will be important to ensure that the implementation timetable allows member states sufficient time to adapt existing national systems to the new requirements.

The council will be asked to adopt conclusions following on from the Commission's communication *A sustainable future for transport: Towards an integrated, technology-led and user friendly system*, which was debated by the council in October. The UK believes the council conclusions to be a good outcome. They provide the Commission with a clear and useful steer and I expect to be able to sign up to the conclusions at the council.

The council will be asked to adopt a decision, authorising the Commission to negotiate an agreement with the International Civil Aviation Organisation (ICAO), providing a general framework for enhanced co-operation. The UK supports this proposal. There are significant gains to be had from closer co-operation between the Community and ICAO, notably in the field of aviation safety. The presidency has made clear that the draft mandate does not affect relations between individual member states and ICAO, nor does it affect the arrangements for preparing Community positions for meetings of the ICAO Council.

There will be a progress report from the Commission on the second stage of air services negotiations with the US. Ministers' views will be sought on the next phase of the negotiations.

Fast Track Legislation

Statement

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): On 7 July the House of Lords Select Committee on the Constitution published its report on *Fast-track Legislation: Constitutional Implications and Safeguards* (HL 116, 2008–09). The Government response was published on 7 December (HL 11, 2009–10).

The report recommended that where the Government were proposing expedited legislation they should provide an explanation of why the legislation should be fast-tracked. The Government accept in principle the committee's recommendation that, for all Bills which are to be passed with unusual expedition, an explanation of the reasons for using a fast-track procedure should be provided.

I am therefore informing the House that any future legislation which will be subject to expedited procedures will contain a full explanation in the accompanying Explanatory Notes to the legislation. The explanation will address the questions set out in paragraph 186 of the committee's report:

why is fast-tracking necessary?

what is the justification for fast-tracking each element of the Bill?

what efforts have been made to ensure that the amount of time made available for parliamentary scrutiny has been maximised?

to what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

does the Bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why do the Government judge that their inclusion is not appropriate?

are mechanisms for effective post-legislative scrutiny and review in place? If not, why do the Government judge that their inclusion is not appropriate?

has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

have relevant parliamentary committees been given the opportunity to scrutinise the legislation?

The Video Recordings Bill which has been introduced in this House today is the first Bill to be fast-tracked since the committee published its report. The Explanatory Notes to this Bill reflect the new approach.

Flooding: Pitt Review

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My right honourable friend the Secretary of State for Environment, Food and Rural Affairs (Hilary Benn) has made the following Written Ministerial Statement.

I am placing in the Libraries of the House today copies of the Government's second update report detailing the progress made in implementing the recommendations contained in Sir Michael Pitt's report on the 2007 summer floods.

http://www.defra.gov.uk/environment/flooding/risk/floodreview2007.htm.

We continue to make significant progress. We have introduced our Flood and Water Management Bill which implements Pitt recommendations that require legislation, and will strengthen co-ordination, improve accountability and reduce the impact of future floods.

In advance of the Bill becoming law, we have taken action to help communities at risk of flooding. We have, for example:

set up a £7.7 million Flood Forecasting Centre, jointly run by the Environment Agency and the Met Office, which is already providing important services to local authorities and emergency responders, helping them to be better prepared for potential flooding;

strengthened arrangements for local and national co-ordination in the event of an emergency, as recently tested in Cumbria—for example through publishing updated emergency response and recovery guidance;

announced that local communities across England will benefit from £16 million funding to help them tackle surface water flooding, including £9.7 million made available to 77 local authorities for areas where the risk and potential impact of surface water flooding could be highest;

issued guidance to regulators on protecting essential services; local action includes reinforced defences at Mythe water treatment works in Gloucestershire and flood defences at East and West Hull sewage pumping stations;

invested in building capacity, including funding local authority places for the Environment Agency's flood management foundation degree and developing an NVQ level 2/3 course on flood risk management;

delivered, through the Environment Agency:

106 flood defence schemes protecting over 63,800 additional homes in England; and

140,000 additional people signed up to receive flood warnings in England and Wales: and the introduction of "opt out" telephone warning systems in February 2010 will significantly increase that number.

doubled our overall investment in flood and coastal erosion risk management in the past 10 years to a record £2.15 billion over the current three-year spending period.

The progress report explains the further steps we are taking to implement Sir Michael's recommendations. The risk of flooding remains and the recent events in Cumbria underline once again the importance of this work. The Government remain determined to enable us better to anticipate and deal with the impact of flooding.

I will continue to keep the House informed of progress through future progress reports.

Fraud: Government Annual Report

Statement

The Financial Services Secretary to the Treasury (Lord Myners): My honourable friend the Exchequer Secretary to the Treasury (Sarah McCarthy-Fry) has made the following Written Ministerial Statement.

Today I am publishing the Government Fraud Report for 2008-09. Copies of the document entitled, *Fraud report 2008-09: an analysis of reported fraud in Government departments*, have been deposited in the Libraries of the House and will be available on the HM Treasury website.

Freedom of Information Act 2000

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My honourable friend the Minister of State (Michael Wills) has made the following Written Ministerial Statement.

Today I have deposited copies of *The Freedom of Information Act 2000—Statistics on Implementation in Central Government: Q3—July-September 2009* in the Libraries of both Houses. Copies are also available in the Vote Office and the Printed Paper Office.

This is the quarterly monitoring statistics report analysing the performance of central government in the fifth full year of freedom of information.

Hillsborough

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My right honourable friend the Secretary of State for the Home Department (Alan Johnson) has today made the following Written Ministerial Statement.

The Hillsborough tragedy on 15 April 1989 at the FA Cup semi final between Liverpool and Nottingham Forest was the worst disaster in British sporting history. 96 people died and hundreds more were injured. The tragedy was of such national and international significance that it served to act as a watershed in the subsequent minimisation of safety risks at football matches and similar sporting events.

There have been a number of examinations of the circumstances surrounding the disaster over the years. Following the 20th anniversary of the tragedy in April 2009, the Prime Minister asked the then Secretaries of State for the Home Office and for Culture, Media and Sport, and the Justice Secretary, to consider how to bring about maximum possible public disclosure of governmental and other agency documentation on the events that occurred and their aftermath. In order to bring about this disclosure I am today announcing the creation of the Hillsborough Independent Panel.

The Hillsborough Independent Panel will work in partnership with Government and other public agencies to oversee the disclosure process. It will also consult those most affected by the disaster: the Hillsborough

families. The panel will be chaired by the Right Reverend James Jones, Bishop of Liverpool. The appointment of the rest of the panel will take place over the coming weeks in close consultation with the Hillsborough families and will be announced in due course. The panel will meet for the first time in Liverpool as soon as possible in the New Year.

The independent panel will be provided with access to Hillsborough documentation held by Government and local agencies relevant to events surrounding the tragedy in advance of the normal 30-year point for public disclosure. The fundamental principles will be full disclosure of documentation and no redaction of content, except in the limited legal and other circumstances outlined in the full terms of reference and disclosure protocol which will be placed in the Library of the House and made available on the Home Office website.

Recognising the volume of material that must be catalogued, analysed and preserved, the panel will seek to complete its work within two years.

The remit of the independent panel will be to:

oversee full public disclosure of relevant government and local information within the limited constraints set out in the disclosure protocol;

consult with the Hillsborough families to ensure that the views of those most affected by the tragedy are taken into account;

manage the process of public disclosure, ensuring that it takes place initially to the families of the victims and other involved parties, in an agreed manner and within a reasonable timescale, before information is made more widely available;

in line with established practice, work with the Keeper of Public Records in preparing options for establishing an archive of Hillsborough documentation, including a catalogue of all central governmental and local public agency information and a commentary on any information withheld for the benefit of the families or on legal or other grounds; and

produce a report explaining the work of the panel and the extent to which disclosure adds to public understanding of the tragedy and its aftermath.

Where Government records are covered by the well established convention on access to papers of a previous Administration—in particular papers which indicate the views of Ministers, such as Cabinet material or ministerial policy advice—representatives of the previous Administration are being consulted and their consent to the release of those papers sought.

House of Lords: Membership

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): During the debate on 10 December in the House of Lords on the Commonwealth's shared goals in democracy and development Baroness Gardner of Parkes asked about eligibility of Commonwealth and Republic of Ireland citizens for membership of the House of Lords. The Government undertook to set out the background to the issue in more detail and to legislate before the end of the current Session of Parliament to remove any uncertainty. The Government's firm view is that nothing in the current circumstances prevents any Member of the House of Lords from membership or from taking a full part in the proceedings of the House.

It was suggested to the Government in April 2009 by the House authorities that the drafting of the Electoral Administration Act 2006 (the 2006 Act), and modifications made by that Act to Section 3 of the Act of Settlement 1701, could be interpreted to have inadvertently cast doubt on whether Commonwealth and Republic of Ireland citizens are eligible for membership of the House of Lords and to hold certain offices under the Crown.

The Government have been examining possible interpretations of the changes made by the 2006 Act carefully. Although one possible interpretation would have the effect which has caused concern, this was clearly not the intention of Parliament when passing the 2006 Act, and the Government would disagree with any suggestion that changes should be made in the way that eligibility is regarded.

The relevant provisions are complex. Section 18 of the 2006 Act included provisions about eligibility for membership of the House of Commons, which were intended to ensure that only persons with indefinite leave to remain in the UK are eligible to be Members of the House of Commons. The Act also extended this provision to elections to the European Parliament, the Greater London Authority, local authorities, and the devolved legislatures. The provision was enacted in response to concerns that elected representatives should be able to serve their term of office in full in the UK. The provision was commenced on 1 January 2007.

Section 18(7) of the 2006 Act repealed the first entry in Schedule 7 to the British Nationality Act 1981. That entry had modified the application of Section 3 of the Act of Settlement which concerns eligibility for membership of both Houses of Parliament, the Privy Council and certain offices under the Crown by disapplying part of it in relation to Commonwealth and Republic of Ireland citizens, allowing such citizens to be Members of either House and to hold offices under the Crown.

This change was made in consequence of the provision at Section 18(1) of the Electoral Administration Act 2006, which substituted a new modification of Section 3 of the Act of Settlement that applies only for the purposes of membership of the House of Commons: under its terms, Commonwealth citizens who do not have indefinite leave to remain in the UK are prevented from being members of the House of Commons. However, since the drafting of the legislation did not contain provisions expressly saving the first entry in Schedule 7 to the British Nationality Act 1981 in relation to membership of the House of Lords and other offices under the Crown, a question has been raised about whether the eligibility of Commonwealth or Republic of Ireland citizens for membership of the House of Lords and other positions is affected.

Though it clearly was not the intention of Parliament in passing the 2006 Act to change the entitlement of Commonwealth and Republic of Ireland citizens to sit in the House of Lords, Ministers have concluded that

it is best to put the issue beyond any doubt. Accordingly we will introduce appropriate legislation before the end of the current Session of Parliament to remove any uncertainty on this issue. An amendment will be tabled to the Constitutional Reform and Governance Bill, currently before the House of Commons, to achieve this.

Identity Cards

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Parliamentary Under-Secretary of State for the Home Office (Meg Hillier) has today made the following Written Ministerial Statement.

I am pleased to announce the extension of the National Identity Service from the beginning of January 2010.

On 30 June, the Home Secretary confirmed that we would accelerate the rollout of identity cards by extending the initial coverage from Greater Manchester to other locations in the north-west of England early in 2010. Following a successful implementation of the National Identity Service in Greater Manchester and at Manchester and London City airports on 30 November, the next phase of the rollout will be commenced from Monday 4 January 2010. From that date, most citizens living or working in the north-west will be eligible to make applications for identity cards at a fee of £30.

Initially, they will be able to apply at the offices of the Identity and Passport Service (IPS) in Manchester city centre. From February 2010, they will also be able to apply at new enrolment facilities in existing IPS offices in Liverpool and Blackburn.

To find out more about identity cards, register interest in obtaining a card or to request an application pack, visit www.direct.gov.uk/identity or call 0300 330 0000.

Local Government: Finance

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government and Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Minister for Housing and Planning (John Healey) has made the following Written Ministerial Statement.

I am publishing today the Government's response to their consultation on the proposed changes to the Growth Fund for 2010-11. Copies have been placed in the Library of the House.

The Growth Fund provides capital and revenue funding to the 75 growth partnerships in growth areas and growth points across 163 local authorities in England, supporting their planned housing growth, enabling housing development to be brought forward, tackling barriers to delivery and ensuring that new development is planned as sustainable communities. Provisional funding allocations for 2009-10 and 2010-11 were published in December 2008.

The exceptional economic circumstances and global recession has affected the availability of finance, credit and mortgages. The Government have taken action to help people stay in their homes, stay in work, and to help firms stay in business. The Government have also continued to focus on providing the affordable homes that people need. The Government are clear that getting house-building across the country started, and providing the affordable homes that people need, is a priority during the current exceptional economic circumstances.

The Government set out the housing pledge as part of building Britain's future on 29 June, with a £1.5 billion package of measures to build an extra 20,000 new affordable homes in 2009-10 and 2010-11, of which over 13,000 will be for social rent, and 10,000 open market homes. As a result, the Government are now investing £7.5 billion in 2009-10 and 2010-11 to deliver up to 112,000 affordable homes and around 15,000 private homes.

While the majority of funding for the pledge comes from other government departments' programmes, given the importance attached to stimulating the housing market, I also reviewed our own investment programmes in Communities and Local Government to support the pledge. As such, the Government have switched £128 million capital funding from the Growth Fund in 2010-11 to support the pledge. All regions have benefited from the pledge funding, which has been considerably greater than the impact of the 2010-11 switch from growth funding.

Given the impact of the exceptional economic circumstances on the delivery of homes and infrastructure, there is uncertainty that it will be possible to use Growth Funds in the way envisaged when multi-year allocations were made before the global recession. Switching some grant money from the Growth Fund will mean it is still used for housing purposes and that the fundamental aims of the Growth Fund—to support housing growth—will still be met.

I wrote to the leaders of all local authorities in the growth areas and growth points about the housing pledge on 17 July, highlighting the opportunities for additional funding, and set out the planned adjustment to the Growth Fund. The Government's preferred approach was to make a pro-rata reduction to the provisional 2010-11 capital allocation of each growth area and growth point. Provisional revenue allocations for 2010-11 remain in full. The Government believe this approach would provide certainty on funding decisions in a timely manner, is fair and transparent. Consultation on the proposed changes lasted six weeks.

The consultation showed that although respondents did not welcome any reduction in funding they did show general support for the Government's preferred approach of a pro-rata reduction for every growth area local authority and the Government will therefore revise funding allocations for 2010-11 as set out below. Revised funding allocations will be paid by the Homes and Communities Agency to the nominated accountable body for each growth area and growth point in the first quarter of 2010-11. Local authorities in growth locations will still have the flexibility to prioritise how funding is used to best support local priorities.

Revised Funding Allocations for 2010-11

Location	*Provisional 2010-11 Revenue Allocations*	*Revised 2010-11 Provisional Capital Allocation*	*Total 2010-11 Provisional Capital and Revenue Allocation*	*Total Capital and Revenue Funding 2008-09-2010-11*
3 Cities and 3 Counties	£1,341,120	£9,964,960	£11,306,081	£40,275,554
Ashford	£258,001	£4,253,886	£4,511,886	£23,130,042
Aylesbury Vale	£271,015	£2,533,043	£2,804,059	£12,293,946
Barnet	£346,424	£3,380,042	£3,726,467	£11,122,030
Basingstoke	£216,799	£1,622,164	£1,838,962	£6,194,140
Bedford and Marston Vale	£309,886	£4,444,963	£4,754,849	£18,679,213
Birmingham and Solihull	£256,535	£2,284,936	£2,541,471	£11,696,546
Black Country and Sandwell	£344,478	£2,686,479	£3,030,957	£6,478,667
Brent	£110,000	£1,456,989	£1,566,989	£6,300,064
Cambridgeshire	£637,032	£7,794,623	£8,431,655	£37,758,618
Carlisle*	£74,908	£0	£74,908	£231,089
Central Lancashire and Blackpool	£215,786	£1,700,011	£1,915,797	£4,119,498
Chelmsford and Braintree	£192,110	£2,378,579	£2,570,689	£11,540,468
Coventry	£194,010	£1,452,356	£1,646,366	£6,462,320
Croydon	£211,429	£1,794,982	£2,006,411	£5,498,105
Dacorum	£123,908	£1,229,128	£1,353,036	£6,334,093
Didcot	£168,753	£905,527	£1,074,280	£1,836,492
Doncaster and South Yorkshire	£404,100	£3,129,181	£3,533,280	£7,568,071
Dover	£103,339	£856,916	£960,255	£2,091,851
East Staffs	£198,155	£1,484,527	£1,682,682	£6,214,584
Enfield	£171,057	£1,155,370	£1,326,427	£5,964,546
Exeter and East Devon	£273,956	£2,048,414	£2,322,370	£7,141,274
Gainsborough	£124,500	£481,061	£605,561	£1,298,936
Grantham	£197,335	£1,477,741	£1,675,077	£6,022,333
Greater Manchester	£508,781	£3,948,235	£4,457,017	£9,481,743
Hackney	£200,456	£1,518,731	£1,719,187	£8,197,915
Haringey	£0	£1,963,083	£1,963,083	£9,389,401
Haven Gateway	£414,888	£3,464,424	£3,879,311	£15,540,525
Hereford *	£171,034	£0	£171,034	£1,975,549
Islington	£150,000	£1,925,129	£2,075,129	£6,751,313
Kerrier and Restormel	£164,031	£1,327,041	£1,491,072	£3,191,279
Kings Lynn	£107,915	£888,670	£996,586	£2,166,905
Leeds City Region	£259,887	£2,049,795	£2,309,682	£4,985,742
Lincoln	£251,634	£1,881,362	£2,132,996	£8,071,257
London Harlow Stansted	£346,262	£3,851,751	£4,198,013	£18,624,097
Luton and South Beds	£285,000	£2,856,541	£3,141,541	£19,661,505
Maidstone	£193,349	£1,451,698	£1,645,046	£5,816,667
Mersey Heartlands	£259,208	£2,041,401	£2,300,609	£4,966,785
Mid Mersey	£164,241	£1,302,980	£1,467,221	£3,190,525
Milton Keynes	£250,000	£5,026,841	£5,276,841	£24,590,112
Newark on Trent	£204,756	£1,533,510	£1,738,266	£5,708,951
Newcastle and Gateshead	£191,795	£1,519,924	£1,711,720	£3,697,116
North Northamptonshire	£437,503	£6,313,783	£6,751,285	£30,296,688
North Tyneside	£97,506	£802,724	£900,230	£1,967,053
Norwich	£427,825	£3,191,580	£3,619,404	£13,040,595
Oxford	£190,830	£1,283,616	£1,474,446	£4,692,755
Partnership for Urban South Hampshire	£578,000	£5,336,386	£5,914,386	£22,073,297
Peterborough	£15,000	£3,866,918	£3,881,918	£18,540,147
Plymouth	£415,915	£3,101,084	£3,516,999	£11,922,591
Poole	£188,300	£1,411,407	£1,599,708	£5,287,577
Reading	£200,000	£1,568,080	£1,768,080	£6,214,856
Redbridge	£100,568	£1,640,605	£1,741,173	£8,764,376
Reigate and Banstead	£184,701	£1,384,701	£1,569,402	£5,715,470
Shoreham	£129,435	£1,043,467	£1,172,902	£2,531,465
Shrewsbury and Atcham	£140,000	£1,134,930	£1,274,930	£5,085,268
South and East Durham	£133,638	£1,030,603	£1,164,241	£2,534,469
South East Northumberland	£105,891	£869,999	£975,890	£2,123,882
St Albans	£58,233	£717,195	£775,428	£2,427,151
St Edmundsbury	£102,312	£1,033,373	£1,135,685	£5,064,955
Stafford	£109,436	£897,083	£1,006,519	£2,187,302

Revised Funding Allocations for 2010-11

Location	*Provisional 2010-11 Revenue Allocations*	*Revised 2010-11 Provisional Capital Allocation*	*Total 2010-11 Provisional Capital and Revenue Allocation*	*Total Capital and Revenue Funding 2008-09-2010-11*
Stevenage and North Hertfordshire	£166,522	£1,384,958	£1,551,480	£7,795,712
Swindon	£378,881	£2,826,281	£3,205,163	£11,817,317
Taunton	£300,698	£2,248,263	£2,548,962	£9,216,142
Tees Valley	£255,289	£1,992,209	£2,247,498	£4,855,790
Teignbridge	£107,930	£885,575	£993,504	£2,160,354
Telford	£264,010	£1,970,358	£2,234,368	£8,301,933
Thetford	£235,191	£1,760,762	£1,995,953	£7,001,688
Torbay	£176,232	£1,319,024	£1,495,257	£5,411,857
Truro	£174,457	£1,308,685	£1,483,142	£5,336,832
Waltham Forest	£166,707	£1,445,180	£1,611,887	£7,690,737
Welwyn Hatfield	£90,576	£845,142	£935,718	£4,423,017
West Cheshire	£137,906	£1,108,192	£1,246,099	£2,733,022
West Northamptonshire	£0	£7,065,393	£7,065,393	£33,187,980
West of England	£392,637	£3,721,661	£4,114,298	£18,489,020
Worcester	£170,000	£1,323,785	£1,493,785	£3,700,496

Did not bid for capital funding in 2010-11 as part of their programme of development.

Senior Salaries Review Body

Statement

The Chairman of Committees (Lord Brabazon of Tara): On 14 December the House made the following resolution:

In accordance with paragraph 7 of the Report from the House Committee on the SSRB Review of Financial Support for Members of the House of Lords (First Report, HL Paper 12), this House agrees:

the architecture and principles of the new system proposed by the SSRB;

that the House Committee should work to prepare resolutions to implement the proposals on a timescale which allows a new system to be operational from the start of the new Parliament;

that an ad hoc group of members should be established to consider and consult on issues in the SSRB report and advise on their implementation; and

that the House Committee should monitor and report on the effects of implementation of the new system after a year of operation.

In accordance with the resolution of 14 December, the House Committee has today appointed the membership of the ad hoc group to consider and consult on issues in the SSRB report and to advise on their implementation. The group will have the following membership:

Baroness O'Cathain;

Baroness Scott of Needham Market;

Baroness Symons of Vernham Dean;

Lord Tomlinson;

Lord Wakeham (Chairman); and

Lord Williamson of Horton.

The group will take into account the substantial number of points which have already been raised by Members in debate, and through other forums, but in the mean time if any Member wishes to give further views, they are invited to write to the secretary to the group, Duncan Sagar, in the Clerk of the Parliaments' office.

Sri Lanka

Statement

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): My right honourable friend the Secretary of State for Foreign and Commonwealth Affairs (David Miliband) has made the following Written Ministerial Statement.

Seven months have now passed since the end of the conflict in Sri Lanka. I should like to update the House on developments in the humanitarian and political situation in Sri Lanka.

Humanitarian

Since the end of the conflict the UK has focused its efforts on securing an improvement in the humanitarian situation. The end of the fighting in May left over 280,000 internally displaced persons (IDPs) in camps in northern Sri Lanka. The UK's approach to the situation has been fourfold: to advocate for improvements in conditions in the camps so that they meet international standards; to push for the early and safe return of IDPs to their home areas; to support, with the Department for International Development's (DfID) allocation of £12.5 million since September 2008, the vital work of the humanitarian agencies that have been providing assistance to the IDPs; and to urge the Government of Sri Lanka to allow those not yet resettled to have the ability to enjoy unrestricted freedom of movement.

Conditions in the camps have improved to the extent that basic needs are now generally being met. In recent weeks there has been some progress in the return of IDPs. As of 6 December, the UN has confirmed that over 158,000 IDPs have been released. Of this number approximately 29,000 vulnerable people had been transferred to host families or institutions. This leaves fewer than 112,000 people left in the Menik Farm site and fewer than 15,000 people in camps in other locations. It is important that IDPs continue to

be able to return to their home areas as soon as it is safe to do so. When I spoke to Foreign Minister Bogollogama on 29 October and 4 November, he confirmed that the Government of Sri Lanka were committed to returning those still in the camps. In order to assist this process, the Government have been funding the work of demining non-governmental organisations (NGOs) such as Mines Advisory Group and HALO Trust to help make areas safe for return. We will continue to help clear landmines, to provide transport from the camps and to help civilians to restart their lives so they can return home quickly and safely.

The recent announcement by the Sri Lankan Government that as of 1 December all remaining IDPs have been granted freedom of movement is a positive step. We hope this leads to unrestricted freedom of movement for all IDPs as soon as possible. As my honourable friend the Parliamentary Under-Secretary of State for International Development (Mike Foster) made clear in his Statement of 28 November, we believe that the opening of the camps and granting of real freedom of movement will enable the thousands still living in the camps to start to rebuild their lives. We welcome the fact that a number of national NGOs have now been granted access to some areas where IDPs are returning to such as Vavuniya, Mullaitivu, Mannar and Jaffna in the north. The recent announcement by the governor of the Northern Province that international NGOs will also be allowed to work in these areas on agreed projects is also welcome. It is imperative that all humanitarian agencies are given full access to all IDPs, including ex combatants, so that they can provide them with the help and protection they need both in the camps and in places of return.

Political

Beyond the immediate humanitarian concerns the UK has underlined to the Government of Sri Lanka the importance of securing genuine reconciliation between Sri Lanka's communities.

At the end of May the Sri Lankan president issued a joint statement with UN Secretary-General Ban Ki-Moon recognising the need to work towards a lasting political solution. The UK has consistently maintained that one of the prerequisites for lasting peace in Sri Lanka is a political settlement that fully takes into account the legitimate grievances and aspirations of all communities. Presidential elections have now been announced for 26 January 2010. Parliamentary elections in spring 2010 will be a further opportunity for the voice of Sri Lanka's communities to be heard. Free, fair and credible elections will allow Sri Lanka's communities to have their say in shaping the country's future. Adequate arrangements must be made to ensure IDPs can vote in upcoming elections. It is important for all those who want to play a role in Sri Lanka's future to agree to an inclusive political solution that addresses the underlying causes of the conflict.

The EU has made clear its belief that accountability is integral to the process of reconciliation. We therefore welcome President Rajapakse's decision to appoint an independent committee to look into the incidents cited in the US State Department's report. We will continue to press the government of Sri Lanka to live up to this and his earlier commitment made to UN Secretary-General Ban Ki-Moon in May to take measures to address possible violations of international humanitarian law.

GSP+ (General System of Preferences plus)/Human Rights

The EU's GSP+ trade preference scheme is intended to provide vulnerable economies with incentives to achieve standards in sustainable development, human rights, labour standards and good governance. Beneficiary countries are required to implement effectively certain international human rights conventions. On 19 October 2009 the European Commission published a report of its investigation into Sri Lanka's compliance with three of these conventions. The report was clear about Sri Lanka's failings in the implementation of the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. This report has reinforced our serious concerns over the human rights situation in Sri Lanka and we share the Commission's assessment. The Commission is expected to issue its formal recommendation on Sri Lanka's continued access to the GSP+ scheme shortly. We are clear that, in order to continue enjoying access to the GSP+, Sri Lanka must meet fully its human rights obligations. I have urged the Government of Sri Lanka to take urgent action to address the issues raised by the Commission in its report such as the lack of effective investigations into alleged disappearances and the need to uphold the right to freedom of expression. As EU foreign ministers made clear in our conclusions of 27 October, the EU will maintain a dialogue with Sri Lanka on the steps necessary to address the problems highlighted by the Commission's investigation, in order effectively to implement the conventions.

Commonwealth Heads of Government Meeting (CHOGM)

When the Heads of Commonwealth Governments met in Port of Spain in November members agreed that Australia will host CHOGM in 2011. The most important thing for the UK was that the host for each Commonwealth summit demonstrably embodies our shared values—including respect for human rights and democracy. While we welcome the recent progress on freedom of movement for IDPs in Sri Lanka, given our ongoing concerns about the humanitarian and human rights situation at the time, the UK was unable to support Sri Lanka's bid to host CHOGM in 2011. However, Commonwealth leaders accepted the President of Sri Lanka's offer to host the summit in 2013.

Conclusion

We have regularly made clear our view that the Government of Sri Lanka have a unique opportunity—and duty—to work for genuine political reconciliation. As a measure of the UK's ongoing commitment to the future of Sri Lanka, we remain at the forefront of international efforts to help ensure lasting peace there. My right honourable friend the Prime Minister's special envoy for Sri Lanka, my right honourable friend the Member for Kilmarnock and Loudoun (Des Browne), continues to engage the Tamil diaspora and he has updated honourable Members on his recent activities.

We will continue to work directly with the Government of Sri Lanka and with international partners including the EU, UN and Commonwealth, to urge the Government of Sri Lanka to resolve the underlying causes of the conflict through an inclusive political process which addresses the legitimate grievances and aspirations of all communities—Sinhalese, Tamils and Muslims.

St Helena

Statement

Lord Brett: My right honourable friend the Secretary of State for International Development (Douglas Alexander) has made the following Written Ministerial Statement.

I have carefully considered the views received in response to the public consultation on air access for St Helena. I have also considered the reasonableness of proceeding with funding an airport in the prevailing economic conditions and the urgent requirements upon the department to protect vulnerable countries around the world from the impact of the global downturn.

The present calls on DfID funding and the current economic conditions mean that proceeding with the project would not be appropriate at this time. DfID is committed to supporting the people of St Helena and so, rather than make a decision at this juncture, I have instructed my officials to conduct a further analysis of two particular issues that have been brought to my attention through the consultation, and require more detailed scrutiny:

potential cost savings to the airport contract which might be enabled by recent technological developments; and

options for funding the capital cost of the airport through a possible public/private partnership.

In addition, my officials will also analyse further the costs and options for a replacement ship.

I expect this to take around six months and will make a further Statement when it is complete.

The director responsible for the overseas territories will be visiting St Helena in the first quarter of 2010 to discuss this announcement with both government and the private sector.

Taxation: Anti-Avoidance

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.

This Government have put in place a comprehensive set of tax reliefs for charities and for those who choose to donate to charities. These tax reliefs provide valuable incentives to encourage people to give and provide support to the charity sector. In the UK we are rightly proud of our charity sector which continues to undertake important work in the UK and around the world.

It is therefore particularly regrettable that we have become aware of an artificial, aggressive and offensive tax avoidance scheme that seeks to abuse those tax reliefs available for donations to charity. A similar scheme to exploit this same relief was shut down in Finance Act 2004 and we are aware other schemes to exploit these reliefs have been marketed since then.

This Government will not tolerate tax avoidance or tax evasion, and will act promptly to tackle both of these, so I am today announcing changes to be made to legislation, with immediate effect, to counter these schemes.

The scheme exploits the relief available for donations of listed shares and other types of qualifying investments (including land) to charities in Section 431 of the Income Tax Act 2007 and Section 587B of the Income and Corporation Taxes Act 1988.

An offshore company sells to a taxpayer listed shares with a market value well in excess of the amounts paid. However the offshore company has an option to buy back the shares, exercisable after three years, for £1. The taxpayer then gifts the shares to a charity and gets tax relief on the higher market value of the shares, despite having paid only a fraction of that market value for the shares. The option to buy back the shares is not taken into account for the purposes of determining the amount of the relief. The rules disregard contingent liabilities, such as an option, until the liability crystallises, typically by the exercise of the option in this case. In reality the option is never exercised and the scheme organiser gets their money back from the charity through some contrived arrangements.

The benefit to the charity is typically less than half of one percent of the value of the tax relief obtained.

The Government do not accept that these highly contrived arrangements have the effect sought, but will remove any doubt by introducing appropriate legislation in Finance Bill 2010. The new rules will reduce the tax relief on such arrangements to the lower of the cost of acquisition to the donor of the shares or investments gifted, or the market value at the date of disposal, where the acquisition was made as part of a tax advantage scheme. This legislation will have immediate effect from 15 December 2009.

The legislation will not affect genuine donations to charity where tax avoidance arrangements are not involved and HM Revenue and Customs (HMRC) will be consulting with the charity sector to ensure the legislation achieves its intended effect.

Further details are contained in a draft explanatory note published on HMRC's website today with the proposed draft legislation.

It is particularly offensive that individuals seeking to avoid tax do so in a way that exploits charity tax reliefs.

I am therefore giving notice of our intention to deal with any arrangements that emerge in future that are designed to take advantage of the tax reliefs for donations of qualifying investments under Section 431 of the Income Tax Act 2007 and Section 587B of the Income and Corporation Taxes Act 1988. The Government introduced these reliefs in 2000 with the intention that they should be used only for genuine donations to

genuine charities. Where HMRC become aware of arrangements which attempt to frustrate that intention the Government will introduce legislation to close them down, where necessary with effect from today.

This action will not affect the vast majority of charities and donors who organise their affairs in a straightforward and ordinary way. The Government continue to believe charities make an important contribution to our society and do not deserve having their reputation called into question by such offensive tax avoidance.

Transport: Severe Weather

Statement

The Secretary of State for Transport (Lord Adonis): My right honourable friend the Minister of State for Transport (Sadiq Khan) has made the following Ministerial Statement.

In February Britain experienced its worst winter for 18 years. It is important that we learn the transport lessons from that experience, so that the country is better prepared for similar severe events in future. To this end, the then Secretary of State, the right honourable Geoff Hoon MP, commissioned the UK Roads Liaison Group (UKRLG) to conduct a review of the difficulties experienced in the operation of winter maintenance service at that time.

The UKRLG published its report on 4 August (available from the Libraries of the House or from www.ukroadsliaisongroup.org), and I am grateful for the thorough way in which it reviews events. The report makes 19 recommendations, and I am pleased to announce today that the Government have accepted them all, which together should improve our preparedness to face up to the challenges presented by severe winter weather in the future.

Most of the recommendations are addressed to local highway authorities and salt suppliers. It is, of course, for each authority to consider these and decide for themselves how best to take them forward. I commend them to authorities' attention.

The report addresses four recommendations specifically to the Department for Transport and the Highways Agency.

First, it recommends that the Highways Agency should hold a reserve of salt above that which it needs to meet its service standards, in order to reduce overall demand for salt at critical times. In addition to supporting the UKRLG review, the agency has carried out its own internal exercise to identify those areas of its business which may be improved, to further strengthen its winter service resilience. A number of improvements have been identified and implemented, including a review of the salt stock levels that will be held across the strategic road network in England. The agency has previously implemented a risk-based approach to set its salt stock levels each year. By identifying and considering the impact of issues which may affect salt supplies and associated stock levels, a suitable salt stock profile for each of the agency's operational areas is derived for the winter season ahead. The increased risk of a salt shortage similar to that experienced last season has been considered when setting the salt stock profiles for this winter season, in order to increase the agency's salt stock resilience.

UKRLG further recommend that the department should publish an information leaflet for highway authority elected members and senior managers on preparation for severe winter conditions. We have produced such a leaflet and have arranged for this to be distributed today.

The report proposes that the department should make preparations to enable rapid introduction of derogation against drivers' hours regulations for specific categories of vehicles and drivers if necessary in times of severe adverse weather conditions. We agree with the recommendation that it is important to implement such derogations quickly, when the need has been identified. We believe that the department's response in February was as swift as was possible; but we will review our processes to ensure that we remain ready to deal with applications for derogation as quickly as possible.

UKRLG considered the operation of the centrally co-ordinated Salt Cell that was set up in February. The report concludes that the possibility of a future government-run Salt Cell should only be considered as a matter of last resort, but that the Government should develop a contingency plan for any future Salt Cell, to be used in extremis. I again accept the recommendation. My department is working with a number of stakeholders, both within and without Government, to develop robust protocols against such an eventuality.

Co-operation and co-ordination between highways authorities and suppliers will be a key component in better management of winter service in the future, however severe the weather. The Highways Agency had already identified the need to develop a closer relationship with its salt supply chain partners. A strategic Salt Liaison Group (SLG) has been established to discuss issues affecting salt usage and supply for the strategic network. Local highway authorities may wish to reflect on how similar arrangements might benefit them. As part of its own review of lessons learnt, the agency also highlighted the need for improved communications to give earlier warning of any developing salt supply issues. Again, local authorities may wish to consider how they can implement a more precautionary, focused dialogue with salt suppliers in the same way.

There is already good communication between the Highways Agency and local authorities, and the agency shares a number of depots with local authorities. As well as the cost efficiencies associated with depot sharing, it can provide access to the network at operationally important locations that may not otherwise be available. The Highways Agency recognises the importance of depot sharing in providing a cost-effective solution to planning and maintaining an effective winter service. However, depots are often not suitable for sharing on account of their location, their size or other operational constraints. Each proposal therefore needs to be considered on its individual merits, to ensure that service delivery for both authorities will not be compromised.

While no system can be completely resilient in extreme circumstances, adopting the UKRLG's recommendations should help the nation to be better prepared should weather conditions similar to this past winter's be encountered in future.

Transport: Ticketing

Statement

The Secretary of State for Transport (Lord Adonis): I am today announcing the launch of the Government's smart and integrated ticketing strategy.

The strategy follows a consultation which ran for 10 weeks from August this year and sought views on the Government's emerging vision for smart and integrated ticketing across public transport in England. The consultation was well received, with over 120 responses, and there was strong support for the emerging vision although also a strong message that Government needed to set out a clear road map for delivery.

Our research suggests that smart and integrated ticketing could bring overall benefits of over £1 billion per year and could significantly improve the offer to the passenger through reduced queuing times, removal of the need to carry cash and the provision of seamless journeys.

We have incorporated 27 specific government commitments in the strategy. Key commitments include £20 million of funding to be awarded to nine of the largest urban areas in England (outside London) in order to bring smart ticketing to the greatest number of people most quickly; a change to bus operators' grant (BSOG) which is the subject of a separate announcement today and which will reward operators who equip their buses with smart ticketing infrastructure with an 8 per cent increase in grant; consideration of possible legislation if insufficient progress has been made in the rollout of integrated ticketing; and the creation of a dedicated smart and integrated ticketing team within the Department of Transport to co-ordinate delivery of the strategy from a central point.

The strategy includes a timetable for delivery, which though challenging, I believe is achievable. Our immediate goal is to see integrated multi-modal smart ticketing schemes, similar to the Oyster scheme in London but using the ITSO specification, in England's major urban areas by 2015. We expect that urban schemes will provide a base from which further expansion can occur, and anticipate that that there will be some local integrated ITSO smart ticketing schemes in every area of the country by 2020. The department will also continue to put smart ticketing requirements into the rail franchises as they come up for renewal.

Longer term, our aim is to see customers possibly being given a choice of ticketing media, potentially including bank cards and mobile phones and improved links between ticketing and information provision to make public transport use an easier and more attractive option to passengers.

The successful delivery of the strategy will depend upon partnership working to ensure that schemes meet the needs of the passengers. In the strategy, the department lays out the roles envisaged for principal stakeholders; ITSO, the local transport authorities, local transport operators, train operating companies and suppliers. We recognise that we cannot deliver the strategy without the support of all these key stakeholders and I look forward to working with them to ensure that we meet our commitments as soon as possible.

Copies of the strategy document have been placed in the Library of the House.

UK Border Agency: Independent Chief Inspector's Annual Report

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Minister of State for Borders and Immigration (Phil Woolas) has today made the following Written Ministerial Statement.

The first annual report of the independent Chief Inspector of the UK Border Agency, John Vine, is being laid before Parliament today. The post and role of independent chief inspector was created in the UK Borders Act 2007 and extended in the Borders, Citizenship and Immigration Act 2009 to reflect the wider role of the new agency. The key focus of the chief inspector is the efficiency and effectiveness of the UK Border Agency. The role provides an external, independent and transparent assessment of the agency and helps to provides reassurance to Parliament and the public. I therefore welcome this account of the first year's work of the chief inspector. The annual report sets out the work of the chief inspector in establishing his inspection methodology, inspection plan and staffing since the role commenced in July 2008 and summarises the findings from six early inspections. Copies of the report will be available in the Vote Office.

Written Answers

Tuesday 15 December 2009

Asbestos

Question

Asked by ***Baroness Quin***

To ask Her Majesty's Government what measures are in place regarding the removal of asbestos in school buildings. [HL646]

To ask Her Majesty's Government what measures are in place regarding testing school buildings for the presence of asbestos. [HL647]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): Under regulation 4 of the Control of Asbestos Regulations (CAR) 2006, 'duty holders' have a responsibility, to manage the risks arising from asbestos in buildings under their control. For the majority of educational establishments, the duty holder will be the employer which for community schools, community special schools, voluntary controlled schools, maintained nursery schools and pupil referral units is the local authority (LA). For voluntary aided and foundation schools it will be the school governors. Usually duty holders carry out asbestos surveys to record the presence of asbestos containing materials (ACMs). These records must then be made available to contractors so that they know where ACMs are located. If necessary following visual inspections, an intrusive survey may be carried out.

Asbestos which is in poor condition, or which is likely to be damaged or disturbed should be sealed, enclosed or removed. Asbestos that is in good condition and unlikely to be damaged is normally left in place and the risks from it managed until the building reaches the end of its useful life. Asbestos does not pose a serious risk if it is managed properly in accordance with the Control of Asbestos Regulations. All major refurbishments carried out under Building Schools for the Future (BSF) would normally include removal of all asbestos and in minor refurbishment work any asbestos that is likely to deteriorate or to be damaged or disturbed would be removed.

The majority of local authorities have adequate asbestos management procedures in place but we are working with the Health and Safety Executive to further improve asbestos management in schools and we will be producing training and guidance on asbestos management for head teachers, governors and local authorities.

This year the Prime Minister and the Schools Minister Diana Johnson met the Asbestos in Schools Group of the All-Party Parliamentary Group on Occupational Safety and Health and agreed to set up a steering group to improve the management of asbestos in schools. This is part of the wider work by DCSF and HSE to promote best practice in the leadership and management of health and safety issues in schools.

Asked by ***Baroness Quin***

To ask Her Majesty's Government how many teachers have contracted asbestos-related diseases. [HL648]

Baroness Morgan of Drefelin: Statistics for asbestos related diseases for specific occupational groups are not available.

However, HSE has published analyses of national mesothelioma deaths (one of the main and most serious asbestos related diseases) by last recorded occupation of the deceased. These statistics do not tell us about how many teachers have died from mesothelioma as a result of exposure to asbestos in schools. They are limited because they are based on the last recorded occupation, which may not be the one in which asbestos exposure took place.

The statistics do show that teachers do not stand out as a high risk group: they are among a group of occupations with numbers of deaths from mesothelioma that are broadly in line with the average for all occupations.

Asylum Seekers: Deportation

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how many failed deportations of illegal asylum seekers there were in each of the past five years. [HL310]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): A centrally recorded robust mechanism for identifying unsuccessful removals was not in place until 2008; therefore, figures for the number of removals which failed before the point of departure are only available for the last two financial years, as set out in the table below. Figures prior to that would only be available through the examination of individual records at disproportionate cost.

	2008-09 (1 April to 31 March)	*2009 (1 April to 30 November)*
Total number of unsuccessful removals of failed asylum seekers before point of departure	5,610 individuals	3,665 individuals

There are a number of reasons why a removal might be unsuccessful—for example, last-minute legal challenges or the disruptive behaviour of the individual. It should be noted that in many cases, the circumstances that led to the failure of the original attempt to remove will have been quickly resolved and a subsequent removal attempt been successful.

The Home Office publishes statistics on the number of persons removed and departed voluntarily from the UK on a quarterly and annual basis. National statistics on immigration and asylum are placed in the Library of the House and are available from the Home Office's Research, Development and Statistics website at www.homeoffice.gov.uk/rds/immigration-asylum-stats.html.

Autism

Question

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government how many specialist advisers are available to provide personalised advice to jobseekers with autism. [HL595]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): There is the equivalent of approximately 450 full-time disability employment advisers working across all Jobcentre Plus districts. Although some autistic jobseekers may benefit from mainstream programmes and services, autistic people with more complex support needs will be referred to a disability employment adviser, who will be able to offer more specialised, personalised support.

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government whether they will review the operation of the work capability assessment as it affects employment and support allowance claimants with autism. [HL599]

(Lord McKenzie of Luton: As referred to in the White Paper, *Raising expectations and increasing support: reforming welfare for the future,* published in December 2008, we are currently conducting a department-led review of the work capability assessment in consultation with medical experts and representative groups including the National Autistic Society. In addition, the Government are committed to an independent review of the work capability assessment every year for the first five years of operation.

Belfast Agreement

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Baroness Royall of Blaisdon on 25 November (*WA 2*), and in view of the commitment to parity of esteem outlined in the Belfast agreement of 1998, what measures were agreed to give equality to the Ulster Scots language alongside the Irish language. [HL454]

Baroness Royall of Blaisdon: The Government are committed to affording due respect and recognition to Ulster-Scots and the Irish language and to supporting the development of their respective cultural traditions. This commitment was reflected in the Northern Ireland (St Andrews Agreement) Act 2006, Section 15 of which amended the Northern Ireland Act 1998 to put the Executive Committee under a duty to adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language and to enhance and develop the Ulster-Scots language, heritage and culture.

Following the restoration of the Northern Ireland Assembly on 8 May 2007, it is for the assembly to take the lead on the Irish language and Ulster-Scots.

Civil Service: Retirement

Question

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government what is the average age of retirement in the civil service in each department, excluding the senior civil service. [HL500]

Baroness Crawley: The information requested falls within the responsibility of the UK Statistics Authority. I have asked the Authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Oakeshott of Seagrove Bay, dated December 2009

As National Statistician I have been asked to reply to your recent Parliamentary Question concerning what is the average age of retirement in the civil service in each department, excluding the senior civil service. (HL500).

The Office for National Statistics collects data on leavers from the Civil Service as part of the Annual Civil Service Employment Survey (ACSES). The requested data are attached at Annex A.

Annex A

Civil Service employment: average age of retirement by department (excluding Senior Civil Service)[1]

Permanent employees *Years*

31 March 2008	*Average age of retirement*[2]
Attorney General's departments	
Crown Prosecution Service	59
Crown Prosecution Service Inspectorate	-
Legal Secretariat to the Law Officers	..
Serious Fraud Office	..
Treasury Solicitor	..
Revenue and Customs Prosecution Office	..
Business, Enterprise and Regulatory Reform	
Business, Enterprise and Regulatory Reform (excl agencies)[3]	61
Advisory Conciliation and Arbitration Service	60
Companies House	+
Insolvency Service	60
Office of Fair Trading	60
Office of Gas and Electricity Market	..
Postal Services Commission	-
Cabinet Office	
Cabinet Office excl agencies	60
Other Cabinet Office agencies	
Central Office of Information	58
National School of Government	60
Office of the Parliamentary Counsel	-

Civil Service employment: average age of retirement by department (excluding Senior Civil Service)[1]

Permanent employees *Years*

31 March 2008	*Average age of retirement[2]*
Charity Commission	
Charity Commission	63
Children, Schools and Families	
Department for Children, Schools and Families[3]	+
Communities and Local Government	
Department for Communities and Local Governments[3]	60
Fire Service College	62
Ordnance Survey	60
Planning Inspectorate	60
Queen Elizabeth Il Conference Centre	..
Culture, Media and Sport	
Department for Culture Media and Sports[3]	60
Royal Parks	..
Defence	
Ministry of Defence	60
Royal Fleet Auxiliary	-
Army Base Repair Organisation	64
Defence Aviation Repair Agency	64
Defence Science and Technology Laboratory	60
Meteorological Office	+
UK Hydrographic Office	..
Environment, Food and Rural Affairs	
Department for Environment Food and Rural Affairs[3]	60
Centre for Environment Fisheries and Aquaculture Science	59
Central Science Laboratory	..
Government Decontamination Services	-
Marine Fisheries Agency	60
OFWAT	..
Pesticides Safety Directorate	..
Rural Payments Agency	60
Animal Health	60
Veterinary Laboratories Agency	60
Veterinary Medicines Directorate	..
Export Credits Guarantee Department	
Export Credit Guarantee Department	+
Foreign and Commonwealth Office	
Foreign and Commonwealth Office (excl agencies)	+
Wilton Park Executive Agency	-
Health	
Department of Health (excl agencies)	+
Food Standards Agency	61
Meat Hygiene Service	61
Medical and Healthcare Products Regulatory Agency	60
National Healthcare Purchasing and Supplies	..
NHS Business Services Authority	..
HM Revenue and Customs	
HM Revenue and Customs	60
Valuation Office	+
HM Treasury	
HM Treasury	56
Chancellor's other departments	
Debt Management Office	..
Government Actuary's Department	..
National Savings and Investments	..
Office of Government Commerce	-
OGC Buying Solutions	60
Office for National Statistics''	58
Royal Mint	60
Home Office	
Home office (excl agencies)3	60
Criminal Records Bureau	..
Identity and Passport Service	62
Border and Immigration Agency	60
Innovation, Universities and Skills	
Department for Innovation, Universities and Skills	+
National Weights and Measures Laboratory	61
UK Intellectual Property Office	61
International Development	
Department for International Development	+
Justice	
Ministry of Justice (excl agencies)	58
HM Courts Service	60
Land Registry	60
National Archives	60
Public Guardianship Office	..
Tribunals Service	60
Scotland Office	..
Wales Office	-
Public Sector Prison Service	60
Northern Ireland Office	
Northern Ireland Office	63
Ofsted	
Ofsted	60
Security and Intelligence Services	
Security and Intelligence Services	57
Transport	
Department for Transport[3]	60
Driver and Vehicle Licensing Agency	57
Driving Standards Agency	62
Government Car and Despatch Agency	+
Highways Agency	60

Civil Service employment: average age of retirement by department (excluding Senior Civil Service)[1]

Permanent employees *Years*

31 March 2008	*Average age of retirement*[2]
Maritime and Coastguard Agency	60
Office of Rail Regulation	..
Vehicle Certification Agency	..
Vehicle and Operator Services Agency	60
Work and Pensions	
DWP Corporate and Shared Services	58
Jobcentre Plus	59
Disability and Carers Service	59
Pension Service	55
Child Support Agency	59
The Health and Safety Executive	60
The Rent Service	57
Scottish Government	
Scottish Government (excl agencies)	60
Crown Office and Procurator Fiscal Service	57
Courts Group	+
Communities Scotland	60
Fisheries Research Services	..
General Register Scotland	59
HM Inspectorate of Education	60
Historic Scotland	+
Mental Health Tribunal Scotland	-
National Archive for Scotland	..
Office of Accountant in Bankruptcy	..
Office for the Scottish Charity Regulator	-
Registers of Scotland	58
Scottish Agricultural Scientific Agency	61
Scottish Buildings Standards Agency	..
Scottish Court Service	61
Scottish Fisheries Protection Agency	60
Scottish Prison Service	55
Scottish Public Pensions Agency	..
Social Work Inspection Agency	..
Student Awards Agency	-
Transport Scotland	..
Welsh Assembly	
Welsh Assembly Government	60
ESTN	..
All employees	60

Source:
Annual Civil Service Employment Survey (ACSES).

1 Counts of less than five are represented by "..". Data not available are represented by "-" Due to concerns surrounding data quality estimates of average age of retirement have been suppressed for a number of departments and represented by "+"

2 Average age based on the median.

3 Includes Government Office for the Regions employees.

4 Figures of the Office for National Statistics exclude field staff who were not civil servants at the reference date.

Asked by ***Lord Oakeshott of Seagrove Bay***

To ask Her Majesty's Government what is the average age of retirement in the senior civil service in each department. [HL501]

Baroness Crawley: the information requested falls within the responsibility of the UK Statistics Authority. I have asked the authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Oakeshott of Seagrove Bay, dated December 2009.

As National Statistician I have been asked to reply to your recent Parliamentary Question concerning what is the average age of retirement in the senior civil service in each department. (HL501).

The Office for National Statistics collects data on leavers from the Civil Service as part of the Annual Civil Service Employment Survey (ACSES). The requested data are attached at Annex A.

Annex A

Civil Service Employment: Average retirement age of Senior Civil Service (SCS) by Government Department[1]

Permanent Employees

Years

Department	*Average age of retirement*[2]
31 March 2008	
Animal Health	..
Attorney General's Office	..
Border and Immigration Agency	..
Cabinet Office (excl agencies)	..
Central Office of Information	..
Charity Commission	..
Courts Group	..
Crown Office and Procurator Fiscal Service	..
Crown Prosecution Service	..
Defence Science and Technology Laboratory	..
Department for Business, Enterprise and Regulatory Reform (excl agencies)[3]	..
Department for Children, Schools and Families[3]	58
Department for Communities and Local Government (excl agencies)[3]	59
Department for Culture Media and Sport	..
Department for Environment Food and Rural Affairs (excl agencies)[3]	..
Department for Innovation, Universities and Skills	..
Department for International Development	..
Department for Transport (excl agencies)[3]	..
Department of Health (excl agencies)	56
Driver and Vehicle Licensing Agency	..
DWP Corporate Services	58
ESTYN	..

Civil Service Employment: Average retirement age of Senior Civil Service (SCS) by Government Department[1]

Permanent Employees

Department	*Years* *Average age of retirement*[2]
Foreign and Commonwealth Office (excl agencies)	55
Highways Agency	..
HM Courts Service	..
HM Revenue and Customs	59
HM Treasury	..
Home Office (excl agencies)[3]	58
Job Centre Plus	..
Land Registry	..
Maritime and Coastguard Agency	..
Medical and Healthcare Products Regulatory Agency	..
Ministry of Defence	57
Ministry of Justice (excl agencies)	..
National Healthcare Purchasing and Supplies	..
National School of Government	..
National Weights and Measures Laboratory	..
Office for National Statistics[4]	..
Office for Standards in Education	..
Office of Fair Trading	..
Office of Gas and Electricity Market	..
Ordnance Survey	..
Parliamentary Counsel Office	..
Pension Service	..
Public Sector Prison Service	..
Scottish Government (excl agencies)	57
The Health and Safety Executive	..
Treasury Solicitor	..
UK Intellectual Property Office	..
Valuation Office	..
Veterinary Laboratories Agency	..
Welsh Assembly Government	50

Source:
Annual Civil Service Employment Survey

1 Counts of less than 5 are represented by ".."

2 Average age based on the median.

3 Includes Government Office for the Regions employees.

4 Figures for the Office for National Statistics exclude field staff who were not civil servants at the reference date.

Counterterrorism

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government further to the Written Answer by Lord McKenzie of Luton on 6 July (*WA 116*), whether they will place in the Library of the House all bid documents relevant to the three years of funding for the Sufi Muslim Council. [HL428]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): There are no plans to place the Sufi Muslim Council's bid documents in the Library of the House as these documents contain personal information and information relating to competition for funding.

Crime: Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what instructions they will issue to the judiciary in Northern Ireland about sentencing policy for those found guilty in road traffic cases which involve a death. [HL451]

Baroness Royall of Blaisdon: The Northern Ireland Court of Appeal delivers guideline judgments on sentencing practice in Northern Ireland which support sentencers in determining the most appropriate sentence and encourage consistency in sentencing. Judges may also have regard to published sentencing guidelines in England and Wales, where appropriate. In addition, the Judicial Studies Board of Northern Ireland publishes significant decided cases on its website (www.jsbni.com).

Crimes: Knives

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what was the change in the level of knife-related crime in Northern Ireland over the past five years. [HL809]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): That is an operational matter for the chief constable. I have asked him to reply directly to the noble Lord, and a copy of his letter will be placed in the Library of the House.

Democratic Republic of Congo

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what is their assessment of hostilities in eastern Congo, the role played by the Rwandan Forces for the Liberation of Rwanda, the estimated number of fatalities and dispersed people, and measures to address the underlying causes of conflict in the African Great Lakes region. [HL472]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The UK is deeply concerned about ongoing hostilities in eastern Democratic Republic of Congo (DRC). The Kimia II military operation, launched early in 2009, has provided mixed results. Limited progress has been made against Democratic Forces for the Liberation of Rwanda (FDLR), for instance reducing FDLR control of major regions,

and its access to both markets and mines that have financed its activities. This has had a destabilising affect on the FDLR, with a subsequent increase in the number of FDLR personnel voluntarily going through the disarmament, demobilisation, repatriation, resettlement and reintegration (DDRRR) process (close to 1400 have done so this year, far more than in 2008).

The downside to the activities of Kimia II has been the significant humanitarian costs, as the FDLR have carried out reprisals against civilian populations. According to a report by Human Rights Watch this month, 1400 civilians have been killed in military operations this year.

Since 1998 over 5 million people have died as a result of the conflict in DRC and the UN estimates that there are currently 1.6-1.7 million internally displaced persons (IDPs) in DRC.

The UK has been promoting a comprehensive approach to ending the conflict in eastern DRC. This approach has included non-military activity, such as providing support to the UN DDRRR process (for example, through providing communications equipment). We continue to lobby the Governments of DRC and Rwanda to implement the peace process fully. We are encouraged by—and fully supportive of—the recent rapprochement between DRC and Rwanda, and see this as an important step towards tackling the instability in the Kivus.

The UK has also been active in addressing the underlying causes of instability in the region, including action against the illegal trading of minerals. Our development programmes in the region aim to support national reconciliation, tackle poverty, build economic prosperity and foster respect for human rights.

Department for Business, Innovation and Skills: Staff

Question

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many people are employed by the Department for Business, Innovation and Skills for the purposes of countering extremism, violent extremism and terrorism in institutions of higher education. [HL686]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): The Department for Business, Innovation and Skills (BIS) works closely with colleagues across the whole of Government on delivering the counter-terrorism strategy including colleagues within Government Office for Science based within BIS. There are two full-time equivalent civil servants in BIS working specifically on preventing violent extremism in further and higher education institutions.

Disabled People: Student Allowance

Question

Asked by ***Lord Addington***

To ask Her Majesty's Government why the administration of the disabled students' allowance was transferred from local authorities to the Student Loans Company; and whether any difficulties were anticipated when that decision was made. [HL467]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): In 2005, a review of student finance delivery arrangements in England was carried out which took on board views from a wide range of stakeholders and customers. This was followed by independent appraisal and consultation with key stakeholders on the review recommendations. A key finding of the review was that, while some bad authorities were performing well, the level of service was variable. It was concluded that a step change could only be achieved by making a single organisation responsible for both the assessment and payment of HE students' grants and loans coupled with other process and technological improvements. That decision was announced in a Written Ministerial Statement on 3 July 2006.

The Student Loans Company (SLC) consulted a Targeted Support Stakeholder Panel about the design of processes for students with disabilities on 24 June 2008, 23 October 2008 and 8 June 2009, to scrutinise the SLC's plans, proposals and offer guidance and advice. Discussions at these meetings included an overview of the new student finance service and a summary of planned changes for 2009-10 academic cycle in addition to workshops focusing on key support requirements of targeted support applicants.

Asked by ***Lord Addington***

To ask Her Majesty's Government whether the Student Loans Company has met its corporate objective 3 "to provide a high quality service" in respect of the administration of the disabled students' allowance. [HL469]

To ask Her Majesty's Government whether the Student Loans Company has met its corporate objective 5 to deliver services "to budget, time and agreed quality standards" in respect of the administration of the disabled students' allowance. [HL470]

(Lord Young of Norwood Green: The corporate objectives referred to relate to performance measures set for the financial year 2008-09. Performance outturn is recorded in the Student Loan Company's (SLC) 2008-09 annual report, a copy of which is in the Libraries of both Houses and on SLC's website. Performance relating specifically to the administration of applications for disabled students' allowances cannot be separately identified.

Dublin: British Embassy

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what proposals they have to reduce the cost of running the British embassy in Dublin. [HL662]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The Foreign and Commonwealth Office is pursuing a range of efficiency programmes in order to make our network

of overseas representation more cost effective and efficient. By the end of the current three-year comprehensive spending round period the Europe network of posts, including the British embassy in Dublin, will have made efficiency savings of over £12.5 million.

Ecclesiastical Appointments

Question

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government how many candidates the Prime Minister's ecclesiastical adviser considered for the appointment of Bishop of Peterborough before two names were presented to the Prime Minister. [HL522]

Baroness Crawley: Under the new procedures adopted in 2008, the Crown Nominations Commission submitted one name to the Prime Minister with a second name should there be any reason why the first candidate is unable to take up the appointment. The number of names considered by the Crown Nominations Commission is a matter for the Commission itself.

Education: Extremist Groups

Question

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many people are employed by each institution of higher education overseen by the Department for Business, Innovation and Skills for the purposes of countering extremism, violent extremism and terrorism. [HL642]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): Universities are autonomous institutions and make their own decisions about the allocation of resources, therefore, this information is not held centrally by the department.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government what is their assessment of the threat posed by extremists, violent extremists and terrorists on student campuses in the United Kingdom. [HL643]

Lord Young of Norwood Green: The assessment is that there is a risk of extremist and violent extremist activity on some university campuses. Where it occurs the issue is serious and measures are in place to help universities manage this risk. The issue is not widespread.

For operational security reasons, we cannot release any further detailed information on the level of threat by institution.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government on which student campuses they assess that Hizb-ut-Tahrir is active in the United Kingdom. [HL688]

Lord Young of Norwood Green: For operational and security reasons, we cannot release information on individual campuses.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government whether they have means of measuring the level of far-right extremism on student campuses in the United Kingdom. [HL689]

Lord Young of Norwood Green: Each higher education institution in England has a named police point of contact with whom the university management will discuss issues or concerns arising from any extremist groups on campus. This information is recorded locally by police forces.

Education: Guaranteed Places

Question

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government what forecast they have made of the number of 16 and 17 year-olds who are not in education, employment or training who are expected to take up the offer of a guaranteed place in learning when the new scheme commences in 2010. [HL435]

To ask Her Majesty's Government what incentives they will make available to 16 and 17 year-olds not in education, employment, or training to encourage them to take up the offer of a guaranteed place in learning when the new scheme starts in 2010. [HL436]

To ask Her Majesty's Government whether the guaranteed place in learning offered to 16 and 17 year-olds who are not in education, employment, or training which starts in 2010 will be available throughout the United Kingdom. [HL437]

To ask Her Majesty's Government what is the planned cost of the new scheme to guarantee places in learning for 16 and 17 year-olds not in education, employment, or training starting in 2010; and for how many years the scheme will be maintained. [HL438]

To ask Her Majesty's Government which department is to take the lead in the proposal to offer a guaranteed place in learning to 16 and 17 year-olds not in education, employment or training. [HL439]

To ask Her Majesty's Government what consultations they undertook before announcing the new scheme starting in 2010 to offer a guaranteed place in learning to 16 and 17 year-olds not in education, employment or training. [HL440]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): We are determined to ensure that every young person who is not in education, employment or training (NEET) is given an opportunity to engage in learning so that they can develop the skills they will need for the upturn. We will be publishing shortly our strategy to increase the proportion of 16 to 24 year-olds in education, employment or training. *Investing in*

Potential sets out the decisive action we have already taken to strengthen existing provision and new support to help young people engage in learning and work.

The January Guarantee is one element of this, and will ensure that all 16 and 17 year-olds who are NEET in January 2010 have the offer of an Entry to Employment place. The Department for Children, Schools and Families will lead this initiative for young people in England. Education and training matters in Scotland, Wales and Northern Ireland have been devolved to the relevant administrations.

The September Guarantee, of an offer of a suitable place in education or training, was implemented for 16 year-old school leavers in 2007 and extended to 17 year-olds in 2008. This has helped to support record levels of participation by both age groups. But, young people may become NEET throughout the year, with January a month when seasonal employment and short courses come to an end, and when young people realise that their initial choice was not right for them. Ongoing consultation with local authorities, Connexions providers and the Learning and Skills Council has highlighted the difficulty that young people can have in re-engaging in learning at this time and the department has already asked the Learning and Skills Council to make more courses available for young people becoming NEET in January.

That is why we are extending the September Guarantee approach to 16 and 17 year-olds who are NEET in January to allow these young people to re-engage quickly in positive and productive learning, remaining motivated and engaged and reducing the risk of long-term disengagement.

Information provided by Connexions shows that there were around 60,000 16 and 17 year-olds NEET in January 2009. Many of these young people will already have job or a place in learning to start in January, but we have estimated that the guarantee will draw an additional 10,000 16 and 17 year-olds into learning. Young people who are otherwise eligible will be offered education maintenance allowance to incentivise participation.

A funding package of £40 million is being made available to provide the additional 10,000 places, support for young people from Connexions Services, and education maintenance allowance. We will continue to monitor the economic and employment situation to ensure that we respond constructively to the needs of young people in the current economic climate.

Education: Home Schooling

Question

Asked by ***Lord Lucas***

To ask Her Majesty's Government for each local authority for which they have data, (a) how many home-educated children are considered not to be receiving a suitable education, (b) what is the total number of home-educated children, and (c) how many of the home-educated children considered not to be receiving a suitable education (1) are from traveller families, (2) are children who first became home-educated in years 10 or 11 with a previous history of irregular attendance, (3) are children whose parents have not provided the local authority with the data which they have asked for, (4) are children whose parents have refused to allow the local authority to interview their children, and (5) are children who have not been assessed by the local authority. [HL408]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): I attach a table showing the number of electively home-educated children in each local authority that responded to the questionnaire on home education distributed in September. The department's policy is not to release any information that might lead to individual children being identified where data released could be combined with other data. As 69 local authorities identified a total of 609 home-educated children that they assessed as receiving education but not full-time or suitable education, we are not able to release a breakdown of this data by local authority, as the numbers for each individual authority would be very small and individual children might be identified.

We did not collect information on the ethnic or cultural background of home-educated children receiving no education, nor their age, so we are unable to provide information on the number from a traveller background, or the number that are in years 10 or 11. In respect of the children in his categories 3 and 4, local authorities were asked separately for information about children where there was a lack of cooperation with monitoring.

The document published at http://www.dcsf.gov.uk/everychildmatters/publications/documents/laeelectivehomeeducation/) includes the questionnaire that was sent to local authorities which set out the different categories of information that were sought.

Local Authority	*Total Elective Home Educated (EHE) population*
Bath and North East Somerset	50
Bedfordshire	70
Bolton	81
Bradford	132
Brighton and Hove	157
Buckinghamshire	185
Calderdale	38
Cambridgeshire	200
Cheshire East	127
City of London	*
Cornwall	311
Coventry	60
Cumbria	261
Darlington	97
Derby	79
Devon	674
Dorset	157
Dudley	156
Durham	110
East Riding of Yorkshire	139
Essex	733
Gateshead	29
Gloucestershire	224
Greenwich	96
Halton	28
Hampshire	372

Local Authority	*Total Elective Home Educated (EHE) population*
Isle of Wight	141
Isles of Scilly	0
Kent	673
Kingston upon Hull	84
Kingston upon Thames	44
Kirklees	67
Lancashire	465
Leeds	140
Lewisham	123
Lincolnshire	411
Liverpool	57
Manchester	91
Medway	195
Milton Keynes	96
Newcastle upon Tyne	52
Norfolk	375
North East Lincolnshire	49
North Somerset	121
Northamptonshire	183
Northumberland	46
Nottingham City	96
Nottinghamshire	238
Oxfordshire	329
Plymouth	135
Reading	50
Redbridge	55
Redcar and Cleveland	27
Rotherham	70
Sefton	58
Somerset	249
South Gloucestershire	108
Southampton	82
St Helens	33
Staffordshire	244
Stockton on Tees	31
Sunderland	66
Surrey	695
Torbay	91
Trafford	35
Wandsworth	47
Warrington	39
Warwickshire	123
West Sussex	407
Wigan	72
Wiltshire	148
Windsor and Maidenhead	*
Wirral	35
Wolverhampton	141
Total	11,6**

* indicates number < than 10 per LA

Asked by ***Lord Lucas***

To ask Her Majesty's Government for each local authority for which they have data, (a) how many home-educated children are subject to child protection plans, (b) how many home-educated children have been taken into care or placed with a foster family, (c) what is the total number of home-educated children, and (d) how many of the home-educated children in each local authority who have been taken into care or are subject to a child protection plan (1) are from traveller families, and (2) are children who first became home-educated in years 10 or 11 with a previous history of irregular attendance. [HL410]

Baroness Morgan of Drefelin: The department's policy is not to release any information that might lead to individual children being identified where data released could be combined with other data. As 74 local authorities identified a total of 51 home-educated children that were subject to child protection plans we are not able to release a breakdown of this data by local authority as the numbers for each individual authority would be very small and individual children might be identified. However, the department has provided a histogram setting out the spread of child protection plans by local authority and this can be found at (http://www.dcsf.gov.uk/everychildmatters/ete/independentreviewofhomeeducation/irhomeeducation/).

We have not collected information about the number of home-educated children taken into care or placed with a foster family, neither have we collected any information about the number of home educated children subject to care orders who are from a traveller background, or who are in years 10 and 11.

I attach a table showing the number of electively home-educated children in each local authority that responded to the questionnaire on home education distributed in September.

However, neither we nor local authorities know how many children are being home educated as there is currently no requirement for home educators to notify local authorities or any other public bodies that their children are home-educated.

Local Authority	*Total Elective Home Educated (EHE) population*
Bath and North East Somerset	50
Bedfordshire	70
Bolton	81
Bradford	132
Brighton and Hove	157
Buckinghamshire	185
Calderdale	38
Cambridgeshire	200
Cheshire East	127
City of London	
Cornwall	311
Coventry	60
Cumbria	261
Darlington	97
Derby	79
Devon	674
Dorset	157
Dudley	156
Durham	110
East Riding of Yorkshire	139
Essex	733
Gateshead	29
Gloucestershire	224
Greenwich	96
Halton	28
Hampshire	372

Local Authority	*Total Elective Home Educated (EHE) population*
Isle of Wight	141
Isles of Scilly	0
Kent	673
Kingston upon Hull	84
Kingston upon Thames	44
Kirklees	67
Lancashire	465
Leeds	140
Lewisham	123
Lincolnshire	411
Liverpool	57
Manchester	91
Medway	195
Milton Keynes	96
Newcastle upon Tyne	52
Norfolk	375
North East Lincolnshire	49
North Somerset	121
Northamptonshire	183
Northumberland	46
Nottingham City	96
Nottinghamshire	238
Oxfordshire	329
Plymouth	135
Reading	50
Redbridge	55
Redcar and Cleveland	27
Rotherham	70
Sefton	58
Somerset	249
South Gloucestershire	108
Southampton	82
St Helens	33
Staffordshire	244
Stockton on Tees	31
Sunderland	66
Surrey	695
Torbay	91
Trafford	35
Wandsworth	47
Warrington	39
Warwickshire	123
West Sussex	407
Wigan	72
Wiltshire	148
Windsor and Maidenhead	*
Wirral	35
Wolverhampton	141
Total	11,6**

* indicates numbers < than 10 per LA

Employers

Question

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government whether they have issued guidance to employers about whether it is a dismissible offence for employees to express their Christian faith and to suggest that others espouse it. [HL593]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): The Government have issued no such guidance. The Employment Equality (Religion or Belief) Regulations 2003 outlaw discrimination, harassment and victimisation on grounds of religion or belief at work and in vocational training.

Under the regulations employers are not required to ban discussions about religion or belief in the workplace. However, the ACAS good practice guide sets out some broad guidelines that employers can follow. This includes making staff aware that if their discussions cause offence then this may be considered to be harassment and therefore unlawful, potentially leading to dismissal. The Business Link website also provides additional information for employers.

Energy: Wind Farms

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 Business, Innovation and Skills, Mr Pat McFadden, on 12 October (*Official Report*, House of Commons, col. 1523W), what the criteria were for the £120 million funding to support development of a British-based offshore wind industry; and whether the criteria will take account of the output of existing offshore wind farms compared to their capacity, maintenance downtime and breakdown duration and costs. [HL383]

The Minister for Trade and Investment (Lord Davies of Abersoch): Individual grant decisions are made on a case by case basis. Each project that has been funded or will be funded has to go through the existing value for money process for government. All proposals for funding from the SIF have been appraised in line with *Green Book* principles, particularly to ensure that they provide good value for money in delivering longer term benefits to the UK wide economy. These value-for-money evaluations will take account of output, capacity and maintenance issues where relevant.

Extremist Organisations

Question

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government on which student campuses (a) Islam4UK, (b) Al-Ghurabaa, (c) Al-Muhajiroun, (d) the Saved Sect, and (e) Sunnah wal Jamaah, are active in the United Kingdom. [HL540]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): For operational and security reasons, we cannot release this information.

Foreign Office: Travel Advice

Question

Asked by ***Lord Astor of Hever***

To ask Her Majesty's Government what advice the Foreign and Commonwealth Office offers to United Kingdom citizens on which geographical areas are classified as restricted areas by foreign Governments. [HL459]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): Foreign and Commonwealth Office (FCO) travel advice is designed to give British nationals information with which they can prepare themselves for travel to any of 220 countries. We discuss our analysis of a wide variety of risks, including those related to terrorism, crime and health, with international partners, including EU member states. These discussions are reflected in FCO travel advice, though our priority has always been and will remain the safety overseas of British nationals specifically. FCO travel advice is constantly reviewed, and country-specific advice was updated almost 4,000 times in 2008.

Higher Education: Accreditation Bodies

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 12 November (*WA 214*), whether they will ask the Accreditation Service for International Colleges to review the accreditation of Kings College of Management in Manchester, in light of the report in the *Times* on 29 June. [HL316]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The information reported in the *Times* on 29 June was known to the UK Border Agency and has been acted upon.

Marine Environment: Gibraltar

Question

Asked by ***Lord Hoyle***

To ask Her Majesty's Government what is their response to the incident which took place on 7 December regarding a Spanish patrol boat in the British waters off Gibraltar. [HL666]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): On Monday 7 December 2009, officers from a Spanish Civil Guard patrol boat chased another vessel into British Gibraltar territorial waters and then ashore in Gibraltar. We consider that their actions exceeded their jurisdiction and failed to respect the UK's sovereignty, and we have formally protested. Spanish authorities have apologised for the error and stressed there was no political motive. We welcome this. Officials from the UK, Spain and Gibraltar are committed to working together through the Trilateral Forum to improve law enforcement co-operation, and we welcome ongoing co-operation between police services from Gibraltar and Spain.

NHS: Cardiology Technology

Question

Asked by ***Baroness Masham of Ilton***

To ask Her Majesty's Government what measures they are taking to improve cardiac remote management technology within hospitals. [HL631]

Baroness Thornton: We will continue to work with industry and the National Health Service to promote patient access to new technologies, but it is important to realise that not all technologies are appropriate for everyone—it is up to clinicians to make a decision in discussion with patients, about the most suitable treatment in each case.

The Centre for Evidence-based Purchasing (CEP) provides independent, evidence-based information about innovative technologies across the entire range of medical devices available in health and social care today. It concentrates on projects where it is possible to make an impact upon the uptake of new technology or those cases where existing technology can be used in an innovative manner. In April 2009, they published an Evidence Review on implantable cardiac devices with remote monitoring facilities. One of their findings was that there was insufficient evidence to conclude whether or not investment in remote monitoring would yield direct cost savings for hospitals. A copy of this has been placed in the Library.

In addition, in 2007 we established the NHS Technology Adoption Centre (NTAC), which works to identify and overcome the barriers to the uptake of innovative technologies that will improve the quality and efficiency of healthcare delivery. One of the projects that they are currently working on is cardiac resynchronisation therapy with remote patient monitoring. This project is about increasing the availability of advanced treatments, which can restore the normal co-ordinated pumping action of the heart, improving cardiac function in suitable people with moderate and severe heart failure. The role of remote monitoring technologies in the early detection of arrhythmias and its impact on follow up care are key components of this project. The findings from this project will be published by NTAC in May 2010 and disseminated across the NHS.

NHS: Race and Equality

Question

Asked by ***Lord Ouseley***

To ask Her Majesty's Government which NHS organisations have been issued with compliance notices by the Equality and Human Rights Commission for not complying with their obligations under the Race Relations Act 1976 and the Equality Act 2006; and how many other organisations are under investigation for similar non-compliance. [HL533]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): The Equality and Human Rights Commission has recently issued the following organisations with compliance notices for breaches of the Race Relations Act 1976:

Frimley Park Hospital NHS Foundation Trust,

Kent and Medway NHS and Social Care Partnership Trust,

NHS Surrey.

The Commission is currently investigating 133 other organisations for possible breach of race laws.

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 9 November (*WA 118*), whether, under Section 69 of the Northern Ireland Act 1998, the Northern Ireland Human Rights Commission's remit includes securing legislative implementation of its advice on a bill of rights for Northern Ireland; whether it is permitted to expend its own funds and staff time doing so; and whether that is consistent with its other statutory functions. [HL103]

Baroness Royall of Blaisdon: Under Section 69 of the Northern Ireland Act 1998, the Northern Ireland Human Rights Commission (NIHRC) has a wide-ranging remit, which includes keeping under review the effectiveness and adequacy of law and practice relating to the protection of human rights, as well as promoting the understanding and awareness of human rights in Northern Ireland. The NIHRC is independent of government and it is entitled to set its own programme of work, consistent with its statutory functions. Its business plan for the current financial year is available on its website: http://www.nihrc.org/index.php?page=subresources&category_id=27&from=0&resources_id=57&Itemid=6l.

The Government have no reason to believe that this plan is inconsistent with the NIHRC's statutory functions.

Police: Northern Ireland

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what proposals they have to abolish religious requirements in recruiting officers to the Police Service of Northern Ireland. [HL665]

Baroness Royall of Blaisdon: It is Government's intention to renew the temporary 50:50 recruitment provisions for a final year to 28 March 2011 to ensure we reach our target 30 per cent Catholic composition. When we are satisfied the 30 per cent target will be reached we will return to Parliament and end the provisions. It is anticipated that this may be prior to the end of March 2011.

Presbyterian Mutual Society

Question

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government how they will respond to those with investments frozen in the Presbyterian Mutual Society. [HL520]

The Financial Services Secretary to the Treasury (Lord Myners): The Ministerial Working Group on the Presbyterian Mutual Society is currently considering all available options for assisting members whose investments in the society have been frozen. This issue raises a number of complex problems that require careful consideration and it would be premature to speculate about how the Government will respond until these have been resolved.

Asked by ***Lord Mawhinney***

To ask Her Majesty's Government whether their treatment of investors in the Presbyterian Mutual Society took account of the treatment of investors in the Dunfermline Building Society. [HL521]

The Financial Services Secretary to the Treasury (Lord Myners): The Ministerial Working Group on the Presbyterian Mutual Society will take account of all of the Government's previous interventions in the financial services sector when deciding how to respond to the problems facing investors in the Presbyterian Mutual Society.

Questions for Written Answer

Question

Asked by ***Lord Jopling***

To ask the Leader of the House what changes have taken place to the Department for Business, Innovation and Skills to enable it to answer Questions for Written Answer within 14 days, in view of the performance of the Department for Business, Enterprise and Regulatory Reform in the 2008–09 session to 30 April when it was the worst department with 30 per cent of questions answered within 14 days. [HL766]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): Ministers and officials at the Department for Business Innovation and Skills (BIS), the previous Department of Innovation, Universities and Skills (DIUS) and the Department for Business Enterprise and Regulatory Reform (BERR) are committed to providing Peers with accurate and timely Answers to Parliamentary Questions. Following changes to Ministerial portfolios in the summer, and the merger of DIUS and BERR, the Parliamentary Unit was restructured and more resources were made available within the Unit to improve the answering time for Peers Questions. The Department is pleased that in October 2009, 91 per cent (20 of 22) of Answers were provided to Peers within 14 days and 100 per cent (7 of 7) in November prior to Prorogation.

Railways: Crossrail

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government in respect of excavated material and waste arising from the excavations for Crossrail, (a) what is the total and maximum daily expected output from each removal site, and (b) when the maximum outputs occur. [HL604]

The Secretary of State for Transport (Lord Adonis): The current estimated total bulk volume of excavated material is 7.3 million cubic metres split as follows:

Westbourne Park Western tunnelling site—1 million cubic metres;

Central stations and shafts—3.1 million cubic metres;

Limmo Peninsular Eastern Tunnelling site—2.3 million cubic metres; and

Plumstead Portal/Woolwich Station—0.9 million cubic metres.

At the peak it is estimated that approximately 200,000 cubic metres (bulked) of excavated material will be produced per month across all the Crossrail sites. This peak is predicted to occur in late 2012. The need to reduce the number of such movements during the periods of the Olympic and Paralympic Games is recognised and is being actively considered by Crossrail Ltd in consultation with the Olympic Delivery Authority. As the detailed design develops, the programme and rates for individual sites will be determined.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what are the expected destinations and means of transport from each removal site of excavated waste and material from Crossrail. [HL605]

Lord Adonis: Excavated material from the tunnel drives from Royal Oak will be removed by rail, while that from the tunnel drives from Limmo will be removed by boat. Excavated material from other sites, including the central stations and Plumstead portal will be removed by road.

It is intended that this material will either be recycled or transported to Wallasea Island in Essex to create a nature reserve for the RSPB. Other sites being considered for this material include South East of England Development Agency regeneration sites in Kent. Eighty five per cent of the excavated material from the tunnel drives will be removed by rail and boat, removing an estimated 500,000 lorry movements from the streets of London during the life of the project.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government how materials from excavations for Crossrail will be tested to check for contamination; where; and by whom. [HL606]

Lord Adonis: The majority of the Crossrail works are being built on land that has previously been developed. At some locations, previous uses, such as industrial processes, may have led to contamination of the ground. However, virtually all of the 7.3 million m^3 of excavated material is expected to be clean and non-contaminated and can be reused elsewhere.

The Environmental Impact Assessment process identified sites where there was a high, medium or low risk of contamination (referred to as Category 1, 2 and 3 respectively). These sites are specified in the Specialist Technical Report on Assessment of Contaminated Land, which supported the Environmental Statement. Both are available from the Crossrail web site: http://www.crossrail.co.uk/.

Control and mitigation measures, applicable to design and construction, for Contaminated Land are given in section 8 of the Crossrail Construction Code. For higher risk sites (Category 1), these require ground investigation and assessment in accordance with the Model Procedures for the Management of Land Contamination (CLR11) published by Defra and the Environment Agency. For medium-risk sites (Category 2), generic procedures have been developed and agreed with the local authorities and the Environment Agency. Low-risk sites do not require further investigation.

The assessments (site specific or generic) will determine the measures required to deal with contamination. For high and medium risk sites, contractors will be given information from ground investigations that provide an indication of ground quality and the presence of contamination. When the contractors undertake excavations, they will carry out tests on excavated materials to comply with Duty of Care Regulations and to determine the destination of these materials.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government how much steel waste from excavations for Crossrail is estimated to come from sprayed concrete lining waste; and whether that will be disposed of in the bird sanctuary at Wallasea Island. [HL607]

Lord Adonis: The specification for the sprayed concrete lining will be finalised when the contractors are appointed. Approximately 0.4 per cent by volume of the sprayed concrete to be used by the project is estimated to be steel residue.

Sprayed concrete lining residue will not be used for the creation of the land form at Wallasea Island; however, the sprayed concrete lining residue material may be used to create some of the footpaths to allow pedestrian access.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government when the haulage contracts for removing material and waste from excavations for Crossrail will be let; and whether the haulage contractors will be responsible for the testing for contaminated waste. [HL644]

Lord Adonis: Lord Adonis: Crossrail Ltd's procurement strategy for removing excavated material is currently being developed and contracts are expected to be let in 2010. The exact scope and specification of each contract, including who will be responsible for the testing of contaminated waste, is still subject to further work.

Virtually all of the 7.3 million m^3 of excavated material is expected to be clean and non-contaminated and can be reused elsewhere.

Railways: Eurostar Terminal

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government why they transferred ownership of the former Eurostar terminal at Waterloo station to BRB (Residuary) Ltd rather than to Network Rail; and whether it will be disposed of for property redevelopment rather than to provide extra platforms for domestic train services into Waterloo station. [HL380]

To ask Her Majesty's Government whether, if the former Eurostar terminal at Waterloo station is used as platforms for domestic services, its owner BRB (Residuary) Ltd will become a station operator. [HL381]

The Secretary of State for Transport (Lord Adonis): Under the terms of the wider funding agreement for High Speed 1, the terminal transferred to the Secretary of State rather than Network Rail. BRB (Residuary) Ltd took ownership of the facility on behalf of the Secretary of State.

It is the Government's intention that the former Eurostar terminal at Waterloo is used to provide increased capacity for domestic passengers. The Department for Transport is in discussion with Network Rail and Stagecoach South West Trains to establish what would be the most cost-effective way to integrate Waterloo International terminal into the domestic station that maximises benefits for the short, medium and long term. This includes the issue of the station's ownership and operation.

Retail: Contracts

Question

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government whether they require supermarkets and retail organisations to use supply contracts that are the same for United Kingdom and overseas suppliers; if so, whether they require such contracts to have the same break clauses and penalties; and, if not, whether they will propose such a system, at domestic or European level. [HL386]

The Minister for Trade and Investment (Lord Davies of Abersoch): In England, contracts are the free expression of the choice of the parties, which are then given effect by law. However, there are exceptions to this general rule—for example, provisions in the Race Relations Act 1976, Sale of Goods Act 1979, Late Payment of Commercial Debts (Interest) Act 1998.

Contracts with overseas companies would be drawn up under the appropriate national laws of contract and any business regulations that apply, and determining which country's legal/regulatory framework would take primacy would be a matter for the parties to the contract. The Government note that such legislation could be in conflict with the free movement principles of the European Union.

On UK retailers' contracts with domestic suppliers, the Competition Commission recently put in place a new Grocery Supply Code of Practice (GSCOP), which comes into effect in February 2010. This is part of the Competition Commission's recommended remedies to address problems identified in the UK groceries market concerning large grocery retailers passing on excessive risks and unexpected costs to suppliers. The GSCOP, which applies to large UK grocery retailers, requires that retailers keep better records of contracts with suppliers and incorporate the code into supply agreements which will be made available in writing to their suppliers. The code aims to prevent retrospective changes to agreed terms of supply and will extend to agreements between retailers and those who deal with them direct.

Revenue and Customs: Website

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether there have been problems with the website of Her Majesty's Revenue and Customs (online.hmrc.gov.uk); if so, when those problems started; why they occurred; whether they have resulted in taxpayers having difficulty paying income tax and value added tax; whether the technical help numbers provided have continued to work; whether taxpayers have been able to make reasoned complaints; who is responsible for maintaining the website; whether they have estimated the revenue lost or delayed; and whether the website has been altering taxpayers' names. [HL510]

The Financial Services Secretary to the Treasury (Lord Myners): HM Revenue and Customs (HMRC) is not aware of any major service disruptions or other significant problems that would have impacted large numbers of customers or affected their ability to pay their Income Tax or VAT liabilities.

Information about issues affecting HMRC's online services are available from the following links on the home page of the web site.

Service Availability

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageOnlineServices_ShowContent&propertyType=document&id=HMCE_MIG_009921

Service Issues

http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_paqeLabel=paqeOnlineServices_ShowContent&propertyType=document&id=HMCE_PROD1_028772

HMRC can confirm that all technical help-line numbers have been in full working operation and that the facility to make complaints about any aspect of HMRC business has been available.

Maintenance of the HMRC website is controlled by the HMRC Customer Contact Directorate Online and HMRC Information Management Services in partnership with their IT suppliers.

As HMRC is unaware of any significant problems with the operation of its website no estimates of lost or delayed revenue have been made.

HMRC is not aware of any problems with the website that have led to any taxpayers names being changed or altered in any way.

Royal Mail: Bicycles

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government why Royal Mail is phasing out the use of bicycles for postal deliveries; what means of transport will replace them; and what will be the effect of this on carbon dioxide emissions. [HL602]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): The department does not hold the information requested. I have therefore asked the Chief Executive of Royal Mail, Adam Crozier, to respond directly to my noble friend and a copy of his reply will be placed in the House Libraries.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government how Royal Mail will dispose of bicycles no longer used for postal deliveries; and whether they will be offered to a charity for use overseas before being dismantled or scrapped. [HL603]

Lord Young of Norwood Green: The department does not hold the information requested. I have therefore asked the Chief Executive of Royal Mail, Adam Crozier, to respond directly to my noble friend and a copy of his reply will be placed in the House Libraries.

Schools: Kitchens

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what percentage of (a) primary, and (b) secondary schools have their own kitchens producing school meals for pupils. [HL236]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): The Department for Children, Schools and Families does not collect this information. However, the report of the School Food Trust's fourth annual survey of take up of school meals in England includes information on catering facilities at national and regional level; although not at local authority level. In response to the trust's 2009 survey, local authorities reported that, across England, 75 per cent of primary schools and 94 per cent of secondary schools had a full production kitchen.

Sport and Recreation: Funding

Question

Asked by ***Lord Moynihan***

To ask Her Majesty's Government how much has been spent on sport and recreation by local authorities in England, Scotland, Northern Ireland and Wales in each year since 1997. [HL478]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The expenditure on recreation and sport by local authorities in England since 1997 is tabled below.

			£ million
	Revenue	*Capital*	*Total*
1997-98	536.5	204.6	741.1
1998-99	561.6	234.9	796.5
1999-00	562.8	240.9	803.7
2000-01	592.8	290.8	883.6
2001-02	624.4	314.5	938.9
2002-03	626.9	307.5	934.4
2003-04	667.7	263.5	931.2
2004-05	710.5	305.7	1,016.1
2005-06	730.0	423.7	1,153.7
2006-07	765.0	414.8	1,179.8
2007-08	809.6	445.8	1,255.5
2008-09	824.2	496.3	1,320.5

Source:
Communities and Local Government Revenue Outturn (RO) returns and Capital Outturn (CO) returns.

Information for Scotland, Northern Ireland and Wales is a matter for the Scottish Government, the Northern Ireland Executive and the Welsh Assembly Government.

Revenue expenditure from 2003-04 onwards has been collected on a Financial Reporting Standard 17 (FRS 17) basis. Under FRS 17 most of the pension schemes covering local government employees are classed as defined benefit schemes. The main implication of defined benefit status is that retirement benefits are accounted for on the basis of the retirement benefit entitlement to which employment in the year gives rise, rather than the cash amounts of employer's contribution or pension due for the year. As a result comparisons between FRS 17 data and data on a non-FRS 17 basis may not be valid.

Comparisons across years may also not be valid owing to changing local authority responsibilities.

Sport and Recreation: Planning

Question

Asked by ***Lord Moynihan***

To ask Her Majesty's Government what guidance they provide to promote sport and recreational activity through the planning system. [HL482]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Planning guidance for sport and recreational activity is set out in Planning Policy Guidance note 17: Planning for Open Space, Sport and Recreation (PPG 17). Good practice guidance is set out in Assessing Needs and Opportunities: A Companion Guide to PPG17.

Earlier this year my department also issued, jointly with Sport England, Making a planning application—A guide for sports clubs, which provides practical advice to help clubs across the country who want to improve their facilities.

Sufi Muslim Council

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government further to the Written Answer by Lord McKenzie of Luton on 6 July (*WA 116*), under which funding streams the £392,500 was provided to the Sufi Muslim Council. [HL429]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Funding to the Sufi Muslim Council in 2007-08 and 2008-09 was allocated under the Preventing Violent Extremism Community Leadership Fund. Funding in 2006-07 was made as part of central support for National Prevent Projects.

Taxation: VAT

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they will reduce the rate of value added tax on repairs to buildings and charge a similar rate of value added tax on new constructions. [HL573]

The Financial Services Secretary to the Treasury (Lord Myners): VAT is a broad-based tax upon consumption, which operates within a framework of rules, which are agreed by unanimity within the European Union. This framework does not permit reduced rates of VAT to be charged for the repair or construction of all types of buildings.

At the March 2009 Ecofin EU Finance Ministers agreed that all Member States should be allowed the choice to introduce a reduced VAT rate for the,

"renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied".

However, equalising the VAT rate for all domestic new build work would require us to permanently give up the current zero rates and the Government have no plans to do so.

The Government continue to keep the impact of VAT on all building work under review.

Unemployment

Question

Asked by ***Lord Chadlington***

To ask Her Majesty's Government what percentage of people under the age of 25 are unemployed. [HL502]

Baroness Crawley: The information requested falls within the responsibility of the UK Statistics Authority. I have asked the Authority to reply.

Letter from Jil Matheson, National Statistician, to Lord Chadlington, dated December 2009.

As National Statistician, I have been asked to reply to your Parliamentary Question asking what percentage of people under the age of 25 are unemployed. (HL 502)

Estimates for unemployment are derived from the Labour Force Survey (LFS). For the period July-September 2009 it was estimated that 12.8 percent of all persons under the age of 25 were unemployed. The rate of unemployment for people under the age of 25 as published in the *Labour Market Statistical Bulletin* is 19.8 percent. This estimate is based on the number of people who are unemployed divided by the number of people who are economically active, i.e. in employment or unemployed, in accordance with the International Labour Organization (ILO) convention.

People aged 16 and over are classed as unemployed by the LFS if they are: without a job, want a job, and have actively sought work in the last four weeks; or, out of work, have found a job and are waiting to start it in the next two weeks.

As with any sample survey, estimates from the LFS are subject to a margin of uncertainty.

Asked by ***Lord Chadlington***

To ask Her Majesty's Government how many people who left university with a degree in 2008 are without a job. [HL503]

To ask Her Majesty's Government how many people who left university with a degree in 2009 are without a job. [HL504]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): Typically, new graduates take time to move into employment in the months after graduating, with more graduates out of work in the first few months after graduation.

The most comprehensive data on outcomes is provided by the Destination of Leavers from Higher Education survey which looks at graduates six months after graduating. The table below gives a breakdown of full-and part-time first degree graduate destinations, for those who studied in the 2007-08 academic year six months after graduation

Total 2007-08		*% with known destination*
UK employment only	133,225	60%
Overseas employment only	5,360	2%
Combination of employment and study	18,565	8%

Total 2007-08		*% with known destination*
Further study only	34,520	16%
Not available for employment	9,430	4%
Assumed to be unemployed	17,990	8%
Others	2,890	1%
Total of known destination	221,980	100%
Unknown	71,280	
Total	293,255	

Source:
HESA Destinations of Leavers from Higher Education (DLHE) survey 2007-08 Figures rounded to the nearest five

The equivalent data for 2008-09 graduates will be available in July 2010.

For those who left University in 2009 we can use the Labour Force Survey to look at their initial outcomes in July—September 2009. The table below gives the latest BIS estimates of the number of 2009 UK-domiciled First Degree leavers in different labour market activities. For comparison purposes data on 2007-08 graduates at the same stage is provided.

	BIS estimates of the number of First Degree graduates in each activity	
	2008-09 graduates	*2007-08 graduates*
Employment	153,000	177,000
ILO Unemployment	88,000	71,000
Economic inactivity	49,000	61,000

Source:
Labour Force Survey Quarter 3 2009 & BIS internal estimates

Visas

Question

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many student visas have been granted in each year since 1997. [HL418]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The number of student visas issued in each year since 1998 is shown in the table below. Figures are not available for 1997.

Calendar Years

Year	*Category*	*Applications*	*Issued*
1997*	Student	N/A	N/A
1998	Student	79,464	69,607
1999	Student _	94,019	75,607
2000	Student	125,239	99,559
2001-02**	Student	151,524	121,466
2002-03	Student	181,905	128,144
2003-04	Student	225,030	146,538
2004-05	Student	276,479	182,409
2005-06	Student_	284,447	194,827
2006-07	Student	312,565	216,860
2007-08	Student	343,095	241,730
2008-09	Student	351,340	236,470

Financial Years

* Student applications in 1997 are not available as the annual entry clearance report was not split into visa categories, only settlement and non-settlement.

** From 1997 to 2000 the annual entry clearance report was published by calendar year but changed to financial year reporting from 2001.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government what is their assessment of the risk of individuals who pose a terrorist threat using the student visa system to enter the United Kingdom. [HL422]

Lord West of Spithead: The integrity of the visa system is regularly assessed by the UK Border Agency and other government departments. All those applying for UK visas must submit fingerprints, which, in conjunction with their biographical data, are checked against a range of police and security databases.

Those assessing visa applications are trained in identifying applicants who may pose a threat and taking appropriate action. The Government are committed to preventing those who pose a terrorist threat from entering the UK, and have a range of powers at their disposal in order to achieve this, including the ability to exclude individuals permanently from the UK.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government whether there have been any successful attempts since 1997 by individuals who pose a terrorist threat to enter the United Kingdom using student visas. [HL423]

Lord West of Spithead: We do not comment on individual cases for security reasons. Since 2007, all those applying for UK visas have had to submit their biometrics as part of the application process, which have been checked against security and police databases. This includes those coming to the UK as students. The Government are committed to preventing abuse of the visa system by individuals posing a terrorist threat, and have a range of legal powers to enable this.

Tuesday 15 December 2009

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