Vol. 716
No. 22

Monday
11 January 2010

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

For column numbers see back page

£3·50

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

The bound volumes also will be sent to those Peers who similarly notify their wish to receive them.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at www.publications.parliament.uk/pa/ld200910/ldhansrd/index/100111.html

PRICES AND SUBSCRIPTION RATES

DAILY PARTS

Single copies:
Commons, £5; Lords £3·50

Annual subscriptions:
Commons, £865; Lords £525

WEEKLY HANSARD

Single copies:
Commons, £12; Lords £6

Annual subscriptions:
Commons, £440; Lords £255

Index—Single copies:
Commons, £6·80—published every three weeks

Annual subscriptions:
Commons, £125; Lords, £65.

LORDS CUMULATIVE INDEX obtainable on standing order only. Details available on request.

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies:
Commons, £105; Lords, £40.
Standing orders will be accepted.

THE INDEX to each Bound Volume of House of Commons Debates is published separately at £9·00 and can be supplied to standing order.

WEEKLY INFORMATION BULLETIN, compiled by the House of Commons, gives details of past and forthcoming business, the work of Committees and general information on legislation, etc.
Single copies: £1·50.
Annual subscription: £53·50.

All prices are inclusive of postage.

House of Lords

Monday, 11 January 2010.

2.30 pm

Prayers—read by the Lord Bishop of Chichester.

European Council: Presidency

Question

2.36 pm

Asked By ***Lord Dykes***

To ask Her Majesty's Government what proposals they will make to the European Council to ensure the efficient functioning of the relationship between the President of the European Council and the existing rotating presidency.

Lord Brett: The Government are confident that the President of the European Council and the rotating President are working effectively together. Mr Van Rompuy and Spanish Prime Minister Zapatero held a bilateral before Christmas, at which they agreed a range of working arrangements, including that the external representation of the EU would be the responsibility of the President of the European Council. On 3 January they co-wrote an article published in newspapers across Europe, outlining a number of joint priorities.

Lord Dykes: My Lords, does the Minister accept that there may be three priorities for the new standing President: that is, to make sure that the new treaty structure works effectively and quickly; to encourage our popular noble Baroness, Lady Ashton, in her work on the External Action Service; and to support the Commission and the ECB in the anti-recession policies? As Mr Zapatero is well known to be a keen and enthusiastic European, despite the British press hype to the contrary, there is no reason to assume that he will not be a keen supporter of those policies.

Lord Brett: I take the noble Lord's last point. I confess, to everyone's surprise, that I have come to believe that not everything that is published in the British press is totally accurate. In this case, it certainly is not. I endorse that Prime Minister Zapatero is indeed a loyal and enthusiastic European. One can do no better than quote from the article that he and Mr Van Rompuy wrote, in which they talk about the application of the Lisbon treaty being diligent and rigorous; working together to set priorities for the presidency; and all the developments for a new Europe being the first steps on a long road that we shall travel together. The treaty itself establishes close co-operation and co-ordination between the President of the Council and the President of the Commission. The role of our former colleague, the noble Baroness, Lady Ashton, has been highlighted as a most important one and we can look forward to her carrying it out with great distinction.

Lord Anderson of Swansea: My Lords, perhaps the Lisbon treaty has not been as simplifying as those of us who call ourselves Europeans had hoped. Would my noble friend agree that the relationship between the rotating presidency, the President and the High Representative will depend as much on the personal dynamics as the institutions; and that so far the Spanish presidency appears to have reached a good pragmatic solution?

Lord Brett: Indeed, I agree with my noble friend. It is true that in the European context, as many more experienced noble Lords will know, the personal relationships between principals at that level are very important. We have every reason to be optimistic that all the principals involved will work together and have a clear and shared agenda to ensure that the Lisbon treaty is put into effect diligently and effectively.

Lord Howell of Guildford: Does the noble Lord have any figures for the cost of this additional presidential role and its required support services? There have been some absolutely staggering figures in the press about the cost of support services and the salary involved. I am sure the noble Lord will wish to put these in perspective and correct them if he can.

Lord Brett: The first perspective is whether we are talking about the new foreign service, as it has been accused of being in some parts of the press. The whole idea is to have things that are cost neutral. The cost of the presidency and the salary of the President of the Council are being negotiated, but one would expect the level of salary to justify the calibre of candidate we selected from the candidates we had to choose from.

Lord Pearson of Rannoch: My Lords, given that the aim of the European Union has always been to get rid of our European democracies and replace them with a supranational Government run by technocrats—an aim finally achieved by the Lisbon treaty—surely the answer now is to hand over all power to Mr Van Rompuy, and call in the EU gendarmerie force when the people finally take to the streets?

Lord Brett: My Lords, I have been aware for many years of both the noble Lord's devotion to the European cause and his belief that all roads lead to Rome. This one does not. If Venus were to collide with Mars tonight, he would accuse the European Union of being responsible for it—perhaps the opposition would accuse Gordon Brown—but in neither case would that be true.

Baroness Nicholson of Winterbourne: My Lords, since the European Parliament is the democratically elected link with the British and other member states' peoples, what are Her Majesty's Government doing to ensure that the President of the European Parliament is present at every important meeting of the European Council and of the rotating presidency, which is not at present the case?

Lord Brett: We are seeing a most important part of the process starting today, which is the presentation and the "advice and consent", to use the American

[Lord Brett]
term, of the new Commission. There will continue to be a dialogue about how to improve the democracy and transparency of the European Union and the Commission, and their role in our lives. Those who believe that the European Union is vital to this country and, indeed, to the future, will carry that hope optimistically; others might be more pessimistic.

Education: English

Question

2.41 pm

Asked By ***Lord Quirk***

To ask Her Majesty's Government what steps they will take to ensure that measures are in place throughout the education system for improving performance in spoken and written English.

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): My Lords, Her Majesty's Government are committed to improving performance in spoken and written English. Our drive to improve whole-class teaching is promoting enhanced pupil achievement. The new primary curriculum will support this. Programmes, for example, one-to-one tuition, Every Child a Writer and Literacy Plus, provide additional help to pupils where needed. The accountability framework, to be underpinned by our new Pupil Guarantee, helps ensure continued school improvement, enabling all children to achieve their potential.

Lord Quirk: My Lords, I thank the Minister who is, of course, well aware that English is the foundation and the gateway for employment as well as for all future training and education. She will no doubt have shared the general dismay at the figures published last month by the Office for National Statistics, which showed that there had been a decline in performance of a remarkable 5 per cent for the second year in succession. I have two questions therefore. First, how can this be when relevant expenditure has more than doubled in the past 10 years to a staggering £64 billion? Secondly, if, as is widely rumoured, the unloved SATS are being dumped, what measures will the Government put in place so that we can have some idea in the future whether standards are improving or continuing to fall?

Baroness Morgan of Drefelin: My Lords, that is a very important question for which I thank the noble Lord. He is right to talk about literacy being the foundation for a positive future for all our young people. I absolutely support that analysis. By working in partnership with employers, the Government are developing a comprehensive strategy to ensure that when they leave school all young people have the functional skills that employers expect in this day and age.

The noble Lord asked about measures. The most important measures that this House and others will be looking at will, of course, continue to be, for example, our performance at GCSE level, but the Government will incorporate a whole range of measures through the development of the school report card, which will, I hope, very much include a clear measure of how well schools promote functional literacy.

Baroness Sharples: How will these measures affect those whose second language is English?

Baroness Morgan of Drefelin: It is important that measures apply consistently across the board. The noble Baroness referred to children and young people for whom English is an additional language. This is a matter of great concern to the Government. The number of children with English as an additional language is increasing, but we have been working very closely with schools to ensure, through our national strategies programme, that we are providing the kind of tools that schools need to ensure that, as standards of literacy are improving in this country—and they are—children for whom English is an additional language can keep in touch and that the gap does not increase.

Lord Harrison: My Lords—

Baroness Walmsley: Does the Minister agree that speech and language therapists have an important role to play in the performance of spoken English? Given that the posts of these therapists in schools are funded by the NHS through the local PCT and that their professional training is the responsibility of the Department for Business, Innovation and Skills, what are the Government doing to ensure that there is co-operation between the two departments so that there are sufficient funded posts and properly trained people to fill them?

Baroness Morgan of Drefelin: My Lords, I shall have to think about whether or not my answer was adequate for the noble Baroness, because the important thing is to point to the very strong partnership that exists between the DCSF and the DoH. In response to the Rose review, which looked at the primary curriculum, we have launched the communication, language and literacy development programme, which is very much about the two departments working in partnership. However, I am prepared to look more closely at her question and come back to her in writing.

Lord Harrison: Does my noble friend agree—

Lord Elystan-Morgan: My Lords—

The Earl of Listowel: My Lords—

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): It is the turn of the government Benches.

Lord Harrison: Does my noble friend agree with Sir Andrew Motion, the former Poet Laureate, that reading—in particular, reciting—English poetry, whether ancient or modern, is one of the best ways of developing spoken English?

Baroness Morgan of Drefelin: My Lords, I very much agree with my noble friend. We need to be absolutely clear that spoken English—as well as listening

and written English—is a key part of the GCSE curriculum and is very much a part of the culture of teaching and learning in our primary and secondary schools. Of course poetry is key throughout that. Encouraging children and young people to enjoy poetry is absolutely essential.

Baroness Warnock: Can the Minister reassure the House that the Government are not completely concentrating on one-to-one tuition, because it is generally agreed that that is not always the best way to encourage children to talk, to listen and to articulate their thoughts? Teaching a small group of children is very often much better than teaching in a one-to-one situation?

Baroness Morgan of Drefelin: I can reassure the noble Baroness because, as I have tried to explain, our strategy is about improving and supporting whole-class teaching—we have national strategies to help schools that need support there—and intervening early where children and young people are falling behind and are not achieving what is expected of them for their age. That is where the essential contribution of one-to-one tuition comes in. Therefore, I would not say that the Government are focusing too much on that, but we are very proud that we will commit significant funding—£138 million this year—to supporting one-to-one tuition where that makes a difference. Of course the noble Baroness is right to say that listening in groups and group work are important, but one-to-one tuition has a difference to make.

Lord Hamilton of Epsom: My Lords, will the Minister answer the point made by the noble Lord, Lord Quirk, that, according to the ONS, educational standards have been dropping at the same time as expenditure has been rising? Is this because there is not a direct link between rising standards and spending money?

Baroness Morgan of Drefelin: My Lords, I completely disagree with the analysis that educational standards in this country are falling. For example, 80 per cent of 11 year-olds are reaching the expected target of English attainment compared with 63 per cent in 1997. That is 100,000 more young people every year achieving the expected standard for their age. That is a product of unprecedented investment. We must do more and go further to achieve better for our young people. We must ensure that all young people can achieve to their potential.

Baroness McIntosh of Hudnall: My Lords—

Lord Elystan-Morgan: My Lords—

The Earl of Listowel: My Lords—

Lord Davies of Oldham: My Lords, we have had two contributions from the Cross Benches and only one from the government side.

Baroness McIntosh of Hudnall: My Lords, does my noble friend agree that confidence in spoken and written English needs to be built very early? Will she join me in congratulating the arts organisations in this country that have contributed through the work that they do in schools to building that confidence, particularly in children of primary school age?

Baroness Morgan of Drefelin: My Lords, I join my noble friend in congratulating arts organisations throughout the country on working with schools to build children's and young people's confidence in spoken English. This is now assessed much more as part of the formal qualification system, but spoken language in drama, performance and poetry is very much a part of every school community in this country and is something that we must value and promote further.

Olympic and Paralympic Games 2012: Visas

Question

2.51 pm

Asked By ***Lord Trefgarne***

To ask Her Majesty's Government what arrangements they propose for issuing visas to foreign athletes attending the Olympic and Paralympic Games in 2012.

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, all Games athletes normally requiring a United Kingdom visa will be able to use their accreditation card as a visa waiver, along with a valid national passport, to enter the UK during the Games period. The accreditation process will involve standard immigration checks and will not require athletes to obtain a visitor visa or to be sponsored under the points-based system.

Lord Trefgarne: My Lords, I am grateful to the noble Lord for that reply, but is he not announcing the driving of a coach and horses through our immigration policy, in particular the security implications of our immigration policy, given that it appears that all that the athletes have to do is wave their accreditation card in front of the entry officer when they arrive?

Lord West of Spithead: Absolutely not, my Lords. The accreditation card gives you permission to get into the Games. It also acts as your visa. The checks that we will carry out are almost identical to those that we would carry out for someone who is getting a visa. The only difference will be that people will not have to prove that they have the funding and money available to be in this country for a certain length of time. Otherwise, all the checks are exactly the same. We think that there will be about 40,000 people altogether. The checks will be as good as they are for visa holders, so what the noble Lord says is absolutely not the case.

Lord Janner of Braunstone: My Lords, I am sure that all noble Lords will join me in congratulating our noble friend Lord Coe on the wonderful work that he is doing for the 2012 Olympics and in expressing our deep regrets to the friends and families of the slain members of the Togolese national football team and

[Lord Janner of Braunstone]
staff in Angola. What precautions are being taken to ensure that the Israeli athletes who will be participating in the London Olympics will not face arrest warrants or possible prosecution for serving in the Israeli Defence Forces during Operation Cast Lead, as has happened here recently with Israelis intending to visit the United Kingdom?

Lord West of Spithead: My Lords, I am sure that the whole House shares my noble friend's views on the Togo football team. What this shows, I am afraid, is that terrorists of all types around the world are willing now to use sport as an arena in which to pursue their rather bent and perverted aims. It is extremely sad and unfortunate that that has happened. As regards visits to the United Kingdom, every case is taken on its individual merits when it comes to visas. It is very difficult to predict whether someone might be charged with something by somebody who has nothing to do with the Government. I cannot foresee any case where that would occur, but it is very difficult to predict because it depends on individuals' actions.

Lord Avebury: My Lords, considering that the arrangements described by the Minister are slightly different from those that apply to athletes attending all other sporting activities in the United Kingdom, will he advise the UKBA to put a note on its website describing these special procedures? Also, will we have any arrangements for dealing with asylum applications for members of teams who come to compete in the Olympic Games, given that athletes attending other athletic events, such as the Falkirk Cup last year, have applied for asylum in the United Kingdom?

Lord West of Spithead: My Lords, the noble Lord raises a couple of important points. I think that the current rules will apply to asylum, but I shall get the team to look at that to make sure that the rules are clearly articulated. There will be specific rules for athletes entering this country for the Olympics because the Olympic family amounts to about 40,000 people. They include not just those taking part in the Games but coaches, support personnel, International Olympic Committee and national Olympic committee members, members of the media et cetera. Therefore, we will have specific rules for the Games. We are carrying out a comprehensive education programme with airlines, airports, feeder airports and others to ensure that all this knowledge is known. The information will be put on a website. Indeed, we are intending to put in fast-tracking at certain airports—this is being discussed at the moment—so that the arrangements do not cause delays and impinge on people coming into the country in the normal way.

Baroness Gardner of Parkes: How will ordinary people wishing to visit the Games get their visas? I ask this because the immigration department seems to be very slow. The case that I took up with the noble Lord some months ago, which he kindly passed on to the immigration office, looks as though it has gone into a black hole. It would be very discouraging for people if they found that it took them ages to get their visas. How much warning will people need in order to get here for the Olympics?

Lord West of Spithead: My Lords, I apologise to the noble Baroness. I did not realise that the case had gone into a black hole and I shall certainly go digging in that black hole to find out the answer. I apologise now and will get an answer on the specific point that she raised. Generally, our visa application process works within the parameters that we allow and I do not see that there should be any difference to that at all. There will be a slight addition to the load in that there are specialist volunteers for the Olympics who are not entitled to accreditation. I have had no indication from the UKBA teams that there will be a delay as a result of this, but I will look into it.

Lord Foulkes of Cumnock: Can my noble friend confirm that the arrangements that he has just announced for the London Olympics will also apply for the Commonwealth Games to be held in Glasgow in 2014, which by my calculation should be the fourth year of the next Labour Government?

Lord West of Spithead: My Lords, my noble friend has caught me out, as I do not know what is in place for 2014. However, I shall certainly look at that and come back to him with an answer.

Lord Carlile of Berriew: My Lords, further to my noble friend's question about asylum, does the noble Lord anticipate the Government using the advent of the Olympics as a means of hastening the negotiation of the deportation with assurance arrangements so that we can avoid large numbers of people applying for asylum and, in effect, being free to stay in this country whether we like it or not?

Lord West of Spithead: My Lords, as the noble Lord knows, I have personally been involved in deportation with assurance discussions with a number of countries. This is a real issue. It is not quite as bad as when the Soviet philharmonic orchestras used to visit here and go back as string quartets, but I think that there could be a problem and I will certainly look at whether this is an issue.

Lord Roberts of Llandudno: My Lords, can I have an assurance that competitors at musical festivals, such as the Llangollen international festival, of which I just happen to be a vice-president, will not be charged excessive fees? A fee of £67 per visa is a great hindrance to choirs with, say, 40 or 50 members. What are the regulations for this sort of competitor?

Lord West of Spithead: My Lords, for the Olympics, those 40,000 will not be charged for their accreditation cards. That was part of the agreement that was reached when one was negotiating the Olympic bid. I know that the noble Lord is very much involved in music festivals; indeed, we have been in dialogue on a couple of issues. I do not believe that the visa fee is excessive and at the moment there is no intention to change the pricing.

Sport: Rugby League Challenge Cup Final

Question

3 pm

Asked By ***Lord Hoyle***

To ask Her Majesty's Government what is their response to the proposal in the report by David Davies about whether the Rugby League Challenge Cup final should remain on free-to-air television.

Lord Davies of Oldham: Listing does not guarantee that an event will be shown live on free-to-air television. Similarly, excluding an event from the list does not mean that it will necessarily be lost to free-to-air television. However, no decisions will be made by the Secretary of State on which events should be included in any list until he has reviewed the material and views generated by the Government's consultation, which ends in March.

Lord Hoyle: My Lords, in thanking my noble friend for his Answer, I declare an interest as the chairman and now president of Warrington Wolves Rugby League Club, the proud owners of the Challenge Cup. I ask him to use his influence to ensure that the event remains on free-to-air television as it is a spectacle that is enjoyed equally by people in the north and the south. They find it thrilling and exciting. I speak not only for myself and the Rugby League authorities but for all supporters of Rugby League.

Lord Davies of Oldham: My Lords, I am not at all surprised that my noble friend has raised this issue at this opportune time. He will know that representations are being made to the department on exactly that point. He will also recognise that the criteria involve not just the appeal of the programme to loyal fans but its national significance. I have no doubt that my noble friend is working on that case strenuously, too.

Lord Mawhinney: My Lords, I declare an interest, first as chairman of the Football League and secondly as deputy chairman of England's 2018 World Cup bid. What is the Government's estimate of how long privately owned and funded media outlets will continue to enhance British sport if they are prevented from covering some of the major events in the calendar?

Lord Davies of Oldham: My Lords, the noble Lord is well placed to know the significance of sport on television. Indeed, he knows that private companies in the past have valued these sports opportunities very highly. It is an issue of balance, but I am sure that he would concede that the argument for listed events—when they include something as significant as, for instance, the Football Association Cup final or the Ashes tests—is a reflection of the fact that this sporting nation wants access to its major sports at crucial times, which free-to-air television guarantees, whereas private television, as the noble Lord defines it, requires a subscription. A balance has to be struck on those two perspectives.

Lord Addington: My Lords, does the noble Lord agree that the case for the Challenge Cup final is odd in that Rugby League wants its position as free-to-air viewing reserved rather than, as is normally the case, the sporting body itself saying, "No, we will try to make as much money as we can out of this", to support its own internal programmes? Does he agree that we have something unique here and that it is not a run-of-the-mill example?

Lord Davies of Oldham: The noble Lord makes an important point that the Rugby League lobby is different in those terms and shows its commitment to its sport. He will also know that the argument on the other side is that the extra resources that can be generated from competitive bids from television companies give sports the opportunity to develop their programmes for the enhancement of youngsters learning those sports.

Lord Morris of Handsworth: My Lords—

Lord Glentoran: My Lords—

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): We should hear from the government Benches.

Lord Morris of Handsworth: My Lords, I too declare an interest, as a member of the England and Wales Cricket Board. Is the Minister satisfied that the Davies report took cognisance of the economic consequences of its recommendation? Is he aware that some sections of the game of cricket—women's cricket and cricket for people with disability—are financed almost exclusively through broadcasting rights?

Lord Davies of Oldham: My Lords, I emphasise to the House that the Davies report has nothing to do with me. In his report, my namesake identified the list. As my noble friend indicated, the point with regard to the home Ashes matches is significant. The cricket authorities make good use of additional resources in enhancing the development of young people's interest in cricket and in helping to build the strength of cricket in this country. However, again I maintain that there is a balance between the excellent resources generated from cable and satellite television bids and the advantage to the nation of the big sporting events capturing its imagination.

Lord Glentoran: My Lords, the Minister has twice spoken about balance. What economic assessment have the Government made of the effect on grass-roots sport of permanent free-to-air sport on television?

Lord Davies of Oldham: My Lords, it is precisely because of that factor that my right honourable friend the Secretary of State is involved in additional consultation, which will be concluded in March. Of course, the factor indicated by the noble Lord should and will be taken into account in the decisions taken.

Severe Weather: Transport Networks and Public Services

Statement

3.06 pm

The Secretary of State for Transport (Lord Adonis): My Lords, with leave, I will make a Statement on the prolonged severe weather and on the steps being taken to support our public services.

The current cold weather began in mid-December and is the most prolonged spell of freezing conditions across the UK since December 1981. The Met Office forecast that the current very cold conditions are likely to continue across most of the country for some days longer.

These extreme conditions continue to affect our transport and energy networks, as well as public services including schools and hospitals. I would like to thank the many hundreds of thousands of people working tirelessly across the country to keep Britain moving in these extreme conditions.

Over the past weeks, we have seen many tremendous examples of Britain's community spirit in action, with people lending vehicles, digging clear paths to allow ambulances and police vehicles through and visiting neighbours in need. We will do all we can to support and encourage people helping out in their communities.

Our key priority is to keep open the core transport networks, national and local. All main transport networks are operational, albeit with reduced services in some areas. The vast majority of the motorways and major trunk roads remain open. Network Rail and the train operating companies advise that the major rail routes are open, subject to delays and cancellations. The position is similar for air travellers. Eurostar is running a reduced service. Our advice remains that people should check routes before they travel and I thank all travellers for their forbearance at this time.

To keep our roads open, much of our attention has been to ensure that ploughs and gritters have got out to where they are needed most. The Highways Agency has had its fleet of 500 salt spreaders and snow ploughs out in force throughout this period, as have local authorities.

Last week we opened the Salt Cell, a collaborative task force involving central government, the Local Government Association, the Met Office, the devolved Administrations and Transport for London. The group advises salt suppliers on how best to distribute salt.

Last Friday, I directed the Highways Agency to manage its use of salt in response to forecasts of prolonged bad weather by reducing its daily use of salt by at least 25 per cent. It has achieved this by taking measures such as not directly spreading salt on the hard shoulder of motorways.

For local roads, the Local Government Association and the Mayor of London have agreed to reduce daily use by at least 25 per cent also, recognising the importance of mutual support to keep Britain moving safely. Local authorities are taking their own decisions as to the prioritisation of supplies in their localities. The Highways Agency has played a key role in providing mutual aid of additional salt and gritters to local highway authorities and to key organisations such as Felixstowe port.

We continue to take all possible steps to maximise the production of salt from our principal suppliers. On 29 December, the Highways Agency placed an order for significant additional salt imports. These are due to start arriving later this month.

The energy sector is experiencing high demand due to the extreme conditions. The system has been responding generally well at a time of record demand. However, ongoing supply issues in Norway have caused National Grid to issue a gas balancing alert today, as well as on Saturday, when the problems arose. The gas balancing alert is a tool that National Grid uses to make sure that there is enough gas on tap and there is no shortage of supply for domestic customers.

The Department for Work and Pensions is helping citizens in two ways this winter—with winter fuel payments, first introduced in 1997, and now standing at £250 for pensioner households, rising to £400 for the over-80s, and also cold weather payments of £25 for those in receipt of pension credit, where there are sub-zero temperatures over the course of seven consecutive days. Cold weather payments were last year increased to £25 from £8.50 per week. These payments are automatic. Everyone in Great Britain who is entitled will get them and should not worry about turning their heating up.

During times of increased demand, we all need to think responsibly about whether our health issues are a genuine priority and use NHS resources responsibly. Medical advice is available by phone through NHS Direct.

There are no reports of major problems with food supplies reaching retailers. Because the UK has a diverse supply of food from domestic and international suppliers, we are not reliant on just one source of food, which helps maintain stability of supply as well as keeping prices stable.

Last week, we relaxed the enforcement of drivers' hours regulations to ensure that the essential deliveries of rock salt and animal feed could be made. Over the weekend, we further relaxed the enforcement of the regulations to allow the delivery of fuel oil to remote areas of Scotland, de-icer to be delivered to airports and bulk milk tankers to continue making their deliveries.

Schools are making every effort to reopen after last week's closures, and this week there has been a significant improvement. The Department for Children, Schools and Families reports that virtually all exam centres are able to run their exams as scheduled, or have found alternative locations at which to hold them.

I know that the House will wish to join me in thanking the hundreds of thousands of people across the transport industries, the NHS, the education system, the Armed Forces, local authorities and other public services for helping all our communities come through this severe weather. However, the forecasts are for a further period of snow and sub-zero overnight temperatures and we must take further steps to keep Britain moving

In July last year, the UK Roads Liaison Group published a report into the lessons learnt from the

severe weather experienced in February 2009. Recommendations made to central government were adopted immediately and in full. There were recommendations to local authorities as well, on which individual authorities were expected to act.

The key recommendation was that Local Highway Authorities should keep at least six days of salt stocks, and that over and above that the Highways Agency should hold an additional strategic supply to underpin national resilience. To this end, the Highways Agency came into this winter period with a 13-day supply of salt, subject of course to replenishment.

The report also made recommendations for my department to convene a Salt Cell task force to prioritise supplies in the event of extreme conditions. This we have done. Salt Cell has enabled us to prioritise salt distribution to where it is most needed, and I am grateful for the co-operation of the Local Government Association, the Mayor of London and the devolved Administrations. The Salt Cell next meets tomorrow morning.

Given the prolongation of the very cold weather, further measures are likely to be required over the next 48 hours to keep networks open. These are likely to include further steps to conserve salt, to ensure that the Highways Agency and local authorities can manage during the continuing severe weather. The Local Government Association and the Government are in constant contact and we will continue to take the necessary operational decisions to keep networks open as far as possible.

We are experiencing the most severe weather conditions for 29 years, in common with much of northern Europe. We need to continue pulling together for the common good, as we have done over the past weeks.

3.15 pm

Baroness Hanham: My Lords, I thank the Secretary of State for his Statement. He very nearly had the advantage over me since we did not receive it until 2.30 pm, so it has been a bit of a scramble to come up with a timely response. We recognise that this has been a very difficult time for many people across the country. London is beginning to recover, as the Secretary of State said, but many others parts are going to take somewhat more time to get back to normal even if there is not more snow, which is not at all certain yet.

The recent weather has disrupted many communities across the United Kingdom and, specifically, put children in jeopardy of not being able to take their examinations. I am glad to hear from the Secretary of State that most centres have opened. Have any centres not opened and are some children therefore at risk of not being able to take their exams starting today? If so, what will be done for them?

The conditions pertaining in the past couple of weeks have brought out the best in communities, as the noble Lord said, and I dare say that very few people have been left to deal with the conditions alone. I know that local authorities, voluntary services, the Army and neighbours have been working flat out to ensure that support has been provided where necessary. As we know, there have been a number of tragic accidents during the bad weather.

The main criticisms have arisen latterly and been centred on the draining of salt and grit stocks. I understand that most of the main roads and A-roads have now been cleared and are fully open apart from the hard shoulders. However, not only are many B-roads and side roads leading to private houses and villages still extremely treacherous, but some areas are still cut off. Can the Secretary of State tell us whether pulling back the salt supposed to go to Germany will mean that there is enough stock to keep the main roads and A-roads open and to start clearing the B-roads and side lanes, or will we start relying on the importation of other salt? As I understood the Secretary of State, that is not likely to arise in the very near future.

Looking to the future, can the Secretary of State say whether the Government will have discussions with salt and grit producers as well as local authorities? How can adequate stocks be ensured to cover the types of conditions that we have experienced this year? There was a 13-day supply but, in reality, that has not been sufficient. We already know that a new depot for salt has been provided near Heathrow Airport. Can the Secretary of State say whether he will be looking at other storage areas so that bigger stocks can be maintained in the future and, perhaps, distributed more widely across the country?

Is it the intention that the co-ordinating group, Salt Cell—such a wonderful name—will now be the main controller of access to salt supplies? If so, how will this be carried out from now on? I fully understand that local authorities and the Mayor of London are involved in this, but how long will Salt Cell stay in existence? Will it need to reduce even further the salt allowances? What are the total salt stocks now held in the United Kingdom and how long is it expected that they will last?

The Secretary of State has touched on the food supply. The large supermarkets have largely done very well, as they have transport to ensure that they can access the roads and reach all their stores, but does the Secretary of State have any indication of how the smaller shops have done? They have not benefited from the same advantages as the larger supermarkets and often have to use their own private delivery vehicles to collect stocks from elsewhere.

Reports that councils have been asked to reduce by 25 per cent the amount of salt that they use raises a major concern about their ability to keep the roads open. I know that the councils have endorsed the 25 per cent reduction, but will they have to reduce the amount further to ensure that stocks do not run out?

I, too, would like to put on record our thanks to the council workers, road gritters and all those who have been involved in making sure not only that the roads have been kept moving but that people have not been left in jeopardy, as the Secretary of State said. There are hundreds of thousands of them and they deserve our thanks because they have gone well beyond the call of any duty.

I return to salt, because it appears to be the big area that we are troubled about. The national Roads Liaison Group's report of July last year emphasised the need to broaden the salt supply. Where do we now get our salt from, apart from our own mines, and how can we ensure that we have adequate imports?

[Baroness Hanham]

There has been much disruption to air and rail travel. Can the Secretary of State tell the House why passengers who landed at Heathrow in the past week or so were kept on the tarmac for four to five hours while pilots tried to locate pods? Can he also tell us what airport authorities did to offer passengers who were stranded, some for up to two days, support during that time? One would hope that there would have been hot drinks, food and blankets, but, from the reports, that does not seem to have happened.

It is reassuring to know that cold weather payments will be paid to the most vulnerable. I know that we all endorse the Secretary of State's plea to people who do not need to use hospitals to stay away from them.

We can now only wait and see whether the weather will let up permanently to enable everyone to get back to normal. It looks as if we may still have a little time to go before that happens. I would be grateful to have the answers to some or all of my questions to the Secretary of State.

3.22 pm

Lord Bradshaw: My Lords, I do not know whether the Secretary of State saw the *Sunday Telegraph* yesterday. It had the headline: "Health and safety rules stop street gritting". It stated that householders and businesses have been told not to clear icy paths or they could be sued. Will he take this opportunity to say that this is nonsense and that people should feel free to go and clear the road, path or entrance, because these stories have an immediate effect on action? At the same time, he might deplore the persistent rumour-mongering in the press about, for example, food shortages and fuel shortages. Does he believe that such stories are a deliberate attempt by the proprietors of these newspapers to undermine the morale of the British people?

In my view and that of my colleagues, snow-clearing responsibilities away from the main road network properly lie with local authorities. We should make sure that the authorities order salt stocks in good time. It seems to me that you should replenish your salt stocks in May, June and July, as you used to order coal in the summer, because it is not available at short notice in the winter. I heard a leader of a council saying on television that the council had ordered salt at the beginning of December and had not received it. It is rather too late to be ordering emergency stocks in December.

I would like to know how local authorities could be more efficient. Does the Secretary of State agree with me that one way would be for local authorities and farmers, who have the labour available, to get together so that people could have simple snow ploughs fitted to tractors and could clear a lot of roads that are covered with ice? The farmers would get a job and the community would benefit from fixing a fairly simple device on to the front of a tractor.

As to hospitals and medical services, I went to a hospital this morning where I was told that, last week, it suffered a huge number of cancelled appointments. Will the Government ask people who cannot take up an appointment to immediately advise the hospital or surgery, so that the appointment is available to others who urgently need treatment?

Finally, the contracting-out of services by local authorities has left them very short of their own staff. You cannot send people who work for consultants to clear snow, but you can send your own staff. That should be very much borne in mind. With outsourcing and contracting out, local authorities could denude their ability to look after their own area.

3.25 pm

Lord Adonis: My Lords, I am very grateful to the noble Baroness and the noble Lord for their constructive remarks. I echo all that they said in commendation of our public service workers and the sense of responsibility that is animating people across the country. The noble Lord, Lord Bradshaw, invoked the blitz spirit. At home, I have a mug with a wartime slogan on it: "Keep calm and carry on". That is precisely what the overwhelming majority of people in this country are doing and why Britain is keeping moving so successfully during this period of prolonged, severe cold weather.

I echo what the noble Lord, Lord Bradshaw, said about people being good neighbours and doing their local duty. It is total nonsense to say that health and safety legislation should stop people being good neighbours or doing their local duty. People should do their local duty. They should show common sense, neighbourliness and generosity of spirit, which the overwhelming majority of people are doing up and down the country.

In respect of the remarks made by the noble Baroness on supplies of salt, I can assure her that as imported salt becomes available there will be adequate storage for it. The Highways Agency has those arrangements in hand. She asked how long the Salt Cell—I echo her comment about the remarkable title of this task force—will remain in existence. It will remain in existence for as long as we have these extreme weather conditions and there is the need to prioritise salt supplies.

I should put on record my sincere thanks to the Local Government Association and to local authorities up and down the country for co-operating with the operation of the Salt Cell, which means tough choices. In particular, some local authorities with larger supplies of salt—dare I say because they prepared that much better?—might not be able to receive supplies that they had ordered, in favour of those with smaller supplies. We are all in this together. It is essential that we get salt supplies to those local authorities that are in danger of running out, precisely for the reason that the noble Baroness gave, so that we can keep as much as possible of the road network open locality by locality. We are seeking to do that in respect of the national Highways Agency.

As the noble Baroness mentioned, the Highways Agency went into this winter with a 13-day supply of salt, which is more than twice the recommended minimum of six days. Yesterday, someone who quizzed me during one of the many interviews that I did asked, "If the Highways Agency went in with 13 days, why did you not tell local authorities to do the same?". I should stress that the reports of the UK Roads Liaison Group, about which much has been made in recent days, made two clear recommendations: local highways authorities should keep six days of supply and the Highways Agency, for which I am responsible, should keep a

reserve supply over and above the six days so that we can help out the entire country in the case of a severe shortage. That is precisely what the Government did. We directed the Highways Agency to keep a larger supply, which is why we have been able to cope as well as we have in this period of severe, prolonged cold weather.

The noble Baroness asked about the adequacy of supplies nationally. It is not possible to give her a single answer because we have more than 200 highways authorities across England, Wales and Scotland. The picture is very variable—from local authorities that are dependent on the meeting of the Salt Cell tomorrow morning for urgently needed additional supplies through to local authorities that still have supplies for some weeks. What we are seeking to do, of course, is to prioritise those that are in danger of running out.

I should also stress that the UK Roads Liaison Group was reporting after a one in 18 year severe weather event, whereas what we have been experiencing this year is a one in 29 year event. The noble Baroness asked whether we will learn from that. Of course we need to do so. When the severe weather is over, we shall look at our experience this year and consider what additional measures must be put in place.

In respect of advice for those using hospitals to behave responsibly, I echo entirely what the noble Lord, Lord Bradshaw, said. On the points raised by the noble Baroness about the inconvenience to which air travellers have been put, those were operational decisions taken by airport operators and the airlines, so I cannot give an immediate and full account of precisely what happened at Heathrow. However, I undertake to write to her on that.

3.30 pm

Lord Berkeley: My Lords, could my noble friend expand a little on the question put by the noble Lord, Lord Bradshaw, about the Health and Safety Executive? It has allegedly advised—I talked at the weekend to ferry operators in the south-west—that if salt or grit is spread on to the slips on which you drive down into the ferry and there is an accident, the operators will be liable, whereas if they do not do anything and someone has an accident, that is an act of the weather. It means that no one will treat those slopes with salt or grit. I think that the same applies to householders, who are not putting salt or grit outside their houses. Is there any advice that my noble friend could give to stop this rather stupid situation?

Lord Adonis: My Lords, I am not aware of the advice to which my noble friend refers, but I will look at it immediately and respond to him.

Lord Howell of Guildford: My Lords, one feature of the recent cold spell has been the minuscule contribution of wind power to the nation's very high energy needs. I know that it is not strictly the Secretary of State's business, but does he think that his energy colleagues will draw any conclusions from that?

Lord Adonis: My Lords, there are measures in train to enhance very significantly the supply of wind power and I hope that in future years it will be able to make a much larger contribution to our energy needs.

Baroness Harris of Richmond: My Lords, will the Minister thank the managers of the east coast main line rail network, who have performed heroically over the past few weeks? I have had a couple of what could have been quite difficult journeys and they have been tremendous. Would he also undertake to let those managers know that the staff of the train operating company have been thoughtful, helpful and able to tell passengers what is happening at every stage of the journey? This is a vastly improved service.

Lord Adonis: My Lords, I am happy to do so. Railway workers up and down the country have been doing a fantastic job to keep trains working in these seriously adverse conditions. The noble Baroness has mentioned the east coast main line, but her remarks could apply equally to other railway companies, all of whose workers have been doing a splendid job over the past week. We are deeply indebted to them.

Lord Mackay of Clashfern: My Lords, can the Secretary of State tell us how a day's supply of salt and grit, which is the basic measure he has referred to, is estimated? Does that include the salting and gritting of pavements as well as carriageways?

Lord Adonis: My Lords, we are talking about the maintenance of the road network, but local authorities also have to take decisions about how they intend to handle pavements and other areas that require salting.

Lord Elystan-Morgan: My Lords, while joining all others in congratulating people on the communal spirit that they have shown so comprehensively and generously, as well as the Secretary of State on his leadership in this matter, may I return to the question of salt? From all the evidence available, it appears to be the case that British-based salt suppliers have no chance of meeting the demand, whether this acute spell lasts for one week, two weeks or, God forbid, four weeks. There is therefore a necessity for a long-term strategic plan to deal with this fundamental question.

Lord Adonis: My Lords, the whole point of salt reserves is to enable local authorities and the Highways Agency to have a sufficient degree of resilience to cope with prolonged periods of poor weather, in the knowledge that it is not possible from daily supplies to replenish those stocks which need to be put on the roads and pavements in periods of severe weather. The issue we face is establishing the right level of supplies that those bodies should keep to give them sufficient resilience. The expert group that considered this matter after last February's severe weather recommended that that should be six days' worth. In the light of the events we have experienced over the past month or more, we need to revisit the issue and consider whether that figure needs to be raised. I undertake to the House that we will do so after these events.

Lord Richard: My Lords, there is only one issue here as far as the Government are concerned: did they estimate as correctly as they could and have they done everything that they could do in the light of that estimation? Does my noble friend agree that it is not possible in this country to give the guarantees against problems in this kind of weather that the United States or Scandinavian countries can give? Would not

[LORD RICHARD]
the amount of investment required to give that kind of guarantee be grossly excessive? I congratulate the Secretary of State on the work that he has done, on the impressive way in which it has been handled and on the way he has presented the case in public.

Lord Adonis: My Lords, I am grateful to my noble friend for his kind personal remarks, but I should like to extend them to the hundreds of thousands of people who have been doing the work at the sharp end, if I can put it that way, up and down the country to keep open our transport networks and public services. We have seen the best of the British spirit over the past few weeks, and I know that we will continue to see that in a way that will get us through these serious and prolonged periods of bad weather.

Lord Lang of Monkton: My Lords, following on from the benign experience of the noble Baroness, Lady Harris of Richmond, does the Minister accept that in many cases the travelling public have experienced considerable difficulties in air travel, rail travel, Eurostar and ferry travel due to a lack of information by the operating companies during periods of disruption and delay? One appreciates the management difficulties that result from the uncertainty of the weather, but the most frustrating thing of all, which restricts the ability of the travelling public to make alternative arrangements for their travel, is the lack of information available. I know that this is not the responsibility directly of the Minister, but will he take the opportunity when he meets the management of operating companies to emphasise the need to tell people what is happening and to keep them up to date?

Lord Adonis: We have been encouraging the train companies to do precisely what the noble Lord wishes them to do—that is, to make information available as readily as they can. We have advised them that they should not take for granted that passengers will know what is going to happen in the evening simply by checking at stations when they set off in the morning and that they should provide real-time information. I am glad to say that most companies are seeking to do so, and I hope that all will rise to the standards of the best.

Lord Cotter: My Lords, will the Minister look at the issue of school closures? Undoubtedly some schools have had to close for good reason, but parents have been in touch with me to express concern that in other cases perhaps, as the noble Lord, Lord Bradshaw, referred to, timidity has come along rather than robustness and schools have been closed that were not required to be closed. Perhaps schools are concerned about people falling over in the playground or shortages of staff, but they should adapt to the circumstances. This is having a big impact on people's personal economies and the national economy; because people cannot get to work, businesses suffer and the finances of the country suffer. Will the Secretary of State look at this issue and ensure that schools are kept open where at all possible?

Lord Adonis: My Lords, I entirely agree with the noble Lord. I did not respond to the remarks about schools that the noble Baroness, Lady Hanham, made in her response to the Statement. I am glad to say that the number of schools closed appears to be reducing significantly. As I said in the Statement, virtually all schools which are examination centres have provided facilities for exams either at the school or at alternative locations.

In respect of the guidance that we give to schools, the Department for Children, Schools and Families last week sent what is described in my briefing as a "red" email to all schools—I assume that that is to do with the nature of its importance, not with the colour of the ink—encouraging them to stay open where possible and asking that, where they are closed, they consider whether it would be possible to open just for exams. That advice appears to have been taken seriously. Where there are no facilities for taking exams, the advice is that candidates can retake them in the summer, but where a candidate is unable to take a re-sit unit because it is the last time that the exam will be taken, the school or college should apply for "special consideration" on their behalf. Special consideration allows an awarding body to award a grade where an examination cannot be taken or the pupil has been disadvantaged, provided there is sufficient evidence to make a reasonable judgment. However, as we have said, the most important priority is that schools which are exam centres are open, so that candidates can take their exams without having to re-sit them at a later date. I am told that that is happening in virtually all cases.

Lord Brooke of Alverthorpe: My Lords, I was a bit surprised to hear my noble friend say—assuming I heard him correctly—that he could not answer the question of just how much salt we have in reserve. Did the committee that met last February and produced the report say whether we should be able to estimate how much salt we had in reserve? If it did not, and if it is to review the position, should it not look at it again?

Lord Adonis: My Lords, the group looking at salting roads in periods of severe weather recommended that all local authorities maintain reserves equivalent to six days' worth of supply in severe weather. It made very clear recommendations about the amount of salt that should be in held in respect of the needs of local authorities. I cannot give my noble friend the precise sum aggregating from all local highways authorities, because the position is very variable and fluctuating day by day.

Baroness O'Cathain: Could not the Secretary of State's undoubted powers of communication, as we have just witnessed in this House, be used to encourage our national press to bring forward some good points about all of this and not always the bad ones? I cite two examples. The first is Southern Railway, which receives enormous criticism. I managed to get home on Thursday because of its communication. I know that hearing at every one of the 16 stations, "Please be careful when you get out of the train, because the platforms are slippery" may have been a case of overcommunication, but its performance was terrific.

Secondly, I was caught up in the pre-Christmas freeze-up when flying. I went to Heathrow and found prone bodies practically everywhere from the day before. British Airways—I declare an interest as having been a

director, but it was many years ago—put on additional, large aircraft on its European routes. It took out the club class so that it could get people in and, as a result, everybody got to their destination for Christmas. Not one mention of that has been made in the press, and these things need to be said.

Lord Adonis: My Lords, I hope that newspaper editors up and down the country are listening intently to the noble Baroness, because she makes very good points.

Viscount Montgomery of Alamein: My Lords, as it is partially connected to the severe weather, can the Secretary of State say anything about what is happening with Eurostar and why it continues to get stuck in the tunnel?

Lord Adonis: My Lords, Eurostar has, alas, been experiencing technical difficulties. However, it is seeking to overcome them. It is at the moment, I fear, offering a reduced service, but there is a service.

Lord Tebbit: My Lords, is the Secretary of State aware that he did not deal very well with the point raised by the noble Lord, Lord Bradshaw, and one of his own Back-Benchers, concerning whether householders and others—landlords, for example—put themselves at risk by partially or imperfectly clearing the pavements outside their premises? I am sure that he has been briefed about it, and it would help very much if he could put that matter to rest.

Secondly, uncharacteristically, the Minister did not deal too well with a question asked by my noble friend about the contribution made during this period to our energy supplies by wind power. Does he have any figure for the percentage of their working capacity at which the turbines worked during that period?

Finally, would the Minister not agree that the fact that this all started during the Copenhagen climate conference rather suggests that God has a very good sense of humour?

Lord Adonis: My Lords, the Almighty's timing was clearly impeccable.

I thought that I had dealt with what people should do in their own localities. I regard it as total nonsense to suggest that people would be subject to health and safety laws if they do their duty locally and do their neighbourly best to keep their driveways and pavements clear.

I shall give the noble Lord the figures that he seeks on wind power. I fear that I do not have them at my fingertips.

Baroness Byford: My Lords, does the Minister recognise the contribution that people who have 4x4s have made during this period? For example, my daughter was out again yesterday delivering meals on wheels because the normal vehicles cannot get through. Normally, owners of 4x4s are pilloried for their excessive use, but on these occasions the meals would not have been delivered without such vehicles. Secondly, I reinforce what the Statement said about exempting the hours that people have worked, particularly on the collection of milk. It is hugely important that milk supplies have been collected; it is not just a question of collecting them—sometimes they have actually frozen in the pipe once they have been collected, and it has taken that much longer. They have had to go back to the centre to come back again. That has been very helpful indeed.

As the noble Lord, Lord Bradshaw, said, in the past farmers always had snowploughs in the front and were out there straightaway. I should be interested to hear what the present situation is with regard to local authorities and whether that is still in being or not.

Lord Adonis: My Lords, never has the Chelsea tractor performed a more socially useful purpose.

I echo everything that the noble Baroness said about the huge efforts being put in by farmers and food distributors and suppliers to keep goods moving around the country. I note her remarks about how snowploughs could be better fitted to farm equipment so that roads and pathways could be cleared more effectively.

Lord Howell of Guildford: My Lords, we all agree that the Secretary of State is an excellent performer on transport issues, but on energy matters should it not be more a matter of taking the information to his colleagues rather than bringing it to us? His answers to my noble friend and me were very puzzling. Has not the recent spell shown that wind power is incapable in cold spells of delivering even a tiny fraction of its installed capacity to provide the nation's vital electricity needs? His answer to me that the solution is to build more wind power seems quite perverse. Would he like to take the opposite message to his colleagues: that wind power cannot help at the most crucial moments, in the nation's times of need? We could be storing up great danger for our future unless we get this matter clear.

Lord Adonis: My Lords, I am sure that the right response is that we need a balanced energy supply. Wind power has a significant contribution to make as part of a total energy supply strategy. However, the noble Lord is absolutely right to point out that we need very substantial sources of supply from elsewhere, too—and those sources are available. As we have seen in recent days, the supply of gas, with the exception of a small number of interruptible contracts, has managed to meet domestic needs in a period of huge increase in demand. Therefore, of course those sources of supply will need to be central to our future energy strategy.

Equality Bill

Committee (1st Day)

3.49 pm

Clause 1 : Public sector duty regarding socio-economic inequalities

Amendment 1

Moved by ***Baroness Warsi***

1: Clause 1, page 1, line 7, leave out "outcome" and insert "opportunity"

Baroness Warsi: My Lords, I shall speak to the other amendments in my name in this group as well. It is a pleasure to open the debate for consideration of

[Baroness Warsi]
the Equality Bill as it goes through your Lordships' House. I look forward to the informed discussions that will take place and allow the Bill to be honed and improved in the areas where we need that. There has been much discussion so far about the length of time that the Bill has taken to come to this House, and I am delighted to welcome it—albeit in another decade. We, like the Government, are anxious that the Equality Bill should become law. In this light, we very much hope that the noble Baroness, Lady Royall, and her team will be looking to engage practically and profitably with the concerns that will be raised in Committee.

During Second Reading, on 15 December, we heard great concern from around the Chamber about Part 1 of the Bill. I will not go into those details here again, as our worries will be addressed in a later group of amendments, but I shall raise one specific issue. Our probing Amendment 1 is designed to clarify the Government's position regarding this clause. As it stands, Clause 1(1) states:

"An authority to which this section applies must",

when making strategic decisions about the exercise of its functions,

"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".

I want to express two worries in connection with this subsection before we go into more detailed arguments about the socio-economic duty itself.

First, the main purpose of this clause appears to be to send out an important message that there is a problem with "socio-economic disadvantage", and that that should be addressed. Up to that point, we agree with the Minister; there is indeed a problem with socio-economic disadvantage, and it must be dealt with. We are living at a time when the Government look set to miss their 2010 target on child poverty by 600,000 children, for example, with the number of children living in poverty having increased since 2004. Furthermore, figures from last May show that the number of adults living in poverty had risen by 800,000 under this Government. Nobody could therefore deny that the problem of socio-economic inequality is urgent, requiring immediate and effective attention.

Does the Minister agree, however, that there is a wide difference between inequalities of outcome and inequalities of opportunity? For example, those in poorer areas may suffer from disadvantage in the quality of the healthcare that they receive. That may be because of a lack of access to good local healthcare, which could result in inequalities of opportunity brought about by socio-economic disadvantage rather than as a result of discrimination on the basis of socio-economic status. Given these different approaches and the use of inequalities of outcome in the Bill, could the Minister clarify the intention behind the clause?

We have also tabled Amendment 4 to raise the worry that there are very different meanings behind the concepts of socio-economic inequality and socio-economic disadvantage. To conflate those two ideas or to allow a murkiness of terminology that might leave scope for misunderstanding or confusion does not help. It will merely add a burden to authorities, which will have to figure out what is required of them, and may prevent any potential benefits from being fully exploited.

That leads me neatly onto my second point. The fanfare behind this part of the Bill is that it is designed, according to Harriet Harman in another place, to ensure that specific public sector organisations,

"play their part in narrowing the gap between rich and poor in the strategic decisions that they make".—[*Official Report*, Commons, 11/5/09; col. 564.]

In itself, this is clearly commendable. I think all in the Chamber today would agree that it could only be a good thing to reduce the gap between rich and poor. However, does the Minister not agree that addressing inequalities of outcome, without also tackling inequalities of opportunity, may mean that no action is taken to address the root causes of the problem?

A duty to ensure that public sector organisations take into account inequalities of outcome may lead to some tweaks being made at the final stage where, for example, healthcare or education are received, but this will do nothing to address the real problem, which is to have no opportunity at all to receive these services. Does the Minister agree that much more will be needed to address socio-economic duty, and that the phrase "inequalities of outcome" risks giving an unclear message which will have little real impact on a very real and worrying problem?

We have touched on some of the issues which this part of Bill raises, but now we will debate the three clause stand parts that are in the group, which would remove them from the Bill altogether. We have also tabled Amendment 3, which would leave out only Clause 1(4). This is designed to underline our objections to the nature of this part of the Bill by removing the necessity for those authorities which are not specified under subsection (3) but are partners to local authorities to have regard to the socio-economic duty as regards their involvement in the sustainable community strategy.

It was clear on Second Reading in your Lordships' House that a great many noble Lords had objections to this part of the Bill. We objected to it on the grounds that the Government had conflated the ideas of discrimination on the basis of socio-economic disadvantage and the disadvantage itself. It is, of course, 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. We were then supported by the noble Lord, Lord Lester, who said that 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, and which might serve to divert energy and attention from the problem of discrimination.

With such great criticism coming from all parts of the House, how can the Government continue to justify clauses in the Bill which they were reduced to justifying in the Commons as acceptable only because there was no harm in them? Can the Minister inform the House of whether the Government are content to pass legislation which they cannot justify in terms of use or value, only because it highlights a problem and can do no harm? We on these Benches think that it is

an unacceptable way to frame legislation. We are, of course, here to help form effective legislation which tackles the root causes of problems, not to write press releases which, while they may encapsulate good principles, do nothing to address such problems.

It appears that a Government coming to the end of their Parliament would like to make a big, bold statement about the importance of reducing socio-economic inequalities. I am not surprised, given that, for example, since Labour came to power in 1997, there has been a widening of the gap between infant mortality of the poorest and richest households. Furthermore, as I mentioned previously, child poverty is increasing. Such a statement is commendable on its own terms. I am sure that there will be few, if any, objections to the desire to close the gap. However, the Minister must acknowledge that legislation is not the place to make such an important but, as it stands, vacuous, promise.

There appears to be an increasing trend to create statutory targets in legislation, which tend to promise much and deliver little. As mentioned in another place, legislation was passed which effectively stated that fuel poverty would no longer exist. We see now that not only does fuel poverty still exist, but that when the case was tested in court, the Government were able to plead successfully that resources were not available to follow through their own promise.

On 5 January the Child Poverty Bill was given its Second Reading in your Lordships' House. The Bill also places a duty on the Secretary of State to meet four United Kingdom-wide targets by the end of the financial year in 2020. Here, too, we support the principle but are concerned by the use of legislation for targets, rather than real action.

4 pm

Furthermore, we are disappointed with the intentions of the clause. Will the Minister acknowledge that the way to address the problem of socio-economic disadvantage is to go right to the heart of the matter, figure out the root causes and then find ways to tackle each and every one of them? Instead, we have a few clauses attached inelegantly on to the beginning of a Bill dealing with discrimination. Does the Minister accept that the way to narrow the divide between rich and poor is to have meaty proposals which engage with the real issues of reducing opportunities that are not available to many poorer communities? In contrast, these clauses do not provide any form of solution to an entrenched problem. Instead, they attempt to smooth over the differences from the top without addressing any of the rot underneath. This is surely not a legacy that any Government would desire.

Unfortunately, we received the Government's new guidance entitled, *The Equality Bill: Duty to Reduce Socio-economic Inequalities* late on Friday evening. I am glad that the Government have managed to publish this guidance before Committee stage, although they have cut it very fine. Given the lateness of its arrival, I am still working my way through it. Therefore, I apologise if any of the questions that I ask today have been answered in the substantive document. I am sure that the Minister will understand that. The document's summary details what this duty does not do. It states:

> "The duty is not about creating new equalities. It is not about addressing discrimination against individuals on account of socio-economic factors. It is not about directly affecting or determining operational decisions and it is not about requiring public bodies to use their resources to remove unequal outcomes".

If that is a list of what this duty is not about, I should like the Minister to explain what it is about. If it is not about dealing with any of the real issues, affecting socio-economic disadvantage in any way, protecting people, or allocating further resources to dealing with the issue, I submit that this list is merely an effective way of deflecting negative press comment and allowing the Government to make a bold statement and look good in a general election year. Could the Minister give me an example of a local authority where this duty could be used, and what real practical impact the use of that duty would have?

There are a number of questions which I am sure the Minister will deal with but at this stage I beg to move.

Baroness Gould of Potternewton: My Lords, I support the clause and oppose the amendments. My justification for doing so is that socio-economic disadvantage creates some of the most deep-rooted discrimination and combination of inequalities. There is no question that social class still holds a powerful grip over people's lives. While the clause will not, of course, solve all the problems, it will help to create awareness and make public bodies stop and think before they take strategic decisions on spending and service delivery, with the consequence that, as strategic authorities begin proactively to monitor the impact of key policies for their socio-economic impact, we should start to see significant differences in the way that public services are configured and targeted.

The Women's National Commission, of which I am chair and therefore declare an interest, has consulted its 550 partners, national and local, big and small—these women's organisations represent some 8 million women—asking for their views on the clause. There was not one negative response, rather the opposite, as might be expected, for by enabling public authorities to tackle the root causes of inequality and deprivation, a socio-economic duty would help to reduce inequality of income and improve outcomes and life chances, which are particularly relevant to women. It will also be a key driver towards achieving social mobility and educational success. There is no question that failing to tackle the root causes of this inequality early on in life could cost the taxpayer more in the long term.

An example given by the EHRC is that young people who are not in education or employment are far more likely to go to prison, at a cost of between £15,000 and £50,000 for each prison place. In terms of health, the duty will require public bodies to take into account discrepancies such as health inequalities and the postcode lottery during day-to-day work and while planning and developing new healthcare strategies. This may involve, for example, targeting a geographical region which is known to have poorer healthcare outcomes and providing opportunities for people to achieve better healthcare outcomes.

That is why this clause is fully supported by the Royal College of Nursing, which has long recognised the significance of healthcare inequalities. That view is

[Baroness Gould of Potternewton]
supported by the British Medical Association in its welcome to the Government's commitment to address socio-economic inequalities which, it says, will help to ensure that the provisions introduced under this legislation are robust and effective. The inclusion of this clause is particularly welcomed by the Citizens Advice Bureau, which on a day-to-day basis is at the front line of dealing with the effects of unfairness and inequality. This clause, it says, could be an effective tool to ensure that public services and policy makers have an overriding objective to tackle systemic problems of socio-economic disadvantage.

As policy-makers, we sit here in this beautiful Chamber, and it is important for us to listen to those who work among the most disadvantaged. The argument that the clause is vague, unworkable or unenforceable is completely unacceptable. How often have we heard that the wrong vehicle is being used and that legislation will have no impact? In fact, history shows us that that is completely not the case. They are often excuses put forward by those who are opposed to the principle behind legislation. I firmly believe that removing this clause would do a disservice to all those it can help.

Lord Tebbit: The Labour Party has come a very long way over the past 100 years or so. When we look back to those early days of the Labour Party, there was an enormous concentration on education, particularly in the Welsh valleys. Long before Mr Blair discovered "education, education, education", in those Welsh valleys there was a passion for education. It was seen as the way forward for youngsters growing up in rather poor socio-economic circumstances—although they did not use that expression in those days; they were more blunt about it. Education was seen as the way for those children to make their way up and enjoy some social mobility.

Further north were the Rochdale pioneers. They did not spend all their time griping, whining and whingeing about the misdemeanours and the unfairness of the way that retail trade was conducted; they did something about it. They created the co-operative movement, which actually improved retailing across the board and, particularly, improved it for those in the poorest circumstances.

We have come to a stage where everything has to be done by legislation. What have been the consequences in recent years? We have seen a loss of social mobility. Of course, the Bill as a whole and this clause in particular will contribute towards that loss of social mobility. I do not speak from theory but from experience. I was one of those—and there are a good many of us in this House—who was born on the wrong side of the track, and probably at the wrong time. How did I escape from that socio-economic group? It was through education. It was through the grammar schools, which gave me, not the Bill's entirely false promise of equality of outcome, but an equality of opportunity. The more that we strive for an equality of outcome, the worse matters will get.

What a pity that we do not already have former Prime Minister Blair in the House. He could tell us a thing or two about it. He sprang from very difficult circumstances. His family was so poor that he could not be sent to Eton, but had to make do instead with the best public school in Scotland. From those unpromising circumstances, he has given us all an enormous lesson in how to get rich. He is now, in the words of the noble Lord, Lord Mandelson, "stinking rich"—and I know on which of those two words I put the emphasis. What a pity that he is not here to tell us how to do it. I know that some of it comes from his great success as a Prime Minister. He was, after all, a wartime Prime Minister for longer than Winston Churchill; and he has profited rather more from it, too.

I support absolutely my noble friend's amendment, and will support her, too, by voting against this pernicious, anti-libertarian and totally harmful clause.

Baroness Meacher: My Lords, I congratulate the Government on bringing forward the Bill, which will strengthen existing legislation tackling discrimination. I apologise to the House that I was unable to be in the Chamber for Second Reading. I should probably apologise also for what I say today: I flew across the Atlantic overnight, did not sleep and am probably less well prepared than I should be. However, I feel very strongly about Clause 1.

I am aware that many noble Lords, perhaps even a majority, feel that Clause 1 should not be included in the Bill. If I understand it correctly, the reason is that the clause could lead to many challenges in the courts that may not be successful but would waste resources. If that is the case, we must do some redrafting. However, I argue very strongly for retaining in the Bill a reference to the inequality that has a greater impact on the health and well-being of individuals than any other—I refer to socio-economic inequality. An equality Bill that ignored this major dysfunction in our society would be akin to producing a tree without a trunk. However, noble Lords are no doubt right that some rewording of this part will be necessary.

The Marmot commission on inequalities in health and well-being, of which I am a member, will report on 11 February. The commission has been examining the consequences of socio-economic inequalities. I will mention a few points to underline the importance of Part 1 of the Bill. Life expectancy in London varies by seven years from one borough to another, depending on the socio-economic structure of the boroughs. To make matters worse, the number of disability-free years varies by 17 years between those at the top and bottom of the socio-economic scale. Not only do people in the most deprived socio-economic groups have much shorter lives than others, but they also spend more of their later years with a disability. It struck me, reading the Bill, that if we talk about dealing with disability and fail completely to address the need to prevent it, we are missing the point of anything that might be called an equality Bill.

The noble Baroness, Lady Warsi, argued that the need is to identify all the causes of socio-economic inequality and address each and every one. I agree, and consider that the clause will exert appropriate pressure on government departments to do just that. I shall give just one example. In relation to infant mortality, there is currently a 16 per cent gap—or, at least, there was in 2006-08; those are the latest figures of which I am aware—between babies born to fathers in routine

manual occupations and those born to married or jointly registered parents in the population as a whole. Children born into families of low socio-economic status will be affected for their entire lives. Help from public services in their early years to improve their physical, social and cognitive development can transform their educational achievement, employment and health throughout life; hence, the vital importance of Clause 1.

4.15 pm

Government departments have a responsibility to reduce the lifelong consequences of these inequalities. To achieve the necessary change, we need a concerted effort across all government departments. This will be the message of the Marmot commission, and, believe me, the research behind that commission is extremely powerful. Professor Marmot led the worldwide commission on inequalities in health for the WHO. His work is being taken very seriously by countries across the world. We now have our own commission in England, and countries all over the world are doing exactly the same to address these very serious issues.

Finally, socio-economic inequalities affect each and every one of us. Many other kinds of inequality affect different groups of people—disabled people, old people such as myself, or whoever—but socio-economic inequalities affect all of us. The UK is one of the most unequal societies in the western world. As a result of these inequalities, our average life expectancy is below that of countries such as Japan with lesser socio-economic inequalities. We can improve the average life expectancy of our country as a whole if we address these matters, and that is why it seems to me that we cannot have the Bill without Clause 1. Therefore, I hope that between now and Report we can work on this clause to make sure that it does the job that the Marmot commission wants the Bill to do. I believe it is the most important job that the Bill can do.

Lord Graham of Edmonton: My Lords, it is a pleasure to take part in this debate, and I hang my hat on Amendment 2. I start by congratulating the noble Baroness, Lady Warsi, on making a robust attack on the concept. She was able to give us some interesting aspects of where it was deficient and how it could be improved, which is the purpose of the Committee stage.

One thing that occurred to me when I took an interest in the Bill was that one can get very one-track-minded about equality or inequality but, as the noble Baroness, Lady Meacher, pointed out, there are inequalities in many different spheres. We are now talking about economic inequalities. The noble Lord, Lord Tebbit, spoke about where he came from. I know that he came from Ponders End in Enfield. I know the school that he went to—a first-class school on the Great Cambridge Road—and he was a pillar of that community. He may or may not have got on his bike but he certainly set about putting right the inequalities in which he found himself. Was it Norfolk Road—one of the roads off Lincoln Road?

Lord Tebbit: Oxford Road.

Lord Graham of Edmonton: I know the area and, so far as I know, the people there are very proud of the noble Lord.

I received a brief from a body called the Equality Trust, which states:

"More equal societies work better for everyone".

It comes at the issue not from the point of view of sexual equality, differentials, and so on, but from the view that we can have a better society if we find a means of ironing out some of the inequalities. My amendment strengthens the assertion that social and economic inequalities play a large part in the disparate nature of our society. The Minister who will be replying to the debate should look on it as an opportunity to deal with the issues that are not covered, according to the noble Baroness, Lady Warsi, but should also assert those that are.

Members of this House, who have some responsibility for society, cannot hide or run away from the fact that there are enormous inequalities in many ways. I regard the Bill as an opportunity for the Government to bring forward ideas and aspirations—the word of the day. There are aspirations in the Bill, and I would not criticise this or any other Government for aspiring to change without necessarily being able to argue that every aspiration can be turned into an achievement either now or later.

The opportunity of upward mobility is something to which we all aspire. That should be the aim of all countries, but sadly Great Britain lags behind other societies in many ways. Equality is not just about equal pay; it is about a great many other things as well. Economic democracy leads to fairer disparities in business. Gaps may never be wholly eliminated but they can be narrowed with a little help from our friend—an understanding Government. If there is common cause that inequalities that exist should be eliminated, eroded or substantially affected, surely that is a platform that can stretch right across this Chamber and right across government. It is not what you do, but the way that you do it. If there is common ground about the need to eliminate inequalities, we are half way there.

Trends in the past 20 years can and should be reversed. Businesses do not have to be run only for profit at the behest of rich, external shareholders. We come up against the broad division between public and private enterprise but there is a place for both. I was delighted that the noble Lord referred to the Rochdale pioneers of 1844 and how, over that century and beyond, that organisation has given to those who wish to use the tool an opportunity to improve their lot. I know that the noble Lord will be knowledgeable and generally familiar with the Co-operative movement. The London Co-operative Society, or the Enfield Highway Co-operative Society which operated in his area, was there only because the idea and that example existed. It started in Rochdale and spread, and the Co-operative movement has much to be pleased about. It struggled and was the economic enemy of a great many of the great names in this House and outside in trying to do its job. What job is it trying to do? It is trying to say to ordinary people that, in their busy lives

[Lord Graham of Edmonton]
where there are harsh conditions, if you care to combine your facilities and resources, you can improve your lot.

We will never have a completely clear or clean society, but I want to comment on the kind of organisation that the Co-op is pleased to be. Here I declare a non-financial interest as a lifelong supporter of the Co-operative idea. Although in the 1980s and 1990s there was a move to demutualise many businesses and institutions, there are still 63 building societies with 2,000 branches and 38,000 employees. There are still 650 credit unions, 250 friendly societies, 70 mutual insurance companies and 170,000 charities. There is also the Co-operative Bank, which is recognised as one of the finest ethically run and driven organisations.

What are we trying to do? I relied on the brief from the Equality Trust, and it produced some interesting comparisons. For instance, it says that if we could only halve equality in income—only halve it—we would halve the homicide rates, reduce mental illness by two-thirds, halve obesity, imprison 80 per cent fewer people, have 80 per cent fewer teenage births, increase trust of other people, and become significantly more environmentally sustainable. Those are laudable aspirations, but many of them are not capable of being achieved in your Lordships' lifetime or mine.

I hark back to the Rochdale pioneers and their ideas, which they got from Robert Owen. He was a great social reformer in the early part of the 19th century. They would never have expected—and nor should we—to find that all the ills that have been created can be eliminated. However, I congratulate the Government. As has been said, this is an election year and I am sure that the Minister is able to withstand what I call snide remarks about the basis on which the legislation has come forward. It may be years late, but it is about time that we tried to face up to the issue. I hope that the Minister will take heart from the fact that at least if we have the platform rolled out before us in the Bill, Members of this House and interested people all over the place will applaud the fact that an attempt has been made to do so. I congratulate the Minister and the Government on having the courage to take up time now. My amendment is designed to give a cutting edge to this clause and I hope that, without its remotely being able to solve the problem, the Minister will recognise that.

Baroness O'Cathain: Is it possible for the noble Lord to make available in the Library the statistics that he gave us? We certainly do not want to legislate without evidence and we really must have evidence-based facts. I do not know whether those statistics are fact—I have never heard them before—and I would really like to have a look at them.

Lord Graham of Edmonton: As the noble Baroness said, they are breath-taking. I have taken a breath and I will sit down.

Lord Waddington: I should just like to utter a few words of caution. Perhaps the Committee will forgive me if I start on a somewhat light note. Many, many years ago, when I was at university, Lady Astor came up. I am not quite sure whether she came to entertain us or to educate us. She said that she had two sons. She said, "I could put one down in darkest Africa and he would come out leading the natives. I could put the other one down in Piccadilly and he would not be able to find his way home, and we live only just around the corner". That was her view of the likelihood of our ever attaining anything like equality.

It is also apparent from the efforts of the Government in recent years to further their wider equality agenda that such efforts can cause great mischief and unfairness, however great the intentions of the organiser—great mischief and unfairness particularly when the Government's idea of equality turns out, as it has, to be nothing more than institutional intolerance to those with religious convictions. We need to be assured in this context that this encouragement to local authorities to strive for socio-economic equality will not lead to a great deal of trouble and bring very little gain.

There is good reason for uttering those words of caution, because I remind noble Lords that the Solicitor-General in the other place did not claim that Clause 1 would do any good. What in fact she said was that she thought that there was no harm in it. That is what she said in the Commons Equality Bill Committee on 21 September last year at col. 130 of the *Official Report*. She thought that there was not really much to be gained from it, but that it would not do much harm. I beg to differ. Not so long ago, Brighton and Hove Council, not in pursuit of socio-economic equality, but in furtherance of the Government's wider agenda, cut off a grant to a Christian care home because the managers of the home would not comply with its demand that the elderly residents should be asked every three months what their sexual orientation was. If councils are prepared in the name of equality to act in such a lunatic way, what makes the Solicitor-General think that such a council would not try to implement Clause 1?

Baroness Gould of Potternewton: As a resident of Brighton and Hove, I should be extremely grateful if the noble Lord could present me with the date and the evidence of what he has just said. That is terribly important.

Lord Waddington: I do not have that evidence at my fingertips, but I certainly have the evidence and will certainly let the noble Baroness have it.

My fear is that in their efforts to try to make some sense of Clause 1, councillors will no doubt set about discussing what it means. They will set about trying to decide how on earth they can implement the intention of Clause 1. No doubt, they will appoint expert advisers to advise them on that. They will be inviting councils to liaise with them to further the aims of Clause 1 and they might even plan to set up an office in Brussels to make sure that their thoughts are very similar to those of the Commission. We are entitled to know, because we have not yet been told, what on earth councillors are supposed to do in furtherance of Clause 1.

Lord Tebbit: My noble friend could perhaps be a bit more optimistic. Perhaps the council would think that it imposed on it a duty to consider re-establishing

grammar schools. They are a proven way of reducing socio-economic inequalities. It might be a good thing.

Lord Waddington: Certainly, if that was in the Bill, people would know what the Bill meant.

Lord Wedderburn of Charlton: My Lords—

Lord Waddington: I think that I had better reply to my noble friend first. Certainly, if such a clause was in a Bill, everyone would know what it meant, and everyone would know what was expected of the council. The difficulty with the proposal in this Bill is that no one has said what on earth the councils are supposed to do in order to implement Clause 1. Why on earth should we be expected to approve Clause 1 unless we are at least told that as a minimum? I give way to the noble Lord.

Lord Wedderburn of Charlton: I was not intervening. I thought that the noble Lord had concluded. If he has concluded, perhaps I may follow him and his brethren.

Lord Waddington: No, I have not. I am sorry, but I will conclude in only a moment.

At this time of all times, when the Government have piled up massive debts to be repaid by our children and our grandchildren, we really should not be imposing further duties on local authorities and encouraging them to spend more money unless there is a real likelihood of some gain coming from it. I have no evidence before me that any gain will flow from this nonsense. I think that we should be encouraging local authorities to empty dustbins more efficiently rather than trying to implement Clause 1.

Lord Wedderburn of Charlton: It would be a travesty if the ambition of equality of outcome, or, indeed, equality of opportunity, were left in the mouths of spokesmen of the Opposition, whose party has done very little to promote either objective in our society—in particular the noble Lord, Lord Tebbit, who takes as his target and his banner the Rochdale pioneers, which is only one example, but a very important one, of the collective ambition and work of workers in Britain, whose organisations and trade unions he did so much to attack when he was in office. He laughs. He bases his attack on grammar schools, which he says promoted equality of opportunity which enabled him eventually to come to this House. He is not alone in that. My family had scarcely heard of universities before the idea of my being at one took them by surprise. He no doubt is sitting with his brethren who come, as he put it, from Eton. One of them is trying to interrupt me from a sedentary position.

The Earl of Onslow: I must intervene.

Lord Wedderburn of Charlton: I give way briefly.

The Earl of Onslow: I was actually too stupid to go to university, but I was very privileged to go to Eton. Every time I pass Mrs Messenger's cottage, which was sold to send me there, I regret that it had been sold, because I would be quite happy to go to another school.

Lord Wedderburn of Charlton: The noble Earl was no doubt fortunate in his circumstances. But to hear grammar schools defended on the ground that Government should not put into legislation an ambition to improve equality of outcome and equality of opportunity is a quite false attack.

When the noble Lord speaks of grammar schools, he—like those of us who succeeded in them—always speaks of those who succeeded in them. He does not say very much about those he left behind, jettisoned into an inferior channel of education. I remember them because many of them remained my friends. They did not pass the 11-plus. If these clauses suggest that local authorities and other government bodies must keep before them the ambition of comprehensive education for all, with an equality of outcome so far as that is possible in our much-divided society, that would be a very good thing.

It is astonishing that an opposition spokesman can suggest that research has not shown that this society has become more unequal in the past 20 years.

Lord Tebbit: The noble Lord enjoyed going to university; that was denied to me for economic reasons. However, when he attacks my reforms of the trade union movement, I should remind him that his party has now been in office for 12 years without seeking to reverse a single word of the legislation that I took through the House of Commons. I think that answers him completely and totally.

Lord Wedderburn of Charlton: The noble Lord omits to notice that several words in his legislation have been amended, although I stand with those who wish for more amendments and greater strength in the trade union movement. When he suggests that he did not go to university because economic forces prevented it, he needs reminding that it was legislation by a Labour Government that sustained the means for people to go to university, as I did, with a complete grant. That is now denied by legislation brought forward by people sitting on his Benches. They began the fees for education at universities that would not be in accordance with the ambitions of the Bill. There are, no doubt, faults in the wording of these clauses, which we can discuss in Committee. I apologise for not having spoken at Second Reading, but I did not realise that there was going to be another Second Reading debate, but that is what the Opposition have come to. They hold their fire until Committee because it is more use to them for speaking about grammar schools, whose name they traduce in their case against clauses that point public bodies in the direction of equality. To suggest that that has no place in legislation does little to understand the society in which we live.

Baroness Whitaker: I apologise for doing the wrong thing in my haste to respond to the question asked by noble Baroness, Lady O'Cathain. There are two pieces of evidence that this Committee should take seriously. One is the book mentioned by the Equality Trust and to which my noble friend Lord Graham referred. I read it several months ago. It is by Professors Wilkinson and Pickett and is called *The Spirit Level: Why More Equal Societies Almost Always Do Better*. It provides the most compelling evidence about why this clause

[Baroness Whitaker]
would do good for our society. I urge all those who have an interest in this clause to read it. I shall not go into it any more in the interests of time.

The other evidence is the work by Sir Michael Marmot, which was mentioned by the noble Baroness, Lady Meacher. Sir Michael gave evidence to the Select Committee on Health on his work for the WHO. It provided the most compelling evidence about the harmful effect of inequality on health.

The noble Baroness, Lady Warsi, suggests that the Government should pay more attention to equality of opportunity than to equality of outcome because it is equality of opportunity that matters. If she has another look at the clause, the phraseology is designed to reduce the inequalities of outcome that result from socio-economic disadvantage. That is not to focus only on outcome. To provide more equality of opportunity could well be a way to reduce the inequalities of outcome. What on earth is the use of focusing on equality of opportunity if it makes no difference to equality of outcome? It would be an empty gesture.

4.45 pm

Baroness Greengross: My Lords, I ask noble Lords to support Clause 1. I declare an interest as a member of the Equality and Human Rights Commission. Perhaps I may remind Members of the Committee of the duty on,

"strategic public authorities to consider socio-economic disadvantage in the planning and monitoring of the strategic services they provide".

I do not think that there could be a huge number of legal challenges to that. I think that this will be the first time that this has been a duty, and it is an important duty. I go back to what I said at Second Reading, which was very much in agreement with what my noble friend Lady Meacher said. I chair Professor Michael Marmot's advisory group on the English longitudinal study on ageing. Looking across the life course, we see that factors over which no one has any control whatever—such as, where a person is born or grows up, particularly in their early years—can affect the number of years a person lives by between 10 and 17 years. That is a sort of death sentence on some people for reasons over which they have absolutely no control. We are asking public bodies to look at that when they look at priorities in order to improve the lot of people so that they can lead a healthier life, have more control over their life and can flourish, rather than be totally disadvantaged.

We know that if we do not look at young people growing up in such conditions, if they are not in education or employment, they are far more likely to go to prison. Each young person in prison costs between £15,000 and £50,000 a year. If we can stop some of that by reducing some of those inequalities and by prioritising the services that we provide, surely that is good in terms of opportunity and outcome for society as a whole.

The Earl of Onslow: My Lords, perhaps I may add a small amount to this debate. It is worth pointing out that historically this is a country where social mobility has been extremely common. One only has to look around this House to see that it is full of people who deserve their place, who have come from a humble background—not the privileged and historical background that I came from—for which we should be immensely grateful.

My difficulty with the clause as written is that basically it says that policy should be made a legislative aim and, consequently, subject to judicial review. I do not think that anyone would expect any local authority, parish council or Government, including this House, to legislate without the desire that it should be for the benefit of every one of Her Majesty's loyal subjects equally and before the law. That is why this country is, and historically has been, so magic. It has not been like countries on the continent.

In using "outcome" as opposed to "opportunity", we are in danger of making something which should be a policy doctrine into something which becomes legally challenging. I do not think that any of us would want to do anything other than what the clause says we should do. But we do not want to give even more enormous sums of money, at 900 guineas an hour plus VAT, to my learned friends to challenge local authorities. That is where I find that this is the wrong way to proceed. Equality of opportunity and equality of outcome are important, but to legislate for it is a silly way to behave.

We all want equal opportunity for everyone, and we all know of the opportunities that have been seized by people who have come from the poorest and most underprivileged backgrounds to achieve great heights of social, economic and intellectual success. This has been aided by the fact that since the war, for want of a better phrase, the middle-class base has expanded enormously, so people have been able to join it. Thank goodness for that. I know also that there is a grandson of a marquis who is now a woodsman, so there is downward social mobility. Downward social mobility is a correlation to upward social mobility, and we have to be able to accept them both. Let us please continue the great virtue of this country, which is that for hundreds of years it has been a land of opportunity and a place where people can rise according to their ability. Let us not try legislating, and therefore giving more money to our learned friends that will enable them to take their holidays in the Dordogne.

The Lord Bishop of Chester: My Lords, I think it was President Coolidge of the United States who attended church one Sunday and, when he went home for lunch, was asked by his wife what the preacher had preached about. The President said that he had preached about sin. "What did he say?" asked his wife. "He was against it", the President said. An awful lot unites us in what we are saying today, and indeed there is something in what everyone has said that I can agree with. Perhaps that is a good Anglican position to adopt on the subject; I am not sure.

I shall start with the noble Lord, Lord Tebbit. I think I could just about compete with him for humble origins, coming from a council estate in Birmingham. The grammar school system gave me an opportunity. But I would not want to go back to it for the very reasons outlined by the noble Lord, Lord Wedderburn, about the way the secondary modern system worked

then. Indeed, it is one of the tragedies that the comprehensive ideal has not been made to work better in our society. I go into schools a lot, and shall be in one first thing tomorrow morning, which is probably why I will not be able to move my amendment later this evening. However, an awful lot of good work is going on in schools precisely to put into effect what this clause seeks to do.

I also agree with the noble Lord about the importance of opportunity and freedom. I am one of those who is grateful for the reforms his Government brought in with the noble Baroness, Lady Thatcher, 30-odd years ago. I have always supported the basic thrust of those reforms. But the problem about releasing opportunity and having a society which emphasises opportunity is that, if unchecked, it leads to exaggerated outcomes of success and failure, wealth and poverty. That has, in many ways, been the defining feature of our society for the past 30 years. We have become more American in that sense and are now almost beginning to ape the underclass that has dogged America over the years, alongside the "land of opportunity".

That is relevant to the clause—I agree with the noble Lord that it is unclear and could be misused—in that, in a society that properly gives a place to freedom of opportunity and allows wealth and poverty to develop as they inevitably will, it is a key duty of government to smooth that out in any way it can. A key task of local and central government is to try to take a view that, as it were, smoothes outcomes as far as possible while encouraging equality of opportunity for everyone. If I had drafted this clause, it would provide for equalities of both outcome and opportunity, as one or two noble Lords indicated earlier.

I agree with the noble Earl, Lord Onslow, that to think that all this can be achieved by passing a law is complete nonsense. The law has a limited role, but perhaps it has one in which it simply gives a programmatic undergirding to the whole range of government policy. In that sense, this clause at the beginning of the Bill is a noble aspiration.

Lord Lester of Herne Hill: My Lords, after 10 speeches I do not propose to add to the autobiographical material that has been provided by so many speakers, because I do not think it would help the House to know how bad were the state schools that I went to until the age of 11. What I would like to do is begin with my own cautionary tale.

At Second Reading I spoke critically of Part 1, as did, for example, the noble Baroness, Lady Young of Hornsey, and the noble Lord, Lord Warner. During my holiday in west Cork, I found myself among close, left-wing Irish friends and told them about the problem with Part 1. They beat me up and said, "It is completely deplorable that you should be in any way critical of this admirable provision. Do you not understand?", and they then said everything that has now been so eloquently said, especially on the Labour side of the debate. They said, "Do you not realise how important it is to tackle socio-economic inequality?". I said, "Yes, I do, but why do you think it matters so much?". They said, "Well, it is aspirational, true, but it really makes a difference to policy". So I said, in that annoying way that learned friends may sometimes have, "What about Article 45 of the Irish Constitution then?". They said, "Our constitution has no socio-economic rights in it, does it?". I said, "Yes, it does, it has one of the most elaborate sets of socio-economic rights. It then says that they are not to be justiciable. Surely you, Mary Robinson's biographer, and you, the editor of a radical left-wing social policy thing, know that and surely it is important to you". They said, "You are completely wrong. There is nothing in our constitution that guarantees socio-economic rights".

On this occasion I was right and they were wrong. The point about my cautionary tale is that if that is in the written constitution of the Irish Republic, and if two really able left-wing social engineers and reformers do not even know that or the value it would have in their work, it surely must give us pause when we make exaggerated claims for what is in Part 1.

Part 1 is certainly not intended to be legally enforceable—it creates no proper enforceable duty—and it is not intended to be funded in any way. The guide which the Government Equalities Office has given us says on page 15:

> "The duty will not require public bodies to spend additional resources; nor will they necessarily need to rethink existing projects or programmes, and develop new ones, although they may choose to do that in some cases".

Lord Tebbit: I lack the noble Lord's legal expertise but subsection (2) states:

> "In deciding how to fulfil a duty to which is it is subject under subsection (1), an authority must take into account any guidance issued by a Minister of the Crown",

so there seems to be the possibility of a judicial review if it did not.

Lord Lester of Herne Hill: I would not give anyone any encouragement to think that that duty could possibly give rise to a successful judicial review. Whether we are talking about the guidance or what is in the Bill already, it is so vague as to be completely unenforceable. That is not a criticism of it; it is simply my own view of the position.

In Part 1 there are no new resources and nothing to create enforceable obligations.

The Earl of Onslow: I know the noble Lord knows that I have great respect for him, but if it is not justiciable and is not legally binding, what on earth is the point of putting it in the Bill other than pure waffle?

Lord Lester of Herne Hill: I am not a Minister of the Crown. I am sure the Leader of the House will be able to answer that question. All I am doing at the moment is attempting to explain why all reasonable people apparently share the objective of reducing socio-economic disadvantage. Even the noble Lord, Lord Tebbit, has that aim, although for some reason he describes the Bill as pernicious and anti-libertarian. If he thinks that, I would like to know exactly what it is about it—other than that it is unenforceable—that is anti-libertarian. However, my point is that here we have in Part 1 an admirable, aspirational statement of values with which I and most people in the Committee entirely agree. No new money will be spent on it and it will not be legally enforceable—which in straitened economic times may not be surprising.

[Lord Lester of Herne Hill]

I was very harsh about Part 1 at Second Reading. I have discussed it not only with my Irish friends but with other colleagues, and we have decided that the right course for us to take is not to remove it from the Bill but to hope that the Government can in some fashion make it mean something in practice. While we agree with many of the criticisms made on the Conservative side about the unenforceability and aspirational nature of the statement, we would not support the Conservative Party in the Lobby if it divided the Committee.

5 pm

Lord Morris of Handsworth: My Lords, I shall refrain from entering the debate about good schools and bad schools. Mine was at night, and you cannot compete with that. My long-held concern about this clause is well known. It suffers in three respects. First, I suspect that it was grossly oversold at the start. Secondly, it is still misunderstood—I am grateful to the noble Lord, Lord Lester, for putting the Bill in context and giving a clearer and more direct perspective. Thirdly, it suffers from a lack of enforceability.

Early in the Bill's life, when it was being debated in another place, it was promoted as a revolutionary tool that would eliminate discrimination, promote opportunity and ensure that all those who suffered economic inequality got on to the road of prosperity, making a difference to their lives. It would be the tool that would change the face of Britain in many ways.

I have no difficulty with any tool that makes our society fairer, more just and more representative of its various cultures. The reality as I see it, and as has emerged from our debate, is that the clause represents an aspiration and should be promoted as a tool that will influence the behaviour of decision-makers and those charged with the responsibility to deliver public services and the framework of the society in which we live. The difficulty is in trying to explain that in Brixton or Handsworth, given the build-up that the Bill received as it started its journey.

There are also issues around enforcement. One has to ask what the purpose is of a prime duty, the backbone of the new legislation, if there is no clear mechanism for enforcing it. That issue has still to be resolved, because of the earlier promotion that the Bill received in terms of the change that it would bring about. The limitation as I see it is non-enforceability. It is difficult to go into the areas that are socially deprived and say that you have a new tool that will eliminate discrimination and correct behaviour but that it is not enforceable. That is the downside to the clause. The questions that will be asked are, "How will it change my life?" and "What are the sanctions for those public authorities that fail to deliver their socio-economic public duty?". People will also ask what remedies are available and how compliance can be ensured in a meaningful way. If we are merely adding to bureaucracy, filling in another piece of paper annually or tri-annually, it will not take us much further forward in creating the sort of society that we all wish to build and be part of.

The clause should be promoted for what it is—a set of expectations, but also a set of aspirations, which should be part of a responsibility that we all have, because we all make decisions that have an impact on the lives of people and communities. I hope that as we develop this debate in Committee we will tell it as it is and not try to oversell the product, because at the end of the day we will create expectations that we cannot fulfil and leave people feeling disillusioned and let down and losing faith in the system. We cannot afford to take such a risk at this stage in the development of a society that is fair and just and which treats people on the basis of their opportunities and their own efforts.

Lord Stevenson of Coddenham: My Lords, I apologise for not participating in the Second Reading debate. I intended to do so, but I got a more important invitation from grandchildren, so I did not. I shall not make the observations that I would have made then, but I want to make a few brief comments on the debate so far. First, somewhat frivolously, in response to the point made by the noble Earl, Lord Onslow, I think that I may know the woodman. Do not accept for a moment that he was downwardly socially mobile, moving from a marquis to a woodman in three generations—nor in general.

Secondly, reference was made by two speakers to the book *The Spirit Level*. I strongly support the recommendation that we all read that book. I have read it twice from cover to cover; it is arguably one of the most important books written in recent times. I will not go into the detail, but I have a two-page summary if anyone is interested in having it. However, with the greatest respect to the two speakers who mentioned it, I do not see how it argues for Clause 1. It argues that the more unequal a society, the more lousy it is to be at the bottom of the heap, obviously enough, but—more surprisingly—the more lousy it is to be at the top of the heap. I think that I am right in saying that the Leader of the Opposition referred to the book in a recent speech, which I was glad to see. However, for this discussion and this Committee, I have a question, shared by many people, on the effect of Clause 1, because I am not sure how the socio-economic thing helps that cause. That is what I hope to hear from the Government.

The other observation that I wanted to make is that I am passionate about equality of opportunity. I do not come from the humble origins of the noble Lord, Lord Tebbit, but I am only slightly above him. I would not be where I am without some equality of opportunity and I am passionate about it. I am less passionate, but still passionate, about equalities of outcomes, but why cannot we have both, if it is the right thing to have in the Bill?

Lord McIntosh of Haringey: My Lords, if Michael Young—Lord Young of Dartington—were here now he would be holding his head in his hands, but I do not know whether that would be in laughter or in despair. Michael Young wrote *The Rise of the Meritocracy*, one of the most misunderstood and yet important books on this subject. The lesson of that book is that, yes, you can move toward greater equality of opportunity and remove the clearly unjust, inefficient and discriminatory measures that prevent people like the noble Lord, Lord Tebbit—and the noble Lord, Lord

Stevenson, if he wishes to be on that side—from fulfilling their natural abilities and contributing to society as they want to, yet if you have equality of opportunity and only that, without a care for equality of outcome, you will create that kind of society that Wilkinson and Pickett identify as being grossly inadequate.

Lord Tebbit: If we are to have equality of outcome, can the noble Lord tell me what the point is of equality of opportunity? Let us just all sit back and let it happen, if it will not make any difference to us.

Lord McIntosh of Haringey: The noble Lord, Lord Tebbit, ought to hear me out and think about not just what Michael Young wrote but the misinterpretations that there have been of what he said—he was one of the great thinkers of the 20th century. The point is that if equality of opportunity works, you will have a society in which the hewers of wood and the drawers of water will be deprived of the opportunities of those at the top of the heap, as the noble Lord, Lord Stevenson, says, not because the society is unfair but because they are not capable of doing anything else.

Now, the things that Michael Young said about society, equality of opportunity and the meritocracy have not come to pass. They have not done so for a very good reason: the immigration to this country, which has always been a source of rejuvenation in all socio-economic classes. Michael recognised that towards the end of his life, but he could not have recognised it when he wrote *The Rise of the Meritocracy*.

The point about this—and I think that this is the answer to the noble Lord, Lord Tebbit—is that unless you have a continued drive towards what is perhaps the unattainable object of equality of outcome, equality of opportunity will prove to be divisive and will result in an unjust society. It is not that equality of opportunity by itself is wrong but that it is incomplete. The equality of outcome that this clause calls for is the natural corollary of the equality of opportunity for which a number of noble Lords have spoken this afternoon.

5.15 pm

Lord Mackay of Clashfern: My Lords, I shall say a word or two about the drafting of the clause and what it really seems to be aiming at. I do that by starting from Amendment 2, proposed by the noble Lord, Lord Graham of Edmonton. The Committee may notice that his proposal is that the authority in question should "exercise its functions" by paying,

"particular regard to ensuring greater equality of income as a means to promote well-being and sustainability".

In other words, his amendment is directed towards removing the socio-economic disadvantage. That is its fundamental purpose. It is one of the only ways in which socio-economic disadvantage can be dealt with: the amount of money available to people should be more equal than it is.

The clause, as drafted, does not attempt to deal with socio-economic disadvantage; it tends to deal with the consequences. In other words, it seems to accept the existence of socio-economic disadvantage and then try to deal with the outcomes that flow from it. That is what it says—not socio-economic disadvantage itself, but the outcomes that result from it. No one can doubt that there are disadvantages that result from socio-economic situations. The noble Baroness, Lady Meacher, referred to some of these, as did the noble Baroness, Lady Whitaker—for example, and perhaps particularly, in the area of health.

A clause that deals only with outcomes resulting from a situation seems hardly adequate to address the problem. If there is socio-economic disadvantage, there is, almost inevitably, an outcome from that. That is what the research seems to show. Therefore, if this policy is to be useful, it would need to deal with the socio-economic disadvantage itself. The amendment tabled by the noble Lord, Lord Graham of Edmonton, goes directly to that. Is that what the clause should be talking about, or should it be talking about something different? The existence of socio-economic disadvantage and its consequences is something that I, personally, would like to see eliminated as far as possible. I am sure that this is true generally. The question of how you achieve that is another matter. All I am doing is drawing attention to the fact that the clause, as drafted, seems to deal only with the consequences of something that is accepted as being in existence.

The amendment that has been proposed—to insert "opportunity" instead of "outcome"—is, I think, intended to be directed to the removal of socio-economic disadvantage, rather than accepting that it happens and trying to deal with its consequences. I agree with the noble Lord, Lord Lester of Herne Hill, that this clause could certainly benefit from a degree of adjustment and a degree of clarity about what exactly we are seeking to achieve, possibly by means of examples. The noble Lord, Lord Graham of Edmonton, has done us a great service by raising a particular example. Do we mean that to happen under this clause? Do we mean that Treasury Ministers, in deciding on salaries in the Civil Service or the Government, should aim at getting all salaries to be much the same? That is one way to get rid of the socio-economic disadvantage of the Parliamentary Secretary, as against the Secretary of State. I am not sure whether government policy would necessarily go that far. This is the problem that the clause raises and it is important that the clause should be as precise as possible.

I also very much agree with the noble Lord, Lord Morris, that if you want to raise expectations, you have to have something that will justify that raising of expectations and can be seen to work. At the moment I find it difficult to see how, with the best will in the world, this measure will work. Apart from anything else, it talks about strategic decisions. I would prefer to cut that out and talk about all decisions. I do not think that "strategic" adds anything. Indeed, I remember that when I was Lord Chancellor I wrote a letter to the Lords Lieutenant that included the adjective "strategic". I got a letter back from a Lord Lieutenant, I think in Wales, saying that he would be glad if, in future correspondence, I would omit "strategic" because it did not mean anything anyway. I pass that advice to the Government.

Clause 3 talks about enforceability and uses a curious phrase. It states:

"A failure in respect of a performance of a duty under section 1 does not confer a cause of action at private law".

[Lord Mackay of Clashfern]
What exactly is intended to be excluded by that I am not certain, because I think that, if this were a duty at all, it would probably be a public law duty. However, the object of that clause seems to be to prevent the learned friends of my noble friend Lord Tebbit from getting a paid holiday. Whatever the reason, it seems to me to require clarity, because unless the clause contains enforcement procedures, it will not justify the expectations that were raised of it at the outset. What the noble Lord, Lord McIntosh, said about outcome and opportunity and the work of the late Lord Young of Dartington falls to be taken into account in this connection, because I rather think that, in seeking to eliminate the socio-economic disadvantage, you need freedom of opportunity and freedom of outcome.

Lord Lester of Herne Hill: I wonder whether the noble and learned Lord agrees with me that not only does Part 1 create no enforceable private right or a right not to be discriminated against on the grounds of wealth or social class, but that the public duty can be satisfied by any public authority simply by showing that it has due regard to the desirability of, and takes account of, guidance. In other words, is not this a duty writ in water that cannot be enforceable unless the local authority takes leave of its senses and simply disregards the duty altogether?

Lord Mackay of Clashfern: My view, for what it is worth, is that, as presently drafted, it would be very difficult indeed to make this an operative sanction in a particular case unless it were ignored altogether. I wonder whether that is desirable. I am not sure what Clause 3 is intended to get at, because some people think that a private enforcement of a public law duty is some kind of private law, whereas others take a different view. That is why lawyers spend so much time arguing one way or the other. It is very important that whatever is being addressed is clear. As far as I am concerned, this is not at all clear at present.

Baroness Howe of Idlicote: This has been an absolutely fascinating discussion. Listening to people's histories, I have ranged between fury and misunderstanding. Having listened to this legal interchange, the question now is whether the clause stays in or comes out. That surely must be for the Government to decide.

I am increasingly of the view that some change is needed. Yes, it should be aspirational—I think we all agree with that—but I am also attracted by what the noble Lord, Lord McIntosh, said, because the drive towards equality of outcome must be at the back of all our minds. That is what we want to achieve. We know, for example, that you have only to consider the millions of times that we have debated the many Bills about prison and prison reform that have gone through your Lordships' House to understand how many of those in prison have been economically disadvantaged to an appalling extent and that we have failed entirely to deal with their problems at an early stage.

It is important that at this stage, not least when the economic situation is so appalling, to encourage all public authorities to do their duty by not cutting back on the things that they have already planned and ensuring that a proper proportion of resources goes towards this vital area of achieving equality of opportunity in one way or another.

I am delighted that the noble Lord, Lord Lester, appears slightly to have changed his mind. His initial response was most off-putting, because I had thought that the clause was clear—it was aspirational and it was encouraging that those who command so much of our public spending had moved in the right direction. I have always had the greatest respect for the noble Lord throughout all our debates on anything to do with equality, equality of opportunity between men and women, and in all other areas. I hope—please—that the Government will look again at whether there can be changes. On the whole, I want to keep this clause, but it should make more sense.

Lord Borrie: My Lords, I was sorry to hear the noble Lord, Lord Lester of Herne Hill, suggest that the clause was "writ in water" if it was not legally enforceable by some individual. It followed, I suppose, my noble friend Lord Morris of Handsworth, who said that he was disappointed that there was a lack of legal enforceability in this clause. Of course, they are absolutely right, but that is by no means unprecedented. It has been a common situation and the clause, if it is useful, should not be removed simply because it is not enforceable by an individual in a court of law.

In the several parts of Clause 1, a number of institutions are mentioned, particularly local authorities, which are democratically responsible through councillors to the general public. The local press will or may be interested on behalf of the public in whether a local authority that is listed follows the instructions of Parliament—I call them instructions deliberately to be strong about this matter—that may not be legally enforceable by individual court actions but are intended to mean something. Doubts have been expressed as to the precise meaning of this clause with reference to socio-economic inequalities. There have been interesting aspects to the debate on that issue. However, the clause is completely supported by precedent.

I recall that, years ago when various industries were taken into public ownership, Clause 1 would invariably say something like this—I will quote from the Bill establishing the Central Electricity Generating Board:

> "The CEGB's principal duty is to develop and maintain an efficient, co-ordinated and economical supply of electricity".

Almost all these Acts had a clause of that kind, which was meant to be an aspiration and a target, not something that was legally enforceable by criminal or civil action. The clause was sometimes referred to by lawyers—it is not a bad phrase just because it comes from a lawyer—as "a duty of imperfect obligation". It indicates to the bodies themselves—in this case they are listed in the clause—and to the people to whom they are responsible, that the clause means something.

5.30 pm

Lord Lester of Herne Hill: Does the noble Lord agree that the problem is that, unlike in those other statutes, the target duty here is so vague that it can be satisfied by box ticking? It is not so much that an individual would be unable to enforce it but that a

judicial review would have nothing to latch on to. Therefore, this is entirely aspirational. It is none the worse for that, but we are not talking about a legally enforceable duty, unless a public authority took leave of its senses.

Lord Borrie: I agree that it is not legally enforceable, in either civil or criminal law, and I am sure that the noble Lord's advice would be that any attempt at judicial review would not work.

Baroness Kennedy of The Shaws: My Lords, I spoke about this aspect of the Bill at Second Reading. I conceded then—as other lawyers have done today—the difficulty of enforceability. However, sometimes the purpose of legislation is more than the ability to take something to court. Sometimes it can contain statements of ambition that express our values. That is why I said that this was vital and expressed disappointment that the noble Lord, Lord Lester—a great and good friend, who, as the noble Baroness, Lady Howe, said, has been a great inspiration as a lawyer speaking on equality over all these years—would, along with others on the Liberal Democrat Benches, vote against this. That was what was said at the time. I am glad that a shift has taken place, perhaps as a result of holidays in Ireland. I am glad that the Irish have had this impact, because we are talking about having in legislation a statement of what we want the good society to be like. That is why I am happy to hear that the Liberal Democrat Benches will not oppose this, because it isolates the Conservative Benches. I say to the Conservatives: do you really want to be isolated on this issue, which is a statement about the kind of society that we want to live in and that, in particular, we want to see our children living in? That is what this is about.

Lord Ouseley: My Lords, it is more than 100 minutes since the noble Baroness, Lady Warsi, invited the Minister to explain what the clause is about, what it will lead to and how it will work, as opposed to what it is not about. We heard of the many things that it is not about. We also heard that it will not do much harm. If it will not do much harm, what good will it do? That is what we want to know—how it will work and how the public authorities will address the wonderful aspiration that no one would disagree with and that we all share.

I will leave aside the consequences of non-enforcement, which are important. However, as the noble Lord, Lord Lester, will be aware, it is more than 30 years since the phrase "race equality" appeared as an exhortation in Section 71 of the Race Relations Act 1976. In many ways, that section is phrased like this clause. It took a long time to determine exactly what it meant. Today, in 2010, many local authorities make "appropriate arrangements" by saying, in effect, "We have considered this and our appropriate arrangements are to do little or nothing because that is what we consider to be appropriate". It is quite right that we should consider what this means for us. We all want a society in which we are working towards reducing and, if possible, eliminating inequalities, whatever they are. One cannot dismiss the fact that looking at outcomes is important.

Many speakers today have said that this is a land full of opportunity. Regardless of whether it is full of opportunity or has considerable opportunity, and whether that is for all, no one can deny that opportunity is there. Many opportunities have been placed before many people, but there is still a huge and widening gap between those who have and those who have not—those who are rich and those who are not. That reflects the failure of government to deal with the issue of socio-economic disadvantage over the past 12 years. Now they have stuck this in the Bill without the explanations that we need of what it means, how it will work and how we will get the result.

It is fine to talk about outcomes—I have no problem with that—but we cannot get to outcomes without opportunities. Here I am reflecting what other people have said: the two must go hand in hand. We can have the aspirations that we have and we can create more opportunities as we need to, but we must address outcomes as well and we must be able to measure those outcomes. The way that we get there is the process that we go through and that process is about the values in our society, the principles and the people who make the daily decisions and how they do that.

My experience of being involved in organisations where decisions are made every day that impact on people's lives is that when people do not apply the principles and values that are linked to the aspirations, decisions are made when the opportunities are there but the outcomes remain the same. That is why it is important that we hear from the Minister about what the clause means and how it will work. That will determine where I stand in supporting either the clause or the amendment. I acknowledge, accept and support exhortation built on aspiration—it is something that I want to see in the Bill. However, it is purposeless without a clear explanation of what it means and how it will work and make a difference. If it will do no harm and make no difference, it is not worthy of inclusion and is, as the noble Lord, Lord Lester, says, something written in water.

Lord Elton: When the noble Baroness comes to answer, will she give great weight to the question asked by my noble and learned friend? I will rephrase it and ask: why have the Government decided to tackle the symptoms and not the disease?

Baroness Northover: My Lords, I did not intend to intervene, given the length of time that we have spent discussing this. However, I will make the point that this extremely important Bill is about the ways in which socio-economic disadvantage affects different groups in different ways. There are many detailed policies in the Bill. Therefore, after the noble Baroness has summed up, we should move on to consider all the detailed policies that my noble friend Lord Lester has done so much, over so many years, to champion. I hope that we will move speedily through, so that the Bill will come into effect and make a difference to all the groups of people who are addressed by the overarching aspiration about socio-economic disadvantage. That is what the Bill is all about.

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): This has been an extraordinary discussion and a very good one. It is clear that most

[Baroness Royall of Blaisdon]

of us agree that there is a problem to be addressed. We are against sin and we are against socio-economic disadvantage.

The clause in question is of great value. This is not about window dressing or vacuous promises. It is about strategic decisions. I take issue with the noble and learned Lord about that, because I think that important things need to be decided strategically by local authorities and other authorities to which the Bill applies. Strategic decisions are of importance here and those strategic decisions will ultimately change people's lives, thus benefiting individuals, their families and their communities. It is about strategic decision-making that will lead to practical impacts on the lives of those individuals. My noble friend Lady Gould is right to say that it is not a panacea but a material step forward.

Of course, I recognise that this clause does not go as far as my noble friend Lord Morris of Handsworth would want. It is not a revolutionary tool—I accept that. We should not oversell the clause but nor should we lose sight of its importance. It is, as my noble friend Lady Kennedy of The Shaws said, about values and the good society towards which we are all striving. Will it simply result in another box-ticking exercise or yet another action plan? No, it will not. Currently there is no legal requirement for the public sector to address entrenched poverty and disadvantage. We are confident that this duty will change behaviours, as it will force all the relevant public authorities to think about this issue and to try to tailor their policies to improve the life chances of the most disadvantaged.

Is this clause, which we have heard much talk about, writ in water? I am very grateful to my noble friend Lord Borrie for giving his views and for his statement about the duty of imperfect obligation. We believe that this duty will have a significant effect on the way in which public services are planned and delivered. We are working with the Audit Commission and the other public sector inspectorates to develop suitable monitoring mechanisms for the duty, utilising data that in many cases they already collect. The public will hold these bodies to account through the ballot box and through third sector groups, such as residents' groups and so on. Ultimately, of course, judicial review is available to challenge decisions.

The noble Baroness, Lady Warsi, asked for specific examples of how this new duty will have an impact—that is, how it will affect the way in which public authorities act. The first example that I would cite—it is one with which I am sure the right honourable Leader of the Opposition, Mr Cameron, would agree—relates to healthcare. Health authorities might allocate additional funding to areas with the worst health opportunities and outcomes. Mr Cameron mentioned that on Monday. It is precisely what this duty is there to address.

Various examples are cited in the guide published on Friday. I apologise to noble Lords that it was published rather late, but I am pleased that it was made available before the Committee stage. There are interesting examples in the guide and I shall cite just one, which is about people getting to hospital:

"The Braunstone Bus and the Wythenshawe Local Link are examples of services which address social inclusion in deprived neighbourhoods. Both enable trips to local hospitals which would otherwise be costly and time consuming. Forty-two per cent of those surveyed on the Braunstone Bus and 23 percent of those using the Wythenshawe Local Link said they would not be able to access healthcare without the bus".

Perhaps that should be a matter of best practice throughout the country, but the fact is that it is not best practice and therefore people have to be encouraged to act in a different way. That is precisely what this new duty is all about.

I hope that noble Lords will forgive me as I look through my papers—I have made so many notes to myself.

5.45 pm

The noble Baroness, Lady Warsi, also asked what the duty is about. I draw noble Lords' attention to a very useful summary on page 19 of the guide:

"The duty is about public bodies: focusing on key strategic decisions; drawing on the available evidence, and being able to demonstrate this has been taken into account; considering how they can better target their policies and resources to help those who are most disadvantaged; balancing the desirability of that aim against other objectives; working closely with their key partners to deliver change where possible; working within existing resource allocations and budgets"—

that is a very important point—

"and working within existing planning, decisions-making, and reporting processes".

This is not about new money; it is about making better use of the resources that are already available. The summary continues:

"The duty is not about: creating a new equalities strand or protected characteristic; creating new justiciable rights for individuals; addressing discrimination against individuals on account of socio-economic factors; superseding all other strategic priorities; creating burdensome new monitoring or reporting processes; directly affecting or determining operational decisions or everyday decisions; or requiring public bodies to use their resources to remove unequal outcomes in every case where they are identified".

This is about public bodies working with their key partners to deliver change. It is about drawing on the available evidence and focusing on key strategic decisions, considering how better to target policies and resources to help those who are most disadvantaged. It is also about better, more effective spending, not about more spending.

Some noble Lords—the noble Lord, Lord Waddington, for example—have not had an opportunity to read the guide, which would answer many of the questions that have been asked. The guide explains in detail what we mean by socio-economic disadvantage, inequalities of outcome and decisions of a strategic nature and so on. It outlines the core principles that the public bodies will need to follow to demonstrate that they have given due regard to this issue when taking their strategic decisions.

Before I address the amendments, perhaps I may go back a little to the raison d'être for this clause. Research shows that socio-economic disadvantage has a huge detrimental impact on people's life chances from early childhood through to later life. I am grateful to the noble Baronesses, Lady Meacher and Lady Greengross, for their references to the Marmot commission, which provides a very strong evidence base. I am also grateful to my noble friends Lord Graham of Edmonton and Lady Whitaker for their further evidence and for the views expressed by my noble friend Lord McIntosh.

We believe that it is vital that public authorities prioritise tackling the persistent inequalities associated with entrenched poverty and disadvantage. We have been doing this over the past 12 years but there is much more to be done. Many parts of the public sector do this to some extent, but the new duty will not cut across existing arrangements. On the contrary, it will support those arrangements, promote and increase good practice and put that work on a statutory footing. The measure is necessary—

Lord Tebbit: The noble Baroness has just said that this is what the Government have been doing for the past 12 years. Let us accept that that is so. In that case, why has it all got worse? Why is there now less social mobility than there was 12 years ago?

Baroness Royall of Blaisdon: My Lords, I fundamentally disagree with the noble Lord. I think that many things in our society—many societal problems—have improved under this Government.

Without this duty, we will never fully tackle the underlying causes of many of the inequalities addressed elsewhere in the Bill. It is true that for each of the equality strands, unique factors need to be addressed to secure the rights of people in those categories and to promote their well-being. However, inequality does not come only from age, gender, disability, sexual orientation or race. At the root of many of those singular inequalities is a much broader one—persistent poverty, or what we refer to as socio-economic disadvantage. To examine the roots and causes of those inequalities, the Government set up the National Equality Panel in 2008, chaired by Professor John Hills. The panel has examined how factors such as who you are, your family background and where you live shape outcomes on how much you earn and how long you live. It also examined how those disadvantages link to the discrimination and disadvantages faced by particular groups, such as ethnic minorities and women.

One clear theme that has emerged from the work of the panel is how socio-economic disadvantage in childhood translates into lifelong disadvantage. Children from poorer backgrounds are less well prepared when they start school; they do less well at school; they then go into poorer jobs and the gap between them and their better off peers continues to widen during their lives; and so the cycle continues. It is that cycle of disadvantage that the socio-economic duty can help address. When the NEP reports at the end of January, I am confident that it will provide a robust analysis and the evidence base for further action.

The duty will ensure that we go beyond simply tackling discrimination against particular groups. It will ensure that key public bodies take a proactive, strategic approach to addressing the underlying socio-economic factors. That is why many third-sector organisations that campaign on single group issues, such as the Runnymede Trust, Race on the Agenda and the Child Poverty Action Group, support this duty. Many organisations that have day-to-day contact with the people who would benefit from this duty support these clauses. The organisation 11 Million, led by the Children's Commissioner for England, Professor Sir Albert Aynsley-Green, supports the Bill and has said that it could helpfully focus attention on the structural causes or aggravators of socio-economic inequality, and on the capacity of central and local government and service providers to alleviate and prevent them. Oxfam supports it. Equanomics UK, which campaigns on race equality issues, welcomed it, noting that it signalled an attempt to reach the root causes of inequality. Social mobility is derailed without economic mobility, and diversity cannot be valued until people recognise the value and economic contribution of BME and poor communities.

Lord Elton: The body that the Minister was quoting said that the Bill would lead organisations to tackle the root causes of socio-economic inequality, but that is exactly what it does not do. It says that they will tackle the results of this. My question, prompted by my noble and learned friend, was why does the Bill not go straight to the problem of socio-economic disadvantage, and then all the rest will fall away?

Baroness Royall of Blaisdon: I was not ignoring the noble Lord's question, which I shall come to shortly. We believe that it is important to address both the issues, which is precisely what we are doing, but in different ways.

The CAB welcomed this clause as an effective tool to ensure that public services and policy-makers have an overriding objective to tackle the systematic problem of socio-economic disadvantage. Citizens advice bureaux are at the front line of dealing with the effects of unfairness and inequality.

As the noble Baroness, Lady Warsi, might put it, we have addressed the rot in the past 12 years and we have been treating both the symptoms and the diseases in that time. The Government can be proud of their track record on reducing inequality. I could cite many things, including the national minimum wage, which has helped around 1 million low-paid employees; 900,000 pensioners and 500,000 children have been lifted out of poverty, and we have put in place measures to help another 500,000 children escape it. We have increased spending on early learning and childcare to more than £5 billion and we have opened more than 3,000 Sure Start centres, many in deprived areas. We have taken many very significant and effective initiatives, but we recognise that there is more to be done and the socio-economic duty is one way of addressing some of these issues.

Amendment 1 raises issues concerning the policy intent of public sector duty regarding socio-economic inequalities. It would subtly change the focus of duty from reducing the inequalities of outcome to reducing inequalities of opportunity. I have some sympathy with the objective behind the amendment but it is unnecessary. The right reverend Prelate is right when he says that the clause is about both outcomes and opportunities. The point is that inequalities of outcome in terms of wealth, health, housing and so on are directly measurable, whereas measuring the underlying disadvantage in a way that is useful to the public bodies implementing the duty is difficult. Hence we are focused on the outcome. On Second Reading, the noble Baroness, Lady Warsi, said that we must ensure that the Bill brings real outcomes. We believe that this clause will do that.

[Baroness Royall of Blaisdon]

We are very much committed to promoting equality of opportunity. Indeed, we use that term elsewhere in the Bill. There is obviously a clear link between opportunities and outcomes. Put simply, more equal opportunities promote more equal outcomes as people take advantage of those opportunities. More equal outcomes are good evidence for genuinely equal opportunities, but we need them to be genuine and achievable. It is not enough to say that anyone can apply to a top university or for a top job in one of the professions to promote social mobility. We need to make the chances of success, and the aspirations necessary to achieve them, real for everyone. In short, we need a more level playing field. That is what the duty is designed to do—to influence the big strategic decisions that key public bodies make, which influence people's lives. To do that, and to measure their success in achieving that, they will need to focus on tangible, measurable outcomes. That is why Clause 1 focuses on outcomes rather than opportunities.

Amendment 2 would require the relevant public bodies, when making decisions of a strategic nature, to give particular weight to the question of how their decisions could help reduce income gaps between the rich and the poor with the aim of promoting well-being and sustainability. Once again, of course I have some sympathy with the amendment. A number of noble Lords referred on Second Reading to the work of the Equality Trust, which was summarised in a book, *The Spirit Level*, much quoted in this Chamber. The gist of the authors' impressive research is that societies that are more equal in terms of income distribution tend to be better societies in every way—richer, healthier, happier, more cohesive, less prone to violent crime and so on. I concur with that analysis, which is why we need the socio-economic duty.

The purpose of the duty is to ensure that certain key public bodies, such as government departments, local authorities, police authorities, health authorities and so on, consider how they can best help people fulfil their potential and remove barriers that hold some people back, through their strategic decisions. The noble and learned Lord, Lord Mackay of Clashfern, spoke of the importance of reducing income in securing improved economic outcomes. But that duty is about more than ensuring that income gaps are reduced, although that is an important factor. It is about helping people get on, get educated, get a job, improve their health and so on. Income is a very important factor that can hold people back, but people can be held back by many things, such as lack of ambition and expectations, and a whole mix of factors related to their health, education, family background and so on, which limits their life chances. For some public bodies, it could be income inequalities, but for many bodies it will not be.

6 pm

Amendment 3 relates to Clause 1(4). That subsection is important because it ensures that when the long-term vision for an area set out in its sustainable community strategy is being drawn up, all parties involved give due consideration to the desirability of addressing socio-economic inequalities. This long-term strategic planning is vital to achieving the changes that we want. The amendment proposes that we remove that provision—that would leave the local authority alone in taking the agenda forward, which cannot be right. We have been careful to limit the number of public bodies covered directly by the duty, because it will have the most impact if it is built into a high-level decision-making process that has a far-reaching effect across the delivery of public services. But it is vital, when all those local public service partners come together, to make strategic decisions about the long-term vision for an area and that they give due consideration to tackling socio-economic inequalities. Therefore, I do not think that the amendment is very helpful.

Amendment 4 concerns the policy intent of public sector duty regarding socio-economic inequalities. It is intended to prevent the socio-economic duty from having an effect until definitions of "socio-economic inequalities" and "socio-economic disadvantage" are laid before Parliament. The amendment is unnecessary as Clause 1(2) states that the public bodies covered by the duty must take account of guidance issued by a Minister of the Crown when deciding how to fulfil that duty. As I have already made clear, we intend to issue guidance to support the duty. We will consult widely on it and we will issue it in good time. Indeed, officials have already been engaged with the various public bodies covered by the duty, and their representative bodies, to develop the basic principles that will underpin the guidance. These were published last week in the guide to the duty, to which I referred earlier.

Plainly, guidance that can be updated to reflect the changing circumstances would be the most appropriate vehicle for setting out what these terms mean and how we expect the bodies covered by the duty to implement it. We want socio-economic disadvantage to be considered in a common-sense manner in a way that is relevant to each public body's functions. Laying a formal definition before Parliament, as required by the amendment, could lead to an inflexible interpretation and would limit a Minister's ability to update guidance in order to make it relevant to changes in society. However, we are clear about what these terms mean and I am happy to outline them briefly.

The term "socio-economic disadvantage" may not immediately resonate with some people, but it accurately describes the situation of those we want to target for this duty. It is partly about basic inequality—that is straight poverty—but it is also about the lack of aspirations and expectations and about the complex interplay of factors such as health, housing, education and family background that so often combine to keep people in poverty and limit their chances of upward social mobility. It is about the way in which social and economic factors combine. I believe that the concept is clear and we will work with the public bodies concerned to ensure that the guidance makes that clear to them also, and helps them to identify which aspects of socio-economic disadvantage they should be influencing.

The term "socio-economic inequality" is used only in the title of Clause 1. In that context, it is perhaps just read as shorthand for "the inequalities of outcome which result from socio-economic disadvantage". The point is that inequalities of outcome in terms of wealth, health, housing et cetera are directly measurable, whereas measuring the underlying disadvantage in a

way that is useful to public bodies implementing the duty is very difficult. That is why in this instance we have focused on the outcome. Inequality of outcome is fairly explanatory. "Outcome" is a term commonly used by government to describe the results and end product of strategies and policies, particularly in relation to the social mobility agenda. So what we are getting at here is the unequal distribution between individuals of the end product of public authority strategies, policies and practices.

Finally, I have to say that when the noble Lord, Lord Tebbit, speaks of Clause 1 as being pernicious and anti-libertarian, I do not recognise the clause in terms of those adjectives. I think that the duty will hugely assist people like the noble Lord, me and many other people who came from far worse circumstances to achieve. It will therefore help to improve the society in which we live—the communities from which we come.

Lord Tebbit: I thought that I had made it clear that if there is equality of outcome, there is no point in having equality of opportunity. That is what is pernicious about this Bill.

Baroness Royall of Blaisdon: As I explained earlier, this Bill is about equality of opportunity as well as opportunity of outcomes. The whole Bill is about equality of opportunity. This particular clause relates to equality of outcomes because, as the noble Baroness, Lady Warsi, said on Second Reading, outcomes are measurable. We must ensure that this Bill has a tangible impact on people's lives, and that is why we are discussing outcomes.

Some noble Lords referred to a comment which my right honourable friend the Solicitor-General made in Committee in the Commons. She made many other comments, not just that being quoted by many noble Lords. She said,

"We believe this is a strong measure … The duty will put all the good work that we … are doing on a statutory footing. It will help us drive progress and promote better outcomes for people who need the most help … This is, overwhelmingly, the right thing to do".—[*Official Report*, Commons Public Bill Committee, Equality Bill, 11/6/09; col. 159.]

So, when noble Lords quote my right honourable friend, they are doing so selectively. I suggest that she strongly supports this clause as a strong part of the Bill.

I am sure that my explanations will raise many more questions, but they are why I believe that the matters should be addressed through the guidance to which I referred. It is currently being drafted in consultation with the affected public bodies, and we have recently published the extensive guide to the duty. Many noble Lords have copies of that—I believe that it is in the Public Bill Office and it is certainly in the Library. I hope that I have demonstrated that Amendments 1 to 4 are unnecessary and that they could lead to inflexible interpretations and stifling of innovation. I believe that they are irrelevant to many public bodies, or would be unduly burdensome. On that basis, I ask noble Lords to withdraw their amendment.

Baroness Warsi: My Lords, I thank the Minister for a long response. I also thank all noble Lords from across the House for an extremely interesting and lively debate. I want to make a number of points. First, unfortunately, there is a disturbing level of discussion which appears to me like a class war. The noble Baroness, Lady Meacher, referred to some extremely interesting statistics, which are relevant. The noble Baroness, Lady Greengross, referred to some principles, which are extremely important. However, I am concerned about the comments of the noble Baroness, Lady Gould of Potternewton, who appeared to say that those who oppose the clause oppose the principle of that equality. Such comments are disturbing, as are the comments of the noble Lord, Lord Wedderburn. To suggest that those on these Benches are against the principle of equality is deeply concerning, as is the caricature of those on these Benches.

On a very personal note, I am the daughter of an immigrant mill worker from west Yorkshire—a type that some would like to suggest would not be sitting on these Benches. But I would argue that none of us is of a type to sit on any particular Benches. What brings me here is opportunity. Outcome is what my mother would refer to as kismet—a word to which, unfortunately, I cannot do justice by giving a definition in any language other than Urdu. But opportunity—and equal opportunity, I would suggest—is more than an aspiration, it is a right, and therefore should form part of a duty.

Much discussion was about aspiration without opportunity. I thank the noble Lord, Lord Graham, for his kind comments, but he referred to aspirations being relevant without necessarily being realisable or achievable. I would suggest that nothing is more disheartening or demoralising then having aspirations without any real opportunity to realise them. Indeed, the noble Lord, Lord Morris, mentioned that. The noble Lord, Lord Borrie, referred to aspirationals being referred to in previous legislation. I may not be entirely correct on this, but I understood that he was referring to legislation giving an electricity company a duty to supply electricity. I suggest that that is the purpose of an electricity company, and therefore is not simply aspirational but something that it can achieve and therefore deliver. Clearly, more clarification is required.

I touch briefly on the comments of the noble Lord, Lord Lester, who, as I said earlier, referred to this clause on Second Reading as,

"vague, unworkable, and an exercise in political window-dressing".—[*Official Report*, 15/12/09; col. 1416.]

The noble Baroness, Lady Howe, says that the noble Lord, Lord Lester, appears to have slightly changed his mind. The noble Baroness, Lady Kennedy, refers to a shift having taken place. The noble Lord, Lord Lester, says that he is now convinced slightly otherwise by his left-wing Irish friends, who have convinced him to take a different opinion.

Lord Lester of Herne Hill: The noble Baroness teases me, but she has misunderstood. I was not suggesting that at all; I was suggesting that the danger of having aspirational legislation was illustrated by the argument that we had. She is perfectly entitled to attack me for having changed my mind, but perhaps I may say that women are not the only people who are allowed to do that.

Baroness Warsi: I am grateful that the noble Lord, Lord Lester, has accepted that he has changed his mind—that is possibly a U-turn—but left-wing Irish friend is certainly not a description that I would give to my Chief Whip.

I turn to the issue of practicability. The noble Lord, Lord Ouseley, rightly refers to whether or not the legislation will achieve what the clause purports to do. Indeed, most of the arguments put forward by my noble friend Lord Tebbit referred to that.

In my Second Reading speech, I did say that outcomes are measurable. It is important to see the context of what I was discussing there—effectively, that there is no point having something in a Bill if it is merely about box-ticking, if the clause does not achieve anything. I return to the concern that I raised when I moved the amendment, which is, in summary, that the Government state in their document that they are not creating new equalities, that the clause will not address discrimination against individuals on account of socioeconomic factors, that it will not directly determine operational decisions and that it will not require bodies to use their resources to remove unequal outcomes. Their document states that no real objective will be achieved.

Much research and opinion has been referred to by many Members around the House, which needs to be considered. I may well need to consider those references, and we may well return to this again at Report but, at this stage, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendments 2 and 3 not moved.

Clause 1 agreed.

Clause 2 agreed.

Clause 3 agreed.

Amendment 4 not moved.

Clause 4 : The protected characteristics

Amendment 5

Moved by ***Lord Avebury***

5: Clause 4, page 4, line 17, at end insert—

"caste;"

Lord Avebury: My Lords, we have been talking for almost two and a half hours about how we reduce inequalities of opportunity and outcome. It would be unarguable that the people whom we are now about to discuss, those who are based on scheduled castes and Dalits, suffer from more inequalities of opportunity and outcome than almost any other section of the community. We drew attention to that indirectly when the noble Baroness read out from the list of objectives designed to be achieved by the first three clauses. I was tempted to get up to ask her what the clauses had to contribute to a group or set of groups of people who are so manifestly disadvantaged in our society as those who are to be benefited by the amendments.

The research is lacking. I hope that, as a result of the clauses that we have just approved, there will be the research which has not so far been undertaken, which will give us the hard information that the Government have said has been lacking. Although caste-based discrimination is typically associated with South Asia, where it has been prevalent for centuries, the practice does not miraculously vanish when migrants from South Asia come to states in Europe, particularly the United Kingdom, where it has been manifestly exported into our society. The lack of research means that the exact extent and type of discrimination has not been documented in the UK where, for many, caste has been a long-term, if hidden, reality.

When this matter came up in another place, the Solicitor-General said that the Government had consulted the Hindu Forum of Britain and the Hindu Council as the two largest and most representative organisations in that field, but those organisations do not speak for the lower castes and the Dalits. The Government commissioned no research of their own at all, although the Solicitor-General told another place that they had asked the EHRC not only to carry out research on their behalf but that it should be completed quickly so that, if necessary, we could introduce the necessary measures while the Bill was before your Lordships.

Since then, the policy of the Government has changed without any proper explanation. In fact, when I asked the EHRC about it, it told me that it never had any request from the Government to research caste discrimination. Can the Minister explain what caused that reversal between the proceedings on the Bill in another place and when it came before your Lordships?

People of South Asian origin in the UK number about 2.3 million, or 4 per cent of the total population. Although it is impossible to say precisely how many are of Dalit origin, as detailed research of that nature is lacking, as is all research on these groups of people, we are advised that the number is somewhere between 50,000 and 200,000. Voice of Dalit International puts the figure at the top end of that range in its evidence to the Select Committee on International Development.

Although the Government have recognised in their response to their consultation on the Equality Bill that caste discrimination is unacceptable, the only reason that they give for not dealing with it now that the opportunity presents itself is that they have found no strong evidence of such discrimination here in Britain in the context of the matters dealt with under the Bill—that is, employment or the provision of goods, facilities or services. As I said, they promised that they would consult the Equality and Human Rights Commission about monitoring the position.

The EHRC tells me that it thinks that caste is already covered, even though it has not conducted any research on the matter, nor has it consulted the NGOs that deal with caste discrimination. It believes that the Court of Appeal decision in the JFS case lent support to its approach by opening up arguments on "descent", and that what is needed is a test case to establish the position. It has offered to work with the Anti-Caste Discrimination Alliance to identify and support a case, and it will be meeting a lawyer from the ACDA in February to discuss this further. Having read the judgment of Sedley LJ in the JFS case, I was not entirely clear how an argument that turned on the racial identity of the litigant could somehow extend to caste, but I was advised that the reasoning is this: in

JFS, the Supreme Court held that ethnic origin has a descent aspect; descent includes caste under international law, and descent as a UK category could therefore also be argued to include caste. Meanwhile, however, as Robin Allen QC has pointed out, cases of apparent caste or descent-based discrimination are likely to come before advisers, and they will need to know how to respond.

If the Minister prefers the amendment in the name of my noble friend Lord Lester, there must be a clear understanding that under international law caste is a sub-category of descent, which itself is a form of racial discrimination, and that this is the interpretation of "descent" that is intended by my noble friend's amendment. It is certainly the interpretation of the Committee on the Elimination of Racial Discrimination, which has treated caste as being included in descent ever since 1969. Only quite recently—in 2002, I think—the committee reaffirmed its opinion when it issued the general recommendation that affirmed that discrimination based on descent,

"includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status".

Of course, we have been a party to that convention since 1969 when the CERD first arrived at the definition. I would like to hear that argument from the Minister when she replies. I would also appeal to her to modify the statement in the Government's reply to the consultation on the Bill that they have decided,

"not to extend protection against caste discrimination",

because that would mean that they were not fully complying so far with their obligations as a signatory to the CERD, by leaving it to individual victims to assert their rights in the courts.

If the Committee agrees to my noble friend's amendment and the Government acknowledge fully in this debate that caste is indeed included in descent, as the CERD and our own EHRC both consider it is, then that would probably be the best solution. However, if that is the position, the Government could have given it as an explanation for not specifically including it in the Bill, instead of saying that there was insufficient evidence and failing to commission any research. If we leave it to a marginalised people to come forward with legal cases that will establish their right to protection, that is not a policy that should be adopted by a Parliament that has always stood up for human rights. In adopting either of the two specifically caste-related amendments, Amendments 17 and 18, or my noble friend's descent amendment, the Government will lay the foundations for a solution and send a positive message not only to the 15 UK-based organisations that are appealing to us today to pass this amendment, but to millions throughout the world who are victims of caste discrimination. I beg to move.

Lord Harries of Pentregarth: The noble Earl, Lord Sandwich, has graciously suggested that I precede him in supporting this amendment, which I very strongly do for the reasons that I set out at Second Reading, which I will not repeat now. I simply want to examine some of the Government's hesitations about including caste discrimination in the Bill in the first place.

It is very widely accepted, and accepted by the Government, that the caste system has been imported into this country through the south Asian diaspora. The Government still query whether, although this is very widespread and distressing, it has actually impacted in the fields of employment, education and the provision of public goods and services, with which this Bill is concerned. That is what I want to address.

First, however, I should like to emphasise the educational effect of a law such as this. Sadly, racial abuse is still around in our society. However, if we think back 20 or 30 years ago, we can recall the extent of racial abuse and how, if not eliminated, it has at least been damped down by the Race Relations Act. That legislation has had a huge educational effect. Terms of abuse that were previously regarded as acceptable are now regarded as totally unacceptable. The evidence of children from dalit communities—I use that phrase; the old phrase, as we know, is "untouchable"—is that a very high percentage of them are the subject of terms of abuse. Some of their stories are very distressing indeed. What is even more surprising is the evidence from universities. Students from these communities find themselves ganged up against, not only abused but isolated and harassed in various ways. Including the term "caste" in the Bill in one way or another would have a huge educational effect.

Secondly, the point has been made to us so strongly that these affected communities do feel deeply discriminated against. That is what they feel and I think that the figures speak for themselves. The survey done by the Anti Caste Discrimination Alliance discovered that 45 per cent of people whom it contacted felt that they had either been treated in a negative way by their co-workers or had dismissive comments made about them because of their caste.

Noble Lords may ask, if they are feeling like this, why do they not go to the Equalities and Human Rights Commission and seek a legal case? We put that to some of the dalit community leaders who had met a group of us previously and they pointed out that, for many of them, there is the fear of losing their job. One example given was of someone from Coventry who was badly discriminated against, and in order to draw attention to it they went on hunger strike. Thank goodness it was a sensitive management which saw that something was wrong and managed to ensure that it did not happen any more. However, it should not have to depend on someone going on hunger strike to draw attention to the fact that they are being discriminated against.

The second point that was made to us was that members of this community are the product of centuries of marginalisation. Many of them do not feel confident or powerful enough to go to a body such as the EHRC in order to bring a legal case. The third point made to us was that at the moment there is no clear remedy in the law. If there was a clear remedy in the law, they might have that much more confidence to draw these examples of discrimination to the attention of the proper authorities.

6.30 pm

The Government have said that they do not feel that there is enough evidence of discrimination in these spheres to include this provision in the Bill. They seem to have paid attention to their own report, to

[Lord Harries of Pentregarth]
which there were only 19 replies gathered over only two weeks. Apparently that is one of the main reasons why they did not include this in the Bill. However, the report *Hidden Apartheid—Voice of the Community* by the Anti Caste Discrimination Alliance is the result of interviews with more than 300 people over a long period of time. The evidence of discrimination it brought forward simply reinforces the evidence brought forth by other dalit organisations over many years and is very distressing. The Government moved in relation to transgender people, who I suppose number 2,500, on the basis of the stories they had heard. I suggest to the Government that the mass of evidence of real, distressing discrimination now provided by the dalit organisations is far stronger than the evidence upon which they acted in the past.

I stress that I support what the noble Lord, Lord Avebury, said about the amendment in this group tabled by the noble Lord, Lord Lester of Herne Hill. There is clearly an argument for including discrimination on the ground of descent in the Bill as an alternative to the amendment tabled by the noble Lord, Lord Avebury, provided that the word "caste" is clearly mentioned as a major way in which discrimination on grounds of descent might operate. In one way or another, the word "caste" must be included.

This is a serious issue in this country. The noble Lord, Lord Avebury, said that about 200,000 people are affected. The figure put to me is that it could be up to about 500,000. There is hidden apartheid here. We all know that internationally this is a vast and distressing problem. The international struggle against caste discrimination is of even larger proportions than the struggle against apartheid. I hope that the Government will be minded either to accept the amendment tabled by the noble Lord, Lord Avebury, or the amendment tabled by the noble Lord, Lord Lester, provided that, if they accept that amendment, they make it clear that they will include the word "caste" one way or another.

The Earl of Sandwich: I am most grateful to the noble Lord, Lord Avebury, for his expert summary. I apologise that I was not present at Second Reading and realise that that gives me no excuse to go on at length. This raises an issue that is fundamental to the discussion we have had in the past two hours.

I have worked for years with organisations concerned with caste, such as Christian Aid and Anti-Slavery International. I know the dalit organisations that work alongside these outcaste organisations. I have recently become a patron of the Dalit Solidarity Network. I have lived in India and I am familiar with the facts there but, until recently, I had not appreciated the extent to which the caste system has been imported into this country. I have carefully read the Solicitor-General's reply in the summer to the Public Bill Committee, and I fully understand that there was insufficient evidence of discrimination from the earlier scoping survey. However, in that debate she said that,

"it is socially divisive to have legislation against something that is not happening and is needed by no one".—[*Official Report*, Commons, Equality Bill Committee, 11/6/09; col. 179.]

At that time, the Government seemed to have set their face against this, which seems extraordinary.

Since then, as my noble and right reverend friend Lord Harries pointed out and as was pointed out at Second Reading, the Anti Caste Discrimination Alliance, which represents 23 organisations, has published the report *Hidden Apartheid*. It contains new evidence of discrimination. My noble and right reverend friend has already given examples. The Minister knows that dalits form a very high proportion of Indians, both Hindu and Sikh, in this country, and they are still regarded as outcasts many years after they have left India. In other words, there are some who are outside the caste system altogether. There can be no doubt that members of such a group are, or may be, victims of discrimination. I do not think the Leader of the House gave a very satisfactory answer to my noble and right reverend friend at Second Reading when she said that much of the new evidence was still anecdotal. Some of it is, but what she said implies that most of it is not. Just now, she said that drawing on the available evidence is what is important in the Bill. She said that a research project had to be undertaken by the Equality and Human Rights Commission on caste discrimination—the noble Lord, Lord Avebury, mentioned this—but nothing has happened since Second Reading as far as we can tell. We are told that the Government are in discussion with the commission, and we would like to know the position. More research will be needed, but the principle must be in the Bill first.

My noble friend Lord Ouseley said earlier that if there are inequalities in our society, we must be rid of them, and we must be careful who gives us the information. My noble and right reverend friend Lord Harries and the noble Lord, Lord Avebury, have already said that the Hindu bodies do not necessarily speak for the dalit community, but ACDA will certainly guide the government statisticians. I hope that the Minister does not underestimate the number of organisations involved in this campaign, many of which were demonstrating this morning.

Whatever the Ambedkar reforms have achieved in India and south Asia, we know that an ancient system of caste is not going to abolished—thousands of campaigners are still working on that in India—but to find it transposed into British society is something else. Quite simply, it is morally wrong, and it cannot be allowed to happen if it is shown to lead to discrimination in our society.

Lord Lester of Herne Hill: I shall speak to my amendment, Amendment 16, in speaking to Amendment 5, with which it has been grouped, because it has been referred to several times and it would probably be helpful to the Committee if I explain as briefly as I can how I see the position.

First, I do not need persuading that there is a transnational problem of caste discrimination that applies in this country as well as elsewhere. Anyone who doubts that should read not only the evidence we have but also evidence of what has happened in other countries. I believe that there is a problem and that it needs to be covered by a measure dealing with racial discrimination. Secondly, when the United Kingdom drafted the race relations legislation, we had regard to the definition in the UN Convention on the Elimination of All Forms of Racial Discrimination. That is where

the phrase, "colour, race, or ethnic or national origins" comes from. Later, nationality was added. The drafters did not include the word "descent", but it was perfectly plain that your ethnic descent was included within the concept of ethnicity because the concept of ethnicity is about your birthright, where you have come from and who your parents and grandparents were. If you like, the Hitler definition of a Jew is a classic example. It was not about belief but where you came from, what your origins were and what your descent was. Jewish descent is a very common example.

I am wholly agnostic about whether the right way of tackling the problem would be by inserting the word "caste" or the word "descent". I am gratified that the Equality and Human Rights Commission stated in its brief that it thought that the more satisfactory approach was "descent" rather than "caste" for the reasons that it gave. This is not a competition between two different kinds of amendment.

In case law, many years ago, when Lord Slynn of Hadley, then Sir Gordon Slynn, was president of the Employment Appeal Tribunal, he explained, in a case called Seide v Gillette, why Jews were part of an ethnic group because of their descent. The same is true of the House of Lords Mandla v Lee case when the Law Lords were dealing not only with Sikhs as an ethnic group but with Jews. It came to a head in the Jewish Free School case, not just in the Court of Appeal, to which my noble friend referred, but also in the Supreme Court. The puzzle in that case was whether the admissions policy of the school was racial or religious, given that the religious test used included a matrilineal test as to whether a person had a Jewish mother and grandmother, as certified by the office of Chief Rabbi. The Supreme Court looked at the Convention on the Elimination of All Forms of Racial Discrimination and the fact that caste was meant to be covered in the word "descent". It did not have to deal with that in that case, but it decided that Jews were a group who could be defined by their ethnic descent as well as by their religious belief, which is not surprising. That is the conclusion to which they almost all came.

In the Minister's reply, as my noble friend Lord Avebury and others have emphasised, it will be important to hear the Government's understanding of whether and to what extent discrimination because a person does not belong to a particular caste or belongs to the wrong caste is capable of falling within the concept of race as it stands. Am I not right in saying that if there were to be litigation about this, the correct approach for the English courts to take would necessarily be to have regard, as they did in the Jewish Free School case, to the definition in the Convention on the Elimination of All Forms of Racial Discrimination? They would do so because we are bound by that convention and by an obligation to give effect in domestic law to the definition in the convention. If I am right in saying, as I think I am, that our courts would do their best to make sure that our statute law fitted the Convention on the Elimination of All Forms of Racial Discrimination—the international obligation in interpreting any ambiguity or doubt about the definition—in doing so would the Government not look at the word "descent" and make sure that whatever the Bill now says "descent" is included if it makes any difference? I believe that they would.

If those two steps are correct, the third step is why not make it clear in the Bill, either by including the word "caste" or the word "descent" so that we do not have to have litigation up to the Supreme Court to decide a fairly obvious question. It is very important that the Minister's reply should be on the record and have regard to the comments made by the noble and learned Lord, Lord Mackay of Clashfern. Pepper and Hart, with all its imperfections, at least leads to the opportunity for the Minister to make a Pepper and Hart statement as to the Government's understanding of whether caste and descent are already included. If we get a clear reply to that, does that need to be embodied in statutory language? Before reaching a decision on that, it is very important to have on the record the Minister's reply on whether and to what extent the Convention on the Elimination of All Forms of Racial Discrimination covers caste and descent—the answer is obviously yes—to what extent it binds us—the answer is that it does—and to what extent must it be taken into account in interpreting our law—the answer is that it must. Surely, if what I have said is right, there should be no problem in accepting either the amendment proposed by my noble friend Lord Avebury or my amendment.

Lord Mackay of Clashfern: Does descent include factors other than caste?

Lord Lester of Herne Hill: Yes, indeed it does. The Jewish example is very good. Jews are a classic example of a group defined by religion and ethnicity. Their ethnicity includes their ethnic origins, which includes their descent. Descent is simply another way of expressing the same thing.

6.45 pm

Baroness Flather: My Lords, having made a speech on this subject at Second Reading, I should like to add my voice on this issue. I am possibly the only speaker who has seen other people experience caste discrimination, although I have not experienced it personally. Many years ago, I taught in a secondary school where a number of boys, according to other boys, came from lower castes and they were bullied and mistreated. I cannot believe that all of a sudden these things have gone away. It is very sad to think that, while the Solicitor-General in the other place said that the Government were going to ask for more information and research and the noble Baroness the Leader of the House said that the Government were going to speak the Commission on Human Rights, they have not done so. Even if they had, there would not have been time for a proper research project. If the worst comes to the worst, at least we should have the option to bring this issue back under a further provision. This will be the last chance to put things right because I do not think that we will see an equality Bill like this in the near future. It is enormous and covers more things than we can imagine, but it does not cover caste.

I should like to share with noble Lords something which will bring home the fact that all information gathered by the Government has been gathered from the wrong sources. Last Friday, the National Hindu

[Baroness Flather]
Students Forum, which is related to the Hindu Forum, wrote an article in *Asian Voice*. It makes accusations against all organisations working for dalits, scheduled castes or lower castes, whatever we may call them—the fact is that they are people who are considered not to be equal by other Hindus. It states that all these organisations are set on attacking Hinduism and that their whole purpose is to attack the Hindu Forum and the Hindu Council. This is a students' forum and we need to worry about this issue if the young are thinking like that.

The organisation says that this is not an issue in this country. But I should like to ask in a letter how many non-caste Hindus—a word commonly used by upper-caste Hindus—does it have as members of its organisation? If it calls itself Hindu, all Hindus of whatever caste should be able to belong. I am sure that the answer will be none. I have seen boys bullied and I have heard of many cases where people have been bullied at work. It would be a great sadness to allow this Bill to go through without making provision for caste. Unfortunately, as in India, the problem is not going away. In India, you are not allowed to discriminate on the basis of caste, but discrimination is still there. There are quota systems in education and jobs so that people from lower castes can move up the ladder. They are there because there is accepted discrimination and, unfortunately, people have brought that with them here. We would be very remiss if we do not do something for them.

Baroness Greengross: My Lords, I add my voice in strong support of the amendment tabled by the noble Lord, Lord Lester. Both personally and through the Equality and Human Rights Commission, I think it is very important that we look at descent, which is broader and would cover caste, and thus kill two birds with one stone. Through the commission I was marginally involved in the case of the Jewish Free School, so it is important that descent is part of the legislation. I hope that the Government will consider it seriously.

Baroness Turner of Camden: My Lords, it is important that a voice from these Benches should be heard in support of this amendment. There was a lot of talk in the previous debate about equality of opportunity. We are talking here about groups of people who, because of their birth, have absolutely no possibility of any equality of opportunity at all, and no hope of getting any sort of education or job if they ever complete their education. We have been given a great deal of background information by a number of noble Lords—the noble Lord, Lord Avebury, the noble and right reverend Lord, Lord Harries, the noble Earl, Lord Sandwich, and of course the noble Baroness, Lady Flather. All this is incredibly important and comes from people who know what they are talking about. The information is clearly available and I hope, therefore, that the Minister will be inclined to say, this time around, that the Government will give serious consideration to what has been said in this debate with a view to coming back on Report, if need be, with perhaps their own wording in order that caste is at least put on to the face of the Bill. Surely it is appropriate that an Equality Bill should deal with this.

Lord Mackay of Clashfern: My Lords, if the amendment of the noble Lord, Lord Lester, is thought to be appropriate, it would be good to add the words "including caste" so that it is made absolutely plain to the people affected. They might have some difficulty in seeing through the word "descent" to caste, especially in view of what has been said about the alleged connection between caste and religion, which as I understand it is what is asserted in the article. It is therefore important that people should be clear on what the Bill is saying about this.

Baroness Warsi: My Lords, we have heard a full and interesting speech from the noble Lord, Lord Avebury, and very insightful comments from the noble and right reverend Lord, Lord Harries, on the issue of caste. It is vital that we consider these issues as this Bill makes its progress through your Lordships' House. Similar amendments were debated in another place, but the Minister's response was to leave the issue open so that, if further research proved it to be necessary, caste discrimination could be dealt with through measures in the other place.

The issue of caste discrimination is a complex one. Letters and briefings from the Anti Caste Discrimination Alliance, which I am sure many noble Lords will have received, state categorically that there is a serious and widespread problem which must be dealt with through this legislation. It maintains that if caste is not made a protected characteristic in the Bill, then caste discrimination will be allowed to flourish in the workplace, in institutions of education and in the provision of services. Can the Minister inform the House of what studies have been commissioned by the Government either from the Equality and Human Rights Commission or other bodies and, if such studies have been commissioned, what are their findings? In another place, the Minister informed the House that research would be needed to assess the most appropriate course of action, and I look forward to hearing about what has been done since those comments.

The noble Baroness, Lady Flather, made an important point. The Government appear to have consulted the Hindu Forum of Britain and the Hindu Council UK. Consultation must go beyond discussions with umbrella organisations, and this is not the first time that I have raised the issue. It appears symptomatic of this Government's approach that they consult organisations that purport to represent groups, but invariably when you speak to the communities concerned they allege that the organisations do not represent them. That is possibly a lazy route to take in order to get to know the communities that make up the multi-ethnic Britain we have today.

This is a particularly important issue because the report entitled *Hidden Apartheid—Voice of the Community—Caste and Caste Discrimination in the UK* from the Anti Caste Discrimination Alliance illustrates that there is a real and widespread problem, whereas that does not appear to come back from the Government's consultations. The survey shows that 71 per cent of respondents thought that they belonged to the dalit community, 58 per cent stated that they had been discriminated against because of their caste, and 45 per cent stated that they had been treated in a negative

way by their co-workers or had had dismissive comments made to them on account of their caste. We should note that the survey was an online questionnaire conducted on only 300 people and nine focus groups between August and October last year, but nevertheless the figures seem to reveal a serious problem. Given that the reason for not including caste is that there was not enough evidence available to warrant it at the time, does the Minister agree that it is important that further research should be carried out, if it has not already been done? We hope to hear about the results of any research, and it is important that those results are given now because they will inform our discussions and make it possible to make this important decision.

A further point which should be raised is that the intention of this legislation is to simplify and consolidate equality law so that it can be understood by all. We must ensure that any decision to extend the list of protected characteristics is taken seriously. There may well be a good case for caste and descent, and if so, they should be taken into consideration. However, there is a worry that other characteristics may also have a good case. The list obviously cannot be extended indefinitely and, if we hope to maintain a level of clarity about rights and responsibilities, it is important that this debate is informed. For these reasons, we can give some support to the amendment tabled by the noble Lord, Lord Lester. I would be interested to know whether the Minister can inform the House whether she thinks that there is a case for including caste in this way, and perhaps she might be able to inform us whether this is already the case; namely that caste discrimination is already covered in some way, because of the characteristics it shares with race and religion. I look forward to the Minister's response.

Baroness Thornton: My Lords, these amendments are all linked. Amendment 5 seeks to add caste to the list of protected characteristics covered by the Bill. Amendment 29 seeks to include caste as a relevant protected characteristic for dual discrimination claims. Amendment 40 seeks to include caste as a relevant protected characteristic for indirect discrimination. Amendment 49 would prohibit direct and indirect discrimination because of caste, and Amendment 52 would prohibit harassment because of caste. Amendment 17 attempts to define caste for the purposes of the Bill, while Amendment 18 provides Ministers with a power to add caste to a list of protected characteristics in the future, and Amendment 16 would add descent as a further aspect of the protected characteristics of race, so that the Bill would prohibit unlawful discrimination, harassment and victimisation based on descent as well as colour, nationality and ethnic or national origin. I will address Amendments 5, 40, 49 and 52 together, then turn to Amendment 16 in the name of the noble Lord, Lord Lester, and address separately Amendments 17, 18 and 29.

The first group of amendments would mean that the provisions within the Bill which prohibit unlawful acts such as discrimination, harassment and victimisation would in all cases apply to the characteristic of caste unless further explicit restrictions were made to subsequent clauses. These amendments were previously tabled and debated during consideration of the Bill in the Commons in Committee and on Report. We now have a further opportunity to discuss the issue. As my honourable friend the Solicitor-General said during the debate in Committee in another place, the Government are willing to consider whether there is a case for legislating on caste discrimination. As noble Lords have said and as I am aware, the issue of caste was raised during the wide-ranging consultation held on the Bill. Some issues were raised, but none at the time were appropriate to justify inclusion in the Bill.

At the moment, evidence of discrimination because of a person's caste appears to be predominantly in areas such as marriage and social and personal interactions rather than in those areas covered by domestic discrimination legislation, such as the provision of goods, facilities and services, education and schools, the management and disposal of premises, the exercise of public functions, employment and vocational training. We do not condone any discrimination or prejudice because of personal characteristics or identity, and it is clear that issues such as personal relationship choices and insults or snubs are part of social interaction and therefore would not fall within discrimination law. However, I am aware that since the Committee debate in the other place, the Anti Caste Discrimination Alliance undertook a scoping study on caste and caste discrimination in the UK very quickly over the summer. I have read with interest its recent report, *Hidden Apartheid—Voice of the Community—Caste and Caste Discrimination in the UK—A Scoping Study*, which reports caste discrimination in the areas covered by discrimination law, which are employment, education, and provision of goods, facilities and services. I have also read with interest the *Modern Law Review* article—I thank the noble Lord, Lord Avebury, for forwarding it to me—and the joint statement from the many organisations concerned with this issue.

I commend ACDA for a professional report produced very quickly. However, the report acknowledges that it is a scoping study and many of the examples that it includes are still of either an apocryphal nature or outside those areas covered by discrimination legislation. For instance, many examples refer simply to one person asking another their name. The noble Lord will acknowledge that this cannot be considered to be discriminatory even if a person's family name may be indicative of their caste. Furthermore, despite what some may believe, the case for legislating on caste discrimination—

7 pm

Lord Harries of Pentregarth: Does the Minister accept that what is felt to be intrusive questioning is distressing for the affected communities? Sometimes they report that they get this kind of questioning from professionals. A high percentage claim that they have been questioned in this way about their caste by doctors, GPs, nurses and members of the social services. They find it very distressing because they know what it is leading up to. This is why they call it the hidden apartheid.

Baroness Thornton: I accept the noble and right reverend Lord's point that this is distressing and I hope that I may be able to offer him some comfort as my remarks progress.

Lord Lester of Herne Hill: Leaving aside evidence and dealing only with principle, suppose there is one case of an employer discriminating against a worker or a would-be worker because they do not belong to a caste or to the right caste. Does the Minister agree that that should be included in unlawful conduct just as if it was because of colour, being Jewish or anything else? Does she agree it is part of the ethnicity, is unfair and should be within the scope of the Bill as a matter of principle?

Baroness Thornton: Yes. However, as I hope to explain, that is already covered by other parts of the Bill.

Furthermore, despite what some may believe, the case for legislation on caste discrimination is not so clear-cut that it universally unites the community it is alleged to affect. I am happy to share with noble Lords the number of organisations that have already been consulted but I think we would agree that there are organisations, such as the Hindu Forum of Britain and the Hindu Council UK, which remain of the opinion that legislation is the wrong option to cure what they primarily see as a cultural matter.

Baroness Flather: We keep coming back to the Hindu Forum and the Hindu Council, which are formed by caste Hindus—the three upper castes. Some of us here are Hindus and we know about this. I know perfectly well what kind of people they are. They feel that to consult them about caste discrimination is to cast aspersions on them, as if one is saying, "You are the lot who are discriminating on the basis of caste". They are not going to admit that they discriminate; no one does.

Baroness Thornton: I am sure that the noble Lady is not suggesting that we should not consult those organisations. They will be consulted along with a wider group of organisations, as, indeed, we have been doing. Whom have we consulted to date on caste discrimination? We have had meetings with many noble Lords about this issue; we have consulted the Hindu Forum of Britain, the Hindu Council UK, the Voice of Dalit International, Indian Christian Concern, the Catholic Association for Racial Justice, CasteWatchUK, the Federation of Ambedkarite and Buddhist Organisations, the British Asian Christian Council, the Dalit Solidarity Network, the Anti Caste Discrimination Alliance and Shri Guru Valmik Sabha. Among these bodies there is not a consensus at the moment. However, that is not a reason for not taking this as an extremely important issue, which the Government intend to do.

We are aware that one of the recommendations contained in the ACDA report was that the Equality and Human Rights Commission should commission an in-depth study into the caste system and caste discrimination in the UK. We consider that to be a sensible suggestion on how to take this matter forward. An intensive and independent study into this matter will help both to determine the extent of the issue and to identify the best way in which to tackle it. We are keen to gain a better insight into caste systems as well as to explore the ACDA findings in further, more in-depth work. That is why the Government Equalities Office is taking this recommendation forward in consultation with the Department for Communities and Local Government and the EHRC. Indeed, the GEO is working up the commission for the research; once the contract has been let, we expect the research to take two to three months to complete. We are determined to push ahead with this research as quickly as we can. However, it is important to place on the record that while caste discrimination is currently not protected in its own right under discrimination legislation—

Lord Avebury: I am sorry to interrupt the Minister yet again—I know that she is trying to get on with her speech—but, as she is on the subject of research, perhaps she could deal with the point that I raised about the statement in the Commons by the Minister that the EHCR had already been asked to conduct research on the matter. Since then, it has said that it has not been asked. What is the truth of that matter?

Baroness Thornton: I am not sure what the truth of that is. Who said what to whom and in what order is often a matter of some confusion. There is no question but that the Government are determined that this research should take place. We are in consultation and discussion about how best to take it forward. We are determined that this research will take place as quickly as we are able to do it.

Lord Harries of Pentregarth: I am sorry to interrupt again. I am glad to hear that strong statement about research if the Government think it is really necessary, but the reply from the EHRC on 6 January said that,

"we do not have a scope nor response time for such a research".

It has not been asked to do it and it has not got time to do it.

Baroness Thornton: The reason why I am saying that we are determined to do this is that we will proceed with this research as quickly as we can.

Lord Lester of Herne Hill: I am sorry to interrupt but I simply do not understand why research is needed. The Minister has agreed that, even if there were one case of the kind that I described, that should be unlawful because it is wrong in principle. In that case, why do we need research when all we have to do is to make clear that which I believe to be the case—that discrimination based on your ethnic descent is included, which covers a great deal of what we call caste discrimination? Where is the harm? What are we worried about? Why do we need research into the scientific extent of the problem when all we are talking about is one or two words in the Bill?

Baroness Thornton: The noble Lord is much too much of an experienced lawyer to say that one or two words in a Bill are insignificant. These words are very significant indeed.

We are of the view that current discrimination law may already cover some aspects of caste discrimination where it can be shown that the active discrimination was grounded in race or religious discrimination. This would, of course, need to be determined based on the facts of each individual case, but it is important to point out that some victims of caste discrimination

may already be able to seek redress under existing laws. For example, in employment an instance of caste discrimination being grounded in race or religious discrimination could include the effective demotion of a secretary, where it would need to be established how other employees of different races and religions were treated for this act to be an instance of racial or religious discrimination.

A significant point is that the extent to which caste-related issues are covered by existing laws has not been tested in the courts. I am aware that the Equality and Human Rights Commission is keen to explore further this aspect in partnership with the ACDA and others. Given this position, I hope that noble Lords will agree that the proposal in the amendment, which could amount to a significant addition to the strand-based structure of equality law and, moreover, introduce social or class-based elements directly into protected characteristics, may be an unacceptably high-risk way of dealing with the issue without proper examination of all its implications.

Amendment 17 attempts to define caste for the purposes of the Bill. As anyone who is aware of the nature of caste will say, certain unique aspects of it mean that it is not simply a case of adding "caste" to a list of protected characteristics and anyone instantly knowing who is protected. Many people may not even know what caste means or have a different understanding of it as a concept. The amendment tries to define caste as based on a hierarchy,

"of social stratification where both membership and status are hereditary, ascribed and permanent".

While I applaud this attempt, the definition of caste requires great thought to ensure that it is correct and that the coverage is appropriate if we decided that caste should be a protected characteristic under discrimination legislation. For instance, we know that caste is not always permanent since, for a woman, it can change on marriage to someone of a different caste. The amendment would not cover such people. Defining caste for the purposes of discrimination law would be a difficult and time-consuming exercise, which, given the timing of the Bill, would not be practicable. This is one of the issues that we hope more extensive research would help to determine by uncovering more details on caste systems operating in Great Britain.

Amendment 18 would provide a Minister of the Crown with the power to legislate at some future stage to include caste as a protected characteristic under discrimination legislation if satisfied that there was significant evidence of discrimination, harassment or victimisation because of caste. The amendment recognises the difficulty that the Government have in relation to caste by potentially creating the opportunity to amend legislation at a later date, should sufficient evidence of caste discrimination be uncovered. As the Solicitor-General has always made clear in the other place, the Government are not against legislating in this area, but they will not do so without sufficient evidence of a real problem that can be rectified by discrimination legislation. A power to legislate in the future is therefore not the right approach to take on caste discrimination. It is inflexible and, given the uncertainties around adding caste as a protected characteristic now, it could be the wrong solution. For example, we do not necessarily agree that the main amendment, as drafted, accurately defines the concept of caste. We would not therefore want to be prospectively committed to such a change.

As I said, there are complexities in defining caste for these purposes. There is also the question of what consideration would need to be given to any relevant exceptions already contained in the Bill or any that could, or should, be included relating specifically to matters of caste.

Amendment 29 would amend Clause 14. Clause 14 provides protection from discrimination because of a combination of two protected characteristics—what we refer to as dual discrimination. It enables someone who has been treated less favourably because of a combination of two relevant protected characteristics to bring a claim and secure the remedy that they deserve. Dual discrimination is a new area to discrimination law and the amendment would have the effect of including caste as a relevant protected characteristic for dual discrimination claims. For the reasons that I have just given, it is inappropriate to include caste as a protected characteristic under the Bill. Since it is not a protected characteristic under the Bill, it would be confusing, complicated and contrary to the Bill's aim of simplification and harmonisation to include for the purposes of dual discrimination characteristics that were not protected for other purposes under the Bill. Furthermore, dual discrimination is a complex issue. Clause 14 represents a proportionate remedy based on careful consideration of which protected characteristics to include among other things. Even if new protected characteristics were to be introduced in the Bill for other purposes, we would need to be convinced that the evidence necessitated their inclusion in Clause 14; otherwise, any extension could impose disproportionate burdens.

7.15 pm

Amendment 16, tabled by the noble Lord, Lord Lester, would add descent as a further aspect of the protected characteristic of race, so that the Bill would prohibit unlawful racial discrimination, harassment and victimisation based on descent as well as colour, nationality and ethnic or national origin. It is an important addition to the debate.

The International Convention on the Elimination of All Forms of Racial Discrimination—CERD—to which the United Kingdom is a party, refers to racial discrimination as being based on descent in addition to race, colour or national or ethnic origin. CERD has not, however, been incorporated into UK law, as there is no obligation that it should be, and treaties do not have full legal force in domestic legislation.

However, the Government understand our obligation under CERD to be to take all necessary measures, including legislation where and when appropriate, to ensure that the domestic law and practice of the United Kingdom fully respect and implement all the provisions of CERD. We are confident that we will continue to do so. That is why the provisions of CERD are in fact fully respected and, where necessary, consciously enforced in the United Kingdom through our comprehensive race discrimination legislation.

[Baroness Thornton]

The courts will take into account the provisions of CERD when interpreting our own legislation. An example of this is the recent judgment of the Supreme Court in the Jewish Free School case, delivered on 16 December last year, that a Jewish state school's admission criteria were racially discriminatory. The noble and learned Lord, Lord Mance, took the view that, whether or not "descent" within the meaning of CERD covers caste—and he did not decide the point, because it was not relevant to the case that he was considering—

"the concepts of inherited status and a descent-based community",

appeared to cover the situation. That pointed in the direction of a wide understanding of the concept of discrimination on the grounds of ethnic origins. We would agree with that. On the other hand, the noble and learned Lord, Lord Phillips, accepted,

"that descent *simpliciter* is not a ground of racial discrimination. It will only be such a ground if the descent in question is one which traces racial or ethnic origin".

Currently, to discriminate against someone because he is not the son of a hereditary Peer or the son of a member of a trade union is not racial discrimination. The risk of adding "or descent" to the Bill's definition of race is that the courts would consider the definition of racial discrimination to have been widened to cover these or other examples, as well as caste. I hope that the noble Lord will resist the temptation to press his amendment and accept that this is another aspect of an issue that merits wider consideration.

Lord Lester of Herne Hill: I am very grateful for that explanation. What it comes to is that the Government accept that one has to read our domestic legislation compatibly with the CERD and that the CERD refers to descent. There is therefore a gap between the literal language of the definition of race and what is required under the CERD. I think that the Minister has already accepted that the courts must try to make the two fit to each other. The case involving the immigration officer at Prague was a recent example, as was the Jewish Free School case. Why can Parliament not ensure that there is no gap—let us forget about caste—between what the CERD requires and what the statute will say?

Baroness Thornton: My Lords, as I have said, the Government are in the process of commissioning further research as recommended by the ACDA report. At the same time, we are considering the Supreme Court's judgment in the JFS case and whether any legislative response is needed in the light of that. We will report back to your Lordships on these actions on Report, when the Government's thinking on caste and descent has developed a bit further. Pending that, I hope that noble Lords will not press their amendments.

The Lord Bishop of Chester: If the research that the Government intend to undertake indicates that there is a problem that requires legislation, will there be power within the Act to add a provision by regulation, or would it require primary legislation?

Baroness Thornton: That is part of the consideration and thinking that is going on and the wider discussion going on with noble Lords and the organisations that are concerned with this.

Baroness Warsi: Much has been made of the need for further research and evidence. The Minister referred to the lack of time for developing an appropriate and workable definition of caste. Could she tell the House when the Government first became aware that this would be an issue in the Bill? When did the process of consultation, evidence gathering and research therefore start? Was there sufficient time from that initial moment to develop an appropriate definition of caste? What concerns me is that the Bill has been a long time coming but we are now, at this stage, being told that we do not have enough time to discuss what is an important issue.

Baroness Thornton: The consultation on this Bill took place in the latter half of 2007. At that time, we did not receive evidence that caste was an issue; it was only after we had had that consultation that these issues started to be raised. In fact, that has happened only in the last couple of months. We are now moving as fast as we can, because we accept that this is an issue that we need to address.

Lord Avebury: My Lords, I would accept that the Government were moving as fast as they could if it had not been for the fact that the statement by the Solicitor-General in another place that research was being commissioned from the EHRC was not being carried into effect. We have wasted several months, in other words, until this evening, when the Minister assures us in categorical terms that research will be commissioned, although not necessarily from the EHRC. A specification will be put out, to which a number of people will be able to respond. That will take further time. That leaves me reluctant to withdraw the amendment, because the research will not be available by Report.

As my noble friend has said, even if there is only one case we should take this opportunity for legislation. I am tempted to press Amendment 18 to a Division, for the simple reason that it allows the Government to legislate in future but does not compel them to do so if the single case that my noble friend mentioned does not materialise. But I shall give the Government the benefit of good faith on this, because I trust the Minister and believe that she is moving in the right direction. Either on the caste amendment or my noble friend's descent amendment, we shall get something at the end of the day. With that hope in mind, I beg leave to withdraw the amendment.

Amendment 5 withdrawn.

Amendment 6

Moved by ***Lord Avebury***

6: Clause 4, page 4, line 17, at end insert—

"being a Scottish Gypsy Traveller;"

Lord Avebury: We come now to the question of Scottish Gypsy Travellers. I do not expect that there will be quite as many speakers in this debate as the one that we have just finished, but it is an extremely important matter—the anomalous and unjust situation that has existed over many years that Scottish Gypsies are not entitled to the same protection from discrimination in our law as their English, Welsh and Irish counterparts.

There are some 25,000 Gypsies in Scotland, and there are indications that their ancestors have been there since the early 16th century. We welcome the letter from the Solicitor-General to the honourable Member for North Ayrshire and Arran saying that a recent employment tribunal judgement has declared that Scottish Gypsy Travellers are a distinct ethnic group and are therefore covered by the 1976 Act and this Bill. She also adds that,

"there is wider acknowledgement in Scotland that Scottish Gypsy Travellers are an ethnic minority group and are indeed a group that has particularly suffered from discrimination".

In this letter to Ms Clark, the Solicitor-General acknowledges that Romany Gypsies and Irish Travellers did not have the same legal rights in Scotland as they do in rest of the UK and, up to now, had not been treated as eligible for compensation if they had been discriminated against within the terms of the Race Relations Act 1976. Equally, they would not qualify as a distinct ethnic group under this Bill, because it was generally a matter for the courts to decide whether a complainant belongs to a racial group and had been the victim of a discriminatory act because of that status. She added, however, that in this recent employment tribunal judgment, it was held that Scottish Gypsy Travellers were indeed members of a distinct racial group and were therefore covered by the 1976 Act. She says that they are already recognised by public authorities as a distinct ethnic minority and they benefit from measures, which she lists, that are targeted at ethnic minorities generally by public authorities in Scotland. Scottish Gypsies, she says, are specifically mentioned in policy statements and benefit from measures aimed at other minority groups.

But there was a sting in the tail. The Minister said there was an appeal outstanding against the MacLennan case decision, and I heard only this morning that the case had been finally settled. Nevertheless, very few people in Scotland, including most practitioners, seem to be aware of the position, and it would be useful if the Minister would now confirm that as the law now stands after the MacLennan case, Scottish Gypsy Travellers are a distinct ethnic group for the purposes of the 1976 Act and of this Bill. If she could go further and say there is no danger of this being reversed by a court decision in some other case in a higher court, bearing in mind that we are only thinking of a tribunal case, it would give some additional reassurance. Of course, if she would accept this amendment, it would settle the matter once and for all, and it would be irreversibly confirmed that Gypsies in Scotland have the same rights as their cousins in the rest of the UK. I beg to move.

Lord Harries of Pentregarth: For the reasons given by the noble Lord, Lord Avebury, I support the amendment. Clearly, there is a problem at the moment, and I believe that his amendment will tackle it.

Baroness Thornton: My Lords, Amendments 6, 19, 30, 41, 50 and 53 all seek explicitly to list being a Scottish Gypsy Traveller as a protected characteristic. I shall address these amendments together.

Although the Government clearly do not condone any form of racial discrimination, we are resisting these amendments. However, I hope that I can offer some comfort to the noble Lord. The Equality Bill already provides explicit protection against racial discrimination—that is, discrimination that occurs because of a person's race, colour, nationality, or ethnic or national origins. However, it is not government policy to list specific protected racial groups as such a list could never be exhaustive. We believe that it is only right that anyone who thinks they have been discriminated against because of their race, colour, nationality, or ethnic or national origins can bring a legal claim, and it would ultimately be for the courts to decide on the facts of any particular case as to whether the act in question amounted to unlawful racial discrimination. Indeed, case law has determined that Romany Gypsies—in Commission for Racial Equality v Dutton in 1989—and Irish Travellers—in O'Leary v Allied Domecq in 2000—are distinct racial groups for the purposes of deciding whether a discriminatory act amounted to unlawful racial discrimination.

The recent employment tribunal judgment on MacLennan v Gypsy Traveller Education and Information Project has held that Scottish Gypsy Travellers are an ethnic group. This has set a precedent for them to be recognised as a minority group. In addition to this, there is wider acknowledgement in Scotland that Scottish Gypsy Travellers are an ethnic minority group and, indeed, one that has particularly suffered from discrimination. Consequently, a number of initiatives and projects have been targeted at this group to give them the same opportunities as other people to offer them a level playing field.

In Scotland, race equality policy statements specifically mention Scottish Gypsy Travellers as an ethnic minority group and encourage public authorities to structure services and public functions to take account of this group. Ongoing initiatives targeted at ethnic minority groups including Scottish Gypsy Travellers include improving opportunities; addressing barriers preventing this group from achieving what they are capable of; more active and vibrant communities, increasing participation of Scottish Gypsy Travellers; responsive communities, with better support from specialist and mainstream services; safer communities, building lasting connections with this group; and developing and implementing an education strategy.

7.30 pm

In response specifically to the request from the noble Lord, Lord Avebury, for an assurance that the tribunal decision will not be reversed, the Government are of course not in a position to determine what judgment higher tribunals or courts may make in future cases relating to Scottish Gypsy Travellers, but that is the same as for every other group that tribunals and courts have held to be ethnic groups, such as Sikhs and Romany Gypsies. I reiterate that the Bill provides protection in terms of a person's race, colour, nationality or ethnic or national origins, a provision which the courts will interpret based on the facts of each case.

Amendment 6 would have the specific effect of including being a Scottish Gypsy Traveller as a relevant protected characteristic for dual discrimination claims. For the reasons I just gave, because it is not a protected characteristic it would be contrary to the Bill's aims of harmonisation and simplification. Moreover, as I have

[Baroness Thornton]
stated before, dual discrimination is a complex issue and including it in Clause 14 as well might impose disproportionate barriers. Given the reassurances that I have offered the noble Lord, Lord Avebury—and the recent news that he provided, which is, indeed, correct—I hope that my assurances that Scottish Gypsy Travellers are a protected racial group will allow him to withdraw his amendments.

Lord Avebury: My Lords, I am grateful to the Minister for those reassurances. I will make one additional request of her. I recognise that many public authorities in Scotland have already altered their policies in the light of the MacLennan judgment, and have incorporated Scottish Gypsy Travellers in their race equality statements. Could the Minister discuss with the Scottish Government how they can best circularise all public authorities to make sure that every statement referring to race equality includes Scottish Gypsy Travellers as a specific group to benefit from the legislation?

Baroness Thornton: I am certainly very happy to take that suggestion forward.

Lord Avebury: In that case, I have great pleasure in withdrawing the amendment.

Amendment 6 withdrawn.

Clause 4 agreed.

House resumed. Committee to begin again not before 8.32 pm.

Electoral System: Party Lists

Question for Short Debate

7.33 pm

Asked By ***Lord Alton of Liverpool***

To ask Her Majesty's Government whether they will assess and address the impact of party list electoral systems on voter turnout, voter alienation and the rise of extremist political groups.

Lord Alton of Liverpool: My Lords, I am grateful for the opportunity to initiate tonight's short debate, which focuses on the way in which party list systems have impacted on levels of voter turnout, voter alienation and the rise of extremist political groups. I am extremely grateful to all noble Lords who have decided to speak this evening. They bring a wealth of knowledge, experience and wisdom to our proceedings. In a few short remarks, I would like to make it clear why I implacably opposed the use of closed party lists in European elections, why that system should be replaced, and why we should carefully assess our experience of closed lists and other electoral systems as we consider making changes to Westminster elections.

In recent weeks, government Ministers have flagged up a damascene conversion to the cause of electoral reform, which makes this debate all the more topical. I hope that the Minister will tell us whether the proposed legislation will provide for a referendum on the voting system, and whether the Government intend to provide a timetable for when that referendum will occur. He might also take the opportunity of this evening's debate to tell us what question or questions will be put to the electorate in that referendum. He will recall that that was the issue put forward at the "Vote for a Change" rally held last July, at Westminster Central Hall.

Twelve years ago, I entered your Lordships' House as an independent Cross-Bencher and I speak from those Benches tonight. Before coming here, for 18 years in another place I had the honour to represent a Liverpool constituency; but I cut my political teeth much earlier than that. In my misspent youth in 1968, aged 17, one of my first duties as chairman of my town's branch of young Liberals was to organise a talk by the indefatigable Miss Enid Lakeman of the Electoral Reform Society. She had been sent by Mr Grimond to tell us why we should support a change in the voting system. Born in 1903, she died in 1995 at the age of 91. Having served as a radar operator during the Second World War, in 1946 she began her lifelong campaign for the reform of the electoral system and, in particular, the introduction of the single transferable vote, or STV.

By 1960, she had been appointed as the director of the Electoral Reform Society and in the following years she addressed innumerable meetings, edited pamphlets, wrote submissions to official inquiries along with hundreds of letters to newspapers, and lobbied politicians and government departments. Her book *How Democracies Vote* continues to be a standard reference on the arcane subject of electoral systems. In 1968, I listened attentively to the compelling arguments which she advanced for STV and to her trenchant arguments opposing party list systems, to which I will return in a moment. Should STV ever be introduced in Westminster elections—as it has been in the Republic of Ireland, for Northern Ireland Assembly elections and for Scottish local government—perhaps it should be called the Lakeman system, because no one did more than that tireless and extraordinary woman to ensure that its virtues were fully understood. I am sure that she would have approved of the debate in your Lordships' House tonight.

Politics is always about timing, and in the present political climate people are bound to question the motives of those who now argue that we should change the system. There is, at the fag-end of a Parliament, a great danger that the case for electoral reform could become contaminated by muddling the genuine arguments which can be made for reform with cynical or belated attempts to sustain the hegemony of particular politicians. Consequently, we could also end up with a worse system than the one we have at present. It is therefore vital to challenge the assumption that any change is preferable to our existing arrangements. That is why I opposed the party list system of proportional representation introduced for elections to the European Parliament. I opposed it on the grounds that it was bound to open the way to groups like the British National Party, and because it offends a fundamental principle of our parliamentary democracy: the right to vote for an individual candidate rather than for a party or its list.

Party lists destroy the constituency basis of representation, which is such a strength of our British system. When lists were introduced by the Government, they promised that they would review the impact the system made on issues such as turnout and political

extremism. I hope that the Minister will tell us this evening whether such an evaluation has been undertaken, and what conclusions the Home Office has reached following the elections that have been carried out using party lists.

Turnouts in the 2009 election were dismal; 34.7 per cent of the population voted, down from 38.52 per cent in 2004. It is worth remarking that, by contrast, in Northern Ireland, where STV has always been used for European elections, the turnout was markedly higher at 42.4 per cent. Party lists are the most anonymous of voting systems; famously, a tiny fraction of voters are able to name their MEP. That encourages apathy and low turnouts, which, as supporters of the mainstream parties stay at home, in turn helps parties with relatively low support bases to win seats. It is not that electoral systems alone are responsible for voter turnout, but a political culture that increasingly revolves around party preferment rather than voter engagement and an overextended belief in campaigning by electronic remote control, rather than by intimate and participatory community politics, is bound to militate against voter engagement.

Beyond the swings and roundabouts of party politics lies the deeper issue of mass absenteeism that is becoming such a feature of our British elections. Anything we do to change our voting arrangements should weigh that factor with great care. We should, perhaps, reflect that in the post-war years whole families went to the polls together; they certainly did on the council estate where I lived and was brought up as a boy. Even in the 1970s, when I was elected as a student to Liverpool City Council, there was a tangible sense of excitement and a buzz on the streets on voting day—let alone the excitement generated at a by-election or general election. When elected, you felt you had a clear and substantial mandate from the people. Where does mass absenteeism leave the democratic mandate of those who have been elected?

Contemporary disillusionment and absenteeism feed into another equally disturbing development—the impact of the far right. It saw an increase in its share of the vote to almost 10 per cent in Yorkshire and the Humber. In addition to winning a seat there, taking 17 per cent of the vote in Barnsley, it won a seat in the north-west, with 8 per cent of the vote. It is worth recalling that in the Westminster elections of 2005 the BNP polled just 0.7 per cent, but by 2008 it had gained 5.2 per cent in the London elections and won a seat on the London Assembly. This has allowed it to build a presence and credibility. Closed party lists help extremism, compound voter alienation and encourage politicians to further detach themselves from direct community engagement.

However, first past the post hardly inspires. The last election gave the current Government 55 per cent of the seats with just 35.1 per cent of the votes. This was the flimsiest basis for a Commons majority in modern British electoral history. If the steady trend of increasing support for parties other than Labour and Conservative continues, such massive distortions will continue and potentially get even worse. People are also increasingly aware that their vote will probably make absolutely no difference to the result, especially if they live in so-called safe seats. The feeling of powerlessness and alienation that this creates is a major contributor to low turnout. In 2005 Labour was able to win power with the support of just 21.6 per cent of potential voters, thanks to the large number staying at home.

The Lord Chancellor and Justice Minister, Mr Jack Straw, has suggested that a good way to address these challenges would be through the introduction of AV—the alternative vote. But AV is no different to first past the post in denying voters a say in who will be the candidate for each party. It is true that by requiring majority support for a winning candidate, AV clearly improves on first past the post; and, unlike with list systems, there would be no loss of the constituency link. Its supporters will also argue that it would be much easier to implement since it could use existing first-past-the-post boundaries. Ultimately, support for the alternative vote may well be driven by crude calculation of narrow party advantage, rather than by empirical evidence.

By contrast with AV, single transferable votes give voters a choice of different candidates whom they can support within each party—a kind of built-in primary, without the extra expense. In parenthesis, it is worth observing that one of the few positives which has come out of the expenses debacle in another place has been the innovative open primaries held by the Official Opposition in such constituencies as Totnes and Gosport. STV would give this same opportunity to supporters of every party. Since each party has more than one candidate, there is wider voter choice and the power to eliminate the least suitable. There is also far more scope under STV to promote candidates from such underrepresented groups as women, ethnic minorities and so on, without quotas—a point highlighted this weekend by the Speaker, Mr Bercow. Paradoxically, AV has the potential to be even less proportional than first past the post and, obviously, in comparison with STV, AV would still allow parties with minority support to have large majorities in the Commons.

The dying days of a Parliament—and probably a Government—must be the worst possible time to alter the voting system. It will raise the spectre of gerrymandering and Tammany Hall-style politics. If there is to be a change to our voting system, let it be genuine reform, which is long overdue. Let it have as its first requirement that an MP will continue to represent a defined geographical area and that votes will be cast for people, not parties. Any move to single transferable votes or alternative votes would need to command widespread support and should not, under any circumstances—unlike the change to party lists for European elections—be steamrollered through as a last-gasp political fix or as part of a political deal. I beg to move.

7.44 pm

Lord Rennard: My Lords, it is 27 years since I was proud to be the election agent for the noble Lord, Lord Alton of Liverpool. I became his agent when his first constituency of Edge Hill had been abolished by the Boundary Commission and the new constituency of Mossley Hill that he was to fight was very different and electorally challenging. Whatever my skills and those of the party machine that we helped to build up, I have no doubt that the noble Lord's victory in 1983 was based almost entirely on his tremendous ability to fight for his constituents.

[LORD RENNARD]

There was no doubt that many supporters of other parties joined those of the Liberal Party, for which he stood at the time, to back him in that election. They did so personally, but also for tactical reasons. The effect of the recent boundary reorganisation was unclear to many and the constituency campaign was dominated by arguments about the relative positions of the main parties within this new seat. While we were successful in our campaign, the experience of it highlighted to me the flaws of first past the post and why we have to look at alternatives.

The first flaw in the first past the post system is the need constantly to change constituency boundaries. That is not conducive to good representation, and the process of changing boundaries is often arbitrary and unfair. Secondly, the results in Liverpool were simply not representative of the voters. Five Labour MPs and one Liberal MP were elected, but not a single Conservative, even though the Conservative Party had polled 29 per cent of the vote across the city's six constituencies. Thirdly, while we celebrated winning the Liverpool Mossley Hill seat that time, we won with only a fraction more than 40 per cent of the vote. A system in which any candidate, however good, wins with 60 per cent of the voters backing other candidates is not good for democracy.

List systems are an alternative, but the best solution to the problems that I have outlined would not be a list system but one in which, in that election, Liverpool could have been a single constituency with six MPs and with voting by the single transferable vote. The city's representation would then have reflected the votes that were cast, the best individuals would have been elected and the distortion of the national result in 1983—when a party with 42 per cent of the vote won 61 per cent of the seats—would have been avoided.

Since 1997 no new Parliament or Assembly in the UK has been created on the basis of first past the post. List systems have been the general preference of the Labour Government, but they could have done better. First and foremost, they should have delivered on their 1997 pledge to allow a referendum on the Westminster voting system so that voters could choose between a proportional alternative and first past the post. They may yet make a new promise on electoral reform for Westminster, but another promise is no substitute for the action that they should have taken during these 13 years.

It is my understanding that the late Lord Jenkins of Hillhead would have liked to propose a system using STV in multimember constituencies covering our cities, with the alternative vote for single members in more rural seats that have very large areas to be represented. Instead of such a system, the PR methods for the Scottish Parliament, the Welsh Assembly, the London Assembly and the European Parliament have been largely based on lists. The effect of the list systems on those various Parliaments and Assemblies has been to make them more representative of the voters than the discredited first past the post system would have been. However, they have also had unnecessary and adverse consequences that have confused the case for electoral reform.

The system of closed party lists puts too much power in the hands of the party machines—and I say that as a former chief executive. Those seeking election put all their efforts into selection by the party, rather than presenting a choice to the voters. People can show their disapproval of someone whom a party has put at the top of its list only by voting for another party list or by not voting at all. These are serious defects. However, to those who would say that these arguments against closed party lists mean that we should continue with first past the post, I would say simply that exactly the same defects apply to first past the post, with none of the ameliorating benefits. First past the post is simply a closed list of one.

Some of the disadvantages of closed lists may be removed by allowing the voters the power to vary the order of the list—the so-called open lists. In other countries, this power has been used to make sure, for example, that there is a fair gender balance among those elected. Another downside of party list PR has been the way in which relatively tiny levels of support have led to BNP members being elected to the European Parliament and the London Assembly, as the noble Lord, Lord Alton, mentioned. The alternative proportional system of STV would allow those who wished their votes to count against the BNP to transfer their votes accordingly and thereby require a much higher threshold for election, which would keep out the BNP unless it had vastly more support. Sadly, I have to say that first past the post is already failing to prevent the BNP from winning some seats, although so far only at local council level. So let us not see the potential for the BNP winning seats used as an excuse for supporting either first past the post or opposing all systems of proportional representation.

7.50 pm

Lord Lipsey: My Lords, it is a great pleasure to follow the noble Lord, Lord Rennard, who for many years sat on my committee of Make Votes Count, the voting forum umbrella organisation. I was also a member of the Jenkins commission, so I am particularly grateful to the noble Lord, Lord Alton, for making tonight's debate possible.

If from that long exposure I could offer one word of advice to the House it would be to avoid dogmatism in the field of electoral systems. This evening, for once, we have a majority of reformers in the House, although there are one or two exceptions. Dogmatism has been one of the biggest obstacles in the way of electoral reform, dividing electoral reformers when they should have been united against the inexcusable first past the post system.

Electoral systems are a single instrument that try to deliver multiple and often conflicting objectives. I take the most obvious example of proportionality to public opinion and stable government, which may conflict. As the noble Lord, Lord Alton, said, they also have to deliver on maintaining voter turnout, reducing alienation and discouraging extremism. It is very difficult for one system to do all of these perfectly. I recall the wise words of Roy Jenkins from the introduction to our report, which stated that,

"none of us are electoral absolutists. We all of us believe that any system has defects as well as virtues. Some systems are nonetheless much better than others, and we have endeavoured to seek relative virtue in an imperfect world".

I commend his advice to the House.

I was slightly surprised at the speech of the noble Lord, Lord Alton, because, although his Question refers to party list electoral systems, he referred to only one form of list system—the closed list system. The variety of list systems is so great that to base your remarks on one version of them does not carry the argument forward very satisfactorily.

The first difference concerns closed lists, open lists and semi-open lists, as in the Belgian system. Liberal opinion has it that open lists are better than closed lists because they give voters more choice. I have my reservations about that because, when you have a closed list system, the party will try to find a selection of candidates who represent all aspects of the community. There is always the danger, if you have an open list, that some racist voters will look for the name Mohammed and shove it to the bottom of the list. However, it is well worth arguing the merits of closed lists versus semi-open lists versus open lists.

To take another example, what area are we talking about over which the list applies? There is a complete difference between those countries that run national list systems—I think that Israel is an example—those that run regional list systems, as we have done for European elections for a longish time, and those that run lists on a county scale, as the Jenkins commission recommended. These are completely different in their impact and effect on the results. Then we get into what can be regarded as cartoon country with some of the technical differences between list systems. Are we talking, for example, about largest remainder systems—the noble Lord, Lord Alton, will no doubt tell me—or highest average systems? For the former, the largest remainder, are we doing our calculations using the Droop, Hagenbach-Bischoff or Imperiali formulae, or, in the latter case, the Sainte-Lague or—I can see the noble Lord, Lord Grocott, has been waiting for this all evening—the d'Hondt system, named after the world's most famous ever Belgian? I would not like to be the government official charged with carrying out the assessment asked for by the noble Lord, Lord Alton, across such a variety of systems. I think that a common-sense approach is more satisfactory.

We on the Jenkins commission avoided getting drawn into such Byzantine complexities. We chose to propose that, on top of the alternative vote in single member constituencies, there should be a smallish number of county top-up seats—counties being areas where voters could be expected to get to know the individual candidates. We wanted to increase proportionality but we did not want total proportionality, which we thought would cut against stable government. We said that the county lists that we proposed should be open lists and not closed lists and, very importantly, we designed our system with great care so that it meant that extremist parties would not be represented unless they got very significant votes, certainly 10 per cent or more in county areas before they could expect to get a seat. Ours was a reform that used list systems—I am not ashamed of that in any way—but one that also delivered the results that the noble Lord, Lord Alton, wanted of reducing alienation, increasing turnout and discouraging extremism. However, we did all this without venturing into STV, which has the incalculable and to my mind fatal disadvantage of abolishing the single member constituency.

7.57 pm

Lord Roberts of Llandudno: My Lords, I appreciate the references to Miss Enid Lakeman, because when I was elected chairman of the Union of University Liberal Societies she was my guest speaker at the inauguration meeting. I am proud to say that my younger daughter has taken over some of her duties that were there and is now with the Electoral Reform Society.

But what we are looking for here, I think, is a democracy which requires that each individual has a place and a voice that is as strong as possible in the community and in society. It is of the people, for the people. I do not claim that any one system meets all the requirements of those in this Chamber—it cannot do that—but we can look for the system which will allow most electors to have the greatest influence possible in the way their lives are run. That is what I am looking for. Some will say—some are not here this evening—that what we need is strong government rather than representative government. They say that strong government is more important. Hitler and Stalin would have agreed with that, but we look into another direction. We have to espouse and promote the democratic ideal. Of course, it is more difficult to manage and is not as obedient and subservient as other methods. Of course, it needs a great deal of tolerance. However, at the end, the people have the strongest voice possible.

I mentioned in a debate not so long ago that when Britain had a two-party system, the Whigs and the Tories, and they had straight fights, at least 50 per cent of the folk would have MPs of their choice. I found an astonishing figure that showed that at the 1900 general election, 243 constituencies had unopposed returns. It was a totally different world from that in which we are living today. As the number of parties increased and we had four and five candidates and constituencies, and more in some cases, naturally you did not need the 50 per cent to win. You could win, as one or two of my colleagues did in the past, with about 26 per cent of the vote, but that means that the 74 per cent are unrepresented.

Governments have been elected, as has been mentioned, on 42 per cent of the vote. We had the poll tax, although the Conservative Government were elected on 42 per cent. Even wars have been entered into by Governments with minority support. That is a danger. When setting up devolved government in the United Kingdom, it was decided to have not just a first-past-the-post system, but a top-up system which ensured that parties had some measure of support reflected in their membership of the Parliament in Scotland, the Assembly in Wales, the London Assembly and so on.

I am surprised that tonight the Tory Benches look like the Marie Celeste, because if any party should be marching against the first-past-the-post system, it is the Conservative Party. If, when Scotland in 1999

[Lord Roberts of Llandudno]
voted for its first Parliament, there had been only a first-past-the-post system, there would have been not a solitary Conservative Member in that Parliament. The next election in 2003 was a little better for that party, because it won three seats, but it would have required another 15 Members from the top-up regional list for the party to be adequately represented in that Parliament. The Conservatives should take that to heart. They speak of reform when the next election comes, but my understanding is that the reform is to reduce the number of MPs in the House of Commons by 100 and to appoint 100 unelected Peers to boost their numbers here in the House of Lords.

The whole system is nonsensical until there is some form of proportional representation. I am not sure how the Labour Party or the Liberal Democrats will do in the coming election. I know one thing: when there was a change of system for the European elections, although there were closed lists, that bit of PR, instead of providing my party, the Lib Dems, with a struggle to return two MEPs, provided us with the 11 MEPs we have today. That sort of system is not ideal by any means, especially as it is a closed-list system, but it at least acknowledges the fact that the present first-past-the-post system is unfair and unrepresentative.

It is easier to preach to a congregation and change their minds than it is to change the minds of some Members in this Chamber. We should ask ourselves the question: is it better and fairer not to have a top-up list for the devolved Assemblies whereby, possibly, no Tories will be represented in Scotland or Wales, or is it better to find a system that provides at least some representation for minority parties? If a top-up system is good for democracy, because it shows the weakness of a first-past-the-post system in Scotland and Wales, why do we not look at a PR system for Westminster? The best system is the single transferable vote, as my noble friend—I still call him my noble friend—Lord Alton said. My noble friend Lord Rennard agreed. If we look in that direction, we will achieve a far more representative society.

8.03 pm

Lord Grocott: My Lords, I cannot say that it surprised me, because it is very much as I would have predicted, but one of the things that ought to be surprising is that we have heard a series of contributions which were made almost as if this had been an academic debate about theoretical systems of proportional representation, their merits, their demerits and all the disadvantages of first past the post that we have heard so often. What should not have happened, but has, is regarding the dogs that have not barked. We are not talking in academic terms. Various forms of PR have been in existence for the past 10 or 12 years. What I was waiting for—but still have not heard, although it may come later—was to hear from supporters of PR and the list system the benefits that have accrued to the country from adopting these various systems.

It may be uncomfortable for those noble Lords, but perhaps I should remind them of some of the predictions that they made about the benefits that would accrue from PR systems that, I fear, from their points of view, simply have not happened. One of the most common was a claim backed a mathematical piece of evidence that PR would increase the engagement of the electorate in the electoral process—the turnout. We were told time and again that lots of Labour, and perhaps Liberal, voters in Sussex, Kent and the south-west, and lots of Conservative voters in the north-east were dying to get out to vote and would be liberated by PR because their votes would count. Was that not one of the many slogans—"make votes count"? That simply has not happened. The turnout at European elections has been abysmal—even more abysmal under PR than it was under first past the post. The first test was the last election under the first-past-the-post system in 1994, at which there was a 36.5 per cent turnout. In the first election under this wondrous new system of PR in 1999 the turnout was 24 per cent—a reduction of a third.

I have a slightly anorakish point which I, and I hope the House, will find intriguing. Under as near a scientific test bed as you could get in electoral systems, such as that in Scotland, with the two systems side by side—people voting for constituencies and for lists at the same polling stations on the same day—even then, the turnout for the first-past-the-post section of that election was higher than the turnout for the list section, despite the fact that in some constituencies there are no first-past-the-post candidates, but there are list candidates. There needs to be an answer to that from the people who frequently tell us that PR would increase voter participation.

We also know that PR in practice—not in theory—greatly increases the number of spoilt ballot papers. At the most recent general election in 2005, there were some 85,000 spoilt ballot papers under first past the post. In the most recent European election in 2009, there were 102,471 spoilt ballots, despite the fact that, as we all know, there is a far bigger turnout in a general election under first past the post than there is in a European election under a party list system. Thereby, on a much lower turnout, there are far more spoilt ballot papers. That is not exactly a ringing endorsement of PR in terms of involving more people.

Perhaps I may make a couple of smaller points, one of which is, however, very important to me. As soon as one introduces a list system, the system of parliamentary by-elections is ended. I am a great fan of parliamentary by-elections. I can think of nothing more undemocratic than a list system whereby you could be having a quiet pint in a pub one evening and someone rings you up and says, "By the way, you are a Member of the European Parliament", which is of course what happens if you are next on the list after someone dies or retires. Parliamentary by-elections are exciting and engage the electorate. PR and the list system freeze an election on the date of a general election. Whatever happens to political opinion in the country during a by-election, it can never be reflected in a general election. By chance, the noble Lord, Lord Avebury, was the last person to speak before this debate. If anyone knows the significance of a parliamentary by-election, it is the noble Lord. We still remember that 40 years later. By-elections are of great significance—and we lose them.

Finally, as the noble Lord, Lord Alton, made plain, we lose under list systems—and we have seen that. It is a cliché, but I shall use it because time is short. The

jewel in the crown of the British electoral system is the link between the individual Member of Parliament and the electorate which he or she is privileged to represent. I know that the noble Lord, Lord Alton, took great pride from that in his constituency, as did others who I can see in the Chamber. That is the lifeblood of a politician. It has been suggested that somehow by severing that we will renew, refresh and invigorate our democracy for the electorate, but the reality is the reverse and there is a fair bit of evidence to suggest that. What I am suggesting—I am sure that the whole House will agree with me—to my noble friend on the Front Bench, who will sum up in his inimitable way, is that we need post-legislative scrutiny of this. Let us see whether the introduction of PR for Europe has worked according to the principles and arguments that its proponents suggested at the time. We are all in favour of post-legislative scrutiny. Let us make this the first example.

8.10 pm

Lord Tyler: My Lords, in view of the time, I do not propose to tackle in forensic detail the issues that the noble Lord, Lord Alton, in his inimitable way, has addressed this evening. This is a very timely debate: we are all grateful for his topicality and congratulate him on it.

I will deal briefly with the context in which this discussion has taken place. There is a sudden interest in different electoral systems, notably among Ministers. Some people might think that it is a Pauline conversion—in his charitable way, the noble Lord, Lord Alton, suggested that—but it is more a death-bed repentance. In the 1997 manifesto, the Government said:

"We are committed to a referendum on the voting system for the House of Commons".

The 2001 and 2005 manifestos stated that a referendum remained the right way to agree any voting change for Westminster. I have no doubt that the Minister, for whom I have a great deal of respect, will give us all sorts of interesting insights into government thinking. I will not believe a word of what he says. A lorry load of salt to clear the lane from my house will give me no reassurance at all that he will give us something with which we can live.

Contrary to what the noble Lord, Lord Grocott, said, we already have umpteen analyses of different electoral systems. We have the Government's own analysis and the one from the Electoral Reform Society, which is excellent. What we have not had is the promised action. As a son of the manse, the Prime Minister should remember the biblical instruction, "By their fruits ye shall know them". Where has the radical promise of the 2007 Brown constitutional reform agenda gone? Where has the Constitutional Reform and Governance Bill gone—in which, we were told, there would be reference to the need for electoral reform and some mechanism for achieving it? My honourable friend David Heath in the other place described the Cabinet as moving with the alacrity of an arthritic slug on the way to its own funeral. This could apply equally to the Government's attitude to this Bill. Where is it? Will it ever reach us? If it does, will there be anything in it of any value?

Just eight days ago, the Prime Minister had the nerve to suggest that the "Liberals"—he does not have the courtesy to use the right name, 20 years after our party changed—agree with him about the alternative vote and Lords reform. We agree with him that the issue must be put to the people. No one who has spoken in the debate wants us to go on as we are—apart from the noble Lord, Lord Grocott, who shares with the Conservative Front Bench the noble distinction of being one of the reactionary dinosaurs in the House on the issue. Everyone else believes that first past the post is the worst possible system to give us good governance representing the people as a whole.

It is a long time since I studied Latin, but when I look at the way in which the Cabinet, in the last dying days of its Government, is now offering yet another broken promise in advance after 13 wasted years, I am reminded of Virgil. I will not attempt the Latin, but it went something like, "I fear Greeks who proffer gifts" or, more freely interpreted, "I fear geeks who proffer shop-soiled gifts".

I offer the Conservatives some food for thought. At the Council of Europe Forum in October on the Future of Democracy, which I attended on behalf of the Lord Speaker, I was reminded by a delegate from the former Soviet bloc that the most undemocratic party list is the one with just one name on it—which most of them have experienced over the years. That is precisely what we have, as my noble friend Lord Rennard said, with first past the post. Even if you try to improve it with primaries—as was the case in Totnes, near my constituency of yesteryear—the shortlist is selected by the central party leadership. It is not an open system, as the single transferable vote would be.

Both the other parties have shown themselves contemptuous of the right of our people to exercise real choice and to know that every vote, everywhere, has a chance of affecting the result. I share with the noble Lord, Lord Grocott, the distinction of having represented a very interesting constituency in the other place and I have great pride in that. However, at no point in my career—I had a generous majority at the end—could I say that a majority of the people who were entitled to vote in that constituency had voted for me. This nonsense about the close connection between the constituency Member and his constituents is very limited.

I believe in real democracy. Therefore, I think that we should revert to the promise that was made in previous manifestos and then broken. Until that happens, I will treat all manifestos from this Government and from the Opposition with large amounts of salt.

8.16 pm

Lord Henley: My Lords, the noble Lord, Lord Tyler, described the noble Lord, Lord Grocott, and myself as dinosaurs. I take pride in that. The noble Lord, Lord Roberts of Llandudno, likened my Benches to the Marie Celeste. I rise to refute him.

I start by congratulating the noble Lord, Lord Alton, on bringing in this timely debate on the effect that certain electoral systems, particularly list systems, have on voter turnout, alienation and the rise of

[LORD HENLEY]
extremist political groups. He is being ambitious in trying to squeeze such a thing into one hour. The noble Lord, Lord Lipsey, talked about the need for relative virtue in an imperfect world. To find that in a dinner hour debate on a Monday evening in snowy January is asking a bit too much; but we will listen with care to what the noble Lord, Lord Bach, says in due course when he answers and delivers his lorry load of salt to the noble Lord, Lord Tyler.

I will make clear the position of those of us on the Marie Celeste Benches to noble Lords on the Liberal Democrat Benches. We do not support the use of party lists in an electoral system. We believe in first past the post and, like the noble Lord, Lord Grocott, we believe that first past the post ensures that each Member of the House of Commons represents a recognisable constituency with a single Member; and, more important, as the noble Lord, Lord Grocott, and others who have been in the Commons will know, that the Member can be kicked out if they or their party fail to satisfy the electorate. Most systems of proportional representation, and in particular the party list system, fail that test. They completely fail to allow the electorate to kick out any individual and place excessive control in the hands of the party bosses—something to which the noble Lord, Lord Rennard, referred.

I was interested that some noble Lords referred to the whole selection process of first past the post. I was grateful that the noble Lord, Lord Alton, referred to the fact that in our party we had used open primaries for the selection process, and he referred to the one that took place in Totnes. I accept that one cannot use that process in every single constituency—it was a very expensive operation to mount—but variations on it can be used in others. In the constituency in which I live—Penrith and The Border—we recently selected a new candidate by means of an open primary. Anyone within the constituency who was a registered voter, for whatever party, could apply and come to the selection meeting. We had a very interesting experience and we believe that it was the first time that a candidate had been selected at a selection meeting held in the cattle mart in Penrith. It was not the most comfortable place to spend, four, five or even six hours on a Sunday afternoon, but in the end we selected a candidate after a whole series of different votes until one candidate got a majority. I believe that that process showed that imaginative ways can be found to allow a much greater choice in the selection of a candidate than can ever be done by other means.

I shall say just a word or two about party lists and, in particular, about their weaknesses. In doing so, I pay tribute to my late noble friend Lord Mackay of Ardbrecknish. Many Members of the House who were here in 1998, or perhaps 1999, when we dealt with the European Parliamentary Elections Bill will remember the fight that Lord Mackay put up against the closed lists that the Government were proposing for those elections. They will remember that he tried to demand open lists for that process. We had many votes on the issue and it ping-ponged back and forth between the two Houses. In the end, we lost. It was regrettable that the Government would not give us the open lists that would at least marginally have improved the party list system that has been imposed on us for European elections since that day.

I end by taking up the suggestion of the noble Lord, Lord Grocott, who said that this was possibly the time for some post-legislative scrutiny. We might look at the debates that took place between the late Lord Mackay of Ardbrecknish and whoever had the misfortune to speak for the Government on that occasion. Perhaps the noble Lord, Lord Grocott, can remember. It would be interesting to see what they said and what they predicted the effect of closed lists would be. I am sure that it would be a worthy exercise to conduct and it might lead us back to being the sort of country where at the very least we think about moving to open lists, if not reverting to first past the post, for European parliamentary elections.

I think that the noble Lord now has 12 minutes left in which to respond. We look forward to hearing him with his pinch or lorry load of salt or whatever it might be.

8.22 pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My Lords, I start by congratulating the noble Lord, Lord Alton, on securing this debate. It is true that an hour is not long enough but we are grateful to him for giving us the chance to debate this matter at all. I thank all noble Lords who have spoken. I was going to make an exception of the noble Lord, Lord Tyler, but I have decided that I will not.

The debate this evening has centred on electoral systems and the methods by which representatives may be elected. Of particular concern to the noble Lord, but not only him, is the impact of party list electoral systems. These are important matters and must be debated.

Party list electoral systems are undoubtedly a form of proportional representation. Broadly, they are designed to ensure that the proportion of votes that each party receives at an election determines the number of seats that they win. Under party list systems, voters elect representatives to multi-member districts or regions.

As we have heard, there are variations in party list systems according to the degree of influence that a voter has on which of a party's candidates is elected to a seat won by that party. Closed list system votes are cast for parties, and the order in which candidates on a party's list fill the seats won by that party is normally decided by the party standing at the election.

As we have heard from experts, there are different types of open list system, but voters have at least an option to cast a vote for an individual candidate from a party. This perhaps gives voters a greater say in which of a party's candidates are elected. Of course, party list electoral systems can also be used as part of mixed additional member systems to help to ensure that seats are filled in proportion to the votes cast. As noble Lords will, I am sure, agree, this Government have an excellent record in implementing constitutional reform, which has included electoral innovations. We have introduced new voting systems for the devolved Administrations, the European Parliament, the London Mayor and the Greater London Assembly. Some of

these new systems include party-list systems. The additional-Member systems that we have introduced for the devolved Administrations in Scotland and Wales and for the Greater London Assembly involve a proportion of Members being returned from party lists.

With regard to elections for the European Parliament, of which we have heard a lot, MEPs in Great Britain were elected by the first-past-the-post system. Under changes to European law in 2002, member states must now elect their MEPs using proportional-voting systems. However, prior to these changes, we were already committed to introducing a more proportionate voting system for European elections in the UK. For the 1999 and subsequent European elections, we introduced a regional-list system for electing our MEPs. I well remember the debates about which the noble Lord, Lord Henley, spoke. The reason why the Government favoured a closed-list system was, in part, because under the alternative open-list system that was under consideration at the time it might have been possible for a candidate low down on a party list to receive a significant number of personal votes yet still not be elected, while others higher up the list with fewer votes would be elected due to the weight of party votes. There was concern that that might undermine the legitimacy of some elected representatives. It is, of course, right that we continue to consider and debate whether this assessment remains the right one.

That brings me to the noble Lord's request that we make an assessment of the impact of party-list electoral systems. The changes that we have made to voting systems have involved significant constitutional change. In January 2008 we published a review of the evidence and the experience of the new voting systems. The review examined the strengths and weaknesses of the various systems in place. As has been said on all sides, there is no panacea. There are strongly held views about which electoral system is best. As we have heard in this brief debate, all systems have their advantages and disadvantages.

Perhaps the fundamental aim should be to ensure that the electoral system is appropriate for the institutional context. For European elections and the devolved Administrations, perhaps this means reflecting the particular characteristics of specific regions and devolution settlements, but for elections to the House of Commons, I strongly believe that the voting system needs to reflect that the constituency link is vital. I hope that the House will forgive me for giving a personal example of why a single-Member constituency works in the real world. On Saturday last I attended the funeral of David Taylor, the late Member for North-West Leicestershire, in Heather, a small village in the middle of the old Leicestershire coalfields. It was bitterly cold, well below freezing and snowing heavily. Yet, hundreds upon hundreds of his constituents made the effort to attend his funeral in a gesture of affection and respect for their late Member of Parliament. They had not all voted for David Taylor; people had voted for other parties or none, but they were in the churchyard and the road leading up to the small village church. Of course, he was an outstanding Member of Parliament, but I have to pose the question: if David Taylor had been just one of a number of Members of Parliament representing a much larger constituency, would they really have shown their affection and respect in the same manner? I think not.

Comments have been made about the impact of party-list electoral systems on voter turnout and voter alienation. Our review recognised that voter participation is often seen as a measure of confidence in democracy and the voting system in use. A number of points can be made in favour of party lists that might help to boost voter participation. As they produce proportional outcomes, voters may feel that their vote will count more and have greater weight, so are more likely to feel that they have a stake in the outcome of the election. It could be argued that electors under party-list systems have more choice as more parties have the chance of being elected. I could also say that party-list systems can help increase the representation of traditionally under-represented groups. However, the review of voting systems noted perhaps the obvious—that turnout is a product of a complex set of factors which include voter knowledge, ease or difficulty of registering to vote, campaigning by political parties, and the impact of the news media. With regard to the European Parliamentary elections, turnout at each election in the UK during the period 1979 to 1994, held under the first past the post method, averaged at about 34.5 per cent.

Turnout initially fell at the 1999 European elections to 24 per cent, following the introduction of the new regional list voting system. However, turnout at the 2004 European elections rose to 38.5 per cent. This was the highest ever turnout at the European elections in the UK, and was due in part to these elections being combined with local government elections and all-postal pilots being held in certain regions. At the European elections in 2009, turnout in the UK fell slightly to 34.5 per cent.

The evidence suggests that, with the exception of the elections in 1999, turnout under the party list system for European elections in the UK does not compare unfavourably with previous elections held under the first past the post system. However, as I have explained, voter participation and turnout is influenced by a large range of factors and the available evidence suggests one sure thing: that one should exercise great caution in seeking to draw specific conclusions in respect of party list systems.

Concerns have been expressed that party list electoral systems can lead to the election of persons from extremist parties. I would say that, whatever one's views may be on party list systems, it cannot be disputed that they guarantee a high degree of proportionality in the way that seats are allocated to parties at elections. It is true that this has led to the election of persons from parties outside the mainstream: at the 2008 London Assembly elections the BNP won a London-wide seat, while at the 2009 European Parliamentary elections the BNP won two seats. However, as our review of voting systems found, party list systems have been beneficial to other parties, in particular the Green Party that has won seats at the European Parliament and on the London Assembly. The review found that at European elections, the new voting system has allowed national parties in Scotland and Wales to win and maintain seats.

[LORD BACH]

The noble Lord will be aware that for the European elections held from 1979 to 1994, prior to the introduction of the party list system for these elections, the Liberal Democrats and their predecessors won only two MEP seats, despite securing a significant proportion of the vote at these elections.

It has been argued that if we had used the single transferable vote system for the European elections, rather than the closed list system, the BNP would not have won any seats at those elections. I would say that at the 2009 European elections, taking the seat that the BNP achieved in the north-west region, the BNP was the fifth biggest party in a region with eight seats. It is hard to argue that it is indisputably an invalid or unfair outcome for the BNP to have won that seat, whatever one's view of that party's politics.

In a democracy, we must expect that at times persons standing for election will put forward views that many others may find unpalatable. This is an unavoidable consequence of living in an open and free society. We think it is important that when looking at electoral systems, you do not design systems simply with particular political parties in mind. We have to take a principled approach and have systems that we believe to be proper and appropriate for the particular body or institution in question.

I know that my speech, like those of other noble Lords, has raised more questions than it has answered. However, I once again thank the noble Lord, Lord Alton, for raising this matter in this debate.

Equality Bill

Committee (1st Day) (Continued)

8.33 pm

Amendment 7

Moved by ***Lord Ouseley***

7: After Clause 4, insert the following new Clause—

"Association and perception

(1) Reference to a protected characteristic of a person (B) includes—

(a) association of B with the protected characteristic including but not limited to association with one or more other persons who have the protected characteristic, or

(b) a perception by another person (A) that B has the protected characteristic.

(2) For the purpose of subsection (1)(b), it does not matter that B does not have the protected characteristic."

Lord Ouseley: The purpose of this new clause is to put protection based on association or perception into the Bill. The full protection against discrimination which the Bill offers can then be as widely known to all users, or potential users—such as employers, employees, service providers, service users and public authorities—as possible.

The Explanatory Notes make very clear that protection against discrimination and harassment includes protection based on the person's association with a person with a protected characteristic—for example, as the spouse, friend, child, parent or lover of a person who has a protected characteristic—or on association by the person's actions by, for example, campaigning for rights related to a particular characteristic or refusing to discriminate against people who have a particular characteristic. The notes also make clear that protection applies where a person is discriminated against or harassed because they are perceived to have a particular protected characteristic where such perception is false—for instance, a Sikh man subjected to Islamphobic abuse.

That this protection should apply to association has already been clarified by the European Court of Justice in the recent case of Coleman v Attridge Law, in which the parent and full-time carer of a disabled child was discriminated against and harassed because of her association with the protected characteristic of disability. Earlier case law in the UK courts under the Race Relations Act 1976 had established this principle for racial grounds. In looking at association it has been well established under the Race Relations Act 1976, for 25 years or more, that a person can bring a complaint of race discrimination if they are treated less favourably because of their association with a person of a particular race—for example, where a white person with black friends is not admitted to a club, and the reason that the white person is excluded is because he or she is with them. The reason is race, even though not his or her race.

That is the same type of situation as being associated with disability for the carer of a disabled child in the Coleman v Attridge Law case. In two other reported cases, Showboat Entertainment Centre v Owen and Weathersfield v Sargent, association with the ground of race was extended to apply to white employees who were dismissed when they refused their employer's instructions to discriminate on racial grounds. The courts were satisfied that the reason for the dismissal was race.

It has been understood for many years that the Race Relations Act also covers situations where a person was wrongly perceived to belong to a particular racial group and, based on that perception, was treated less favourably. For instance, the abusive reference "Paki", if intended to refer to people of Pakistani origin, is often used against any one of south Asian origin in the course of harassment or discrimination against "Pakis".

The new clause does not introduce anything in terms of the law; it would merely ensure that any person reading the Bill would know that those aspects of protection against discrimination were part of the law. The amendment is aimed at helping to facilitate the streamlining of the law and making it clearer and more accessible for everyone. I beg to move.

Baroness Turner of Camden: My Lords, I support the noble Lord, Lord Ouseley, and in so doing speak to my Amendment 21A, which is on a very similar basis. The idea of my amendment was to clarify what discrimination can involve. The amendment would make it clear that direct discrimination can include discrimination based on a perception of B's sexual orientation, religion or belief, whether that perception is right or wrong. It would be possible for a person believing that they had been disadvantaged because of

assumptions made about their sexual orientation, religion or belief to bring a claim, and they would not have to disclose their sexual orientation, religion or belief when making such a claim.

The wording also covers association, which the noble Lord, Lord Ouseley, mentioned, and persons believed to have protected characteristics. For example, an employee might be treated less favourably because of the sexual orientation, religion or belief of his or her partner, or because his or her son was believed to be gay, or in the case of the mother of a disabled child.

As the noble Lord, Lord Ouseley, said, that is all in line with the equal treatment framework directive, and I hope therefore that the Government will be prepared to accept it. My wording is extremely simple, so I hope that it will attract support.

Baroness Warsi: I have three amendments in this group: Amendment 24, which adds protection for those who are perceived to have a disability under the direct discrimination provisions; Amendment 38, which adds protection for those who are perceived to have a disability under the indirect discrimination provisions; and Amendment 54, which adds protections for those who are perceived to have a disability under the harassment provision. Amendment 7 addresses more widely amendments that I have tabled to Clause 13 with regard to disability.

In her Second Reading speech, the Minister stated that the Government were proud to welcome the important change that widened the definition of direct discrimination and harassment. The result of this change would be that people who themselves did not possess a protected characteristic but were associated with someone who did would also be protected. This expanded definition, however, is only made obvious in the Explanatory Notes. I think that the noble Lord, Lord Ouseley, has said that he would like to take this expansion still further and ensure that there is an explicit statement in the Bill, in a prime location, that a reference to anyone with a protected characteristic includes an association with people with that characteristic, or even when it is mistakenly assumed that someone had the characteristic when they do not. This would therefore include any area of equality law where a protected characteristic was mentioned. Can the Minister tell us why the expanded definition to include associations and perceptions applies only to direct discrimination and harassment? Is there not a case that it should cover any form of safeguard designed to be given to a protected characteristic?

Furthermore, I look forward to hearing the Minister's response on why the definition itself has not been put clearly in the Bill. I think that we are all in favour of the broadened definition, and it is very much to be hoped that when the provision is enacted it will mean real help for those who previously may have suffered detriment and disadvantage with no hope of redress. Does the Minister accept that there is a worry that, if this is not clearly stated in the Bill, there is a risk that it will not bring the benefits that we all hope to see? There may well be a sensible explanation for this course of action, but I think that the Committee would very much appreciate hearing the Minister's thoughts on it.

In a similar vein, we have tabled our amendments as probing amendments to ask the Government for greater clarity. We welcome the fact that the Explanatory Notes to Clause 13 state that this definition is broad enough to cover cases where the less favourable treatment is because of the victim's association with someone who has that characteristic—for example, the person is disabled—or because the victim is wrongly thought to have that characteristic, such as a particular religious belief. This addresses an issue raised by Coleman v Attridge Law. The European Court of Justice ruled that the relevant directive applied to a mother who claimed protection under an EU directive, not because she herself was disabled but because she had a direct relationship with her child who was disabled. We have already discussed much of this on Second Reading, so I will not go into it in more detail now. However, the Government have expanded this judgment still further so that it includes carers who look after elderly people.

The Disabled Charities Consortium also welcomes this change because, as it says,

"it moves the focus from the disability … to the allegedly discriminatory treatment itself and the reason for that treatment".

However, we have tabled these amendments to raise two issues. First, the DCC is looking for clarification from the Government about how they expect the provision to work in reality. The DCC is concerned about groups such as those who at some point in their life have suffered mental health problems—though perhaps only for a short period of, say, a few months—which are perhaps not considered to have had a long-term impact on their life. An employer may discover this and deny them employment because of it. If so, could they claim direct discrimination, as they have been perceived to be a disabled person, and would this come under the expanded definition brought in by the Coleman case?

Can the Minister say how she thinks the perceived disability provision will work? Furthermore, can she explain why it was not thought necessary to include this provision in the Bill? In Committee in another place, this was discussed and the Solicitor-General said that she understood,

"that at the very first look at the clauses there is a transparency argument for making the protection explicit".—[*Official Report*, Commons, Equality Bill Committee, 16/7/09; cols. 253-54.]

We agree with that. The provision is welcomed all round, so it seems dangerous to hide it in the Explanatory Notes, which after all are not part of the Bill, are not endorsed by Parliament and cannot be relied on as an absolute description of the Bill. Without stating it directly in the Bill, there seems to be a danger that it might not be enacted or used, which would be a terrible shame.

8.45 pm

My understanding of the Government's defence is that they do not want to specify the provision in the Bill for fear of narrowing it. The worry is that specification would mean that people might interpret the Bill to mean that those forms that were not expressly stated were not covered. That may be correct, and it would not do to narrow the definition too much. However, the Minister must understand that we worry that without the provision being in the Bill, this too will narrow the scope and focus of the provisions that we

[Baroness Warsi]
all welcome. Can she reassure us that this will not be the case? How will this work in practice? What assurances can she offer the Committee that something that the Government have impressed upon us as one of the important changes that the Bill will introduce—the Minister mentioned it in her Second Reading speech—will not just be left in the Explanatory Notes?

Baroness Wilkins: I strongly support this amendment. It seems to offer very helpful clarification of the new rights that we are enshrining to extend protection from direct discrimination and harassment on grounds of association or perception. These new rights are a major breakthrough for carers and colleagues of disabled people, but they need to be in the Bill. Why should they be hidden away in Explanatory Notes that probably only parliamentarians, lawyers and lobbyists ever read? We need these rights spelt out on the tin, so that people can access and use them more easily, rather than hidden away in the small print.

Another major advantage of this amendment is that it focuses on the fact that it is the defendant's motivation for the discrimination that matters, not whether the claimant meets the stringent legal definition of disability. That seems to me to be entirely the right approach, and I very much hope that the Government will adopt it.

Lord Low of Dalston: I, too, support these amendments, particularly as they relate to disability. The Bill makes it possible for non-disabled people to claim protection from direct discrimination or harassment because they are associated with a disabled person or are perceived to be a disabled person or to have any other protected characteristic. This is an important and welcome step as it moves the focus from the disability of the disabled person to the allegedly discriminatory treatment that they have received and the reason for that treatment.

I shall not go over the ground that has already been ably traversed by the noble Baronesses, Lady Warsi and Lady Wilkins, but I would welcome some clarification from the Government, particularly on how they see perceived disability working in practice and on whether additional provision is needed to address the long-term requirement. We have heard from the noble Baroness, Lady Warsi, about someone who is perceived to be disabled because they have suffered from depression at some point in their career, perhaps intermittently, but without an episode lasting 12 months, and therefore not satisfying the requirements of the definition of a disabled person. This is clearly a case of someone who is prejudiced by the way in which they are perceived. I would be grateful to hear from the Minister how she sees the legislation working to protect people who fall into this kind of category.

Lord Lester of Herne Hill: My Lords, the Government have done something splendid in moving beyond the old discrimination law. Old discrimination law on direct discrimination went something like this: if I went into a pub with someone who was black and I was rejected because of my association with that person, that would be discrimination on racial grounds—in other words, it would be because of my association with my black friend—or if went into a pub and I was thought to be black when I was not and I was discriminated against for that reason, again I would have a remedy under the old Race Relations Act. But because of the way in which the Sex Discrimination Act was structured, a woman or man had to show that the discrimination was on the ground of her sex, not on the ground of an association with someone else. What the Government have done is admirable. They have produced a more general and less cramped test of causation—to use that legal word. The test is whether the less favourable treatment is because of a protected characteristic.

Later we will have a debate about "on the grounds of" and "because of". But that does not matter. My point is that the noble Lord, Lord Ouseley, is correct in saying that his amendment is not radical and does not significantly changes the law. We can decide after we have heard the Minister whether or not we need language to spell it out. The substance of the amendments is correct. I entirely agree with the noble Lord, Lord Low, on what he said about disability discrimination.

Lord Mackay of Clashfern: My Lords, I should possibly declare an interest as vice-president of the Princess Royal Trust for Carers in respect of disability. I support the amendment proposed by the noble Lord, Lord Ouseley, or that proposed by the noble Baroness, which seem to do the same thing. The only possible advantage of the earlier amendment is that it seems to state a principle which goes through the whole range of later provisions. But the essence of it seems to be highly desirable and I venture to think that it may be necessary as well.

Baroness Thornton: My Lords, the proposed new clause under Amendment 7 and similarly veined Amendments 21A, 24, 38 and 54 are variants on an amendment which was debated in Committee in the other place. In resisting that amendment, my honourable friend the Solicitor-General highlighted the danger that if the Bill were to refer expressly to association and perception, by implication Clause 13 could be misinterpreted as excluding or devaluing other forms of discrimination. In fact, as well as discrimination based on association and perception, the definition of direct discrimination in Clause 13 is broad enough to cover, for example, cases of less favourable treatment because of a refusal to comply with instructions to discriminate. There are other reasons why the Government resist the proposed new clause and Amendment 21A.

I turn now to the question raised by the noble Baroness, Lady Warsi, about whether it would be better to have this in the Bill. The Bill refers to discrimination because of a protected characteristic, not because of the protected characteristic of the claimant. The key issue is the reason for the less favourable treatment. If the reason is disability, it would be disability discrimination, whether or not the victim is actually disabled. The Bill clearly provides for that, to which I shall return in a moment.

The word "association" inevitably invites a potentially confusing debate about what is meant by that word. In his recent judgment in the case referred to by the noble Baroness, Lady Warsi—Attridge and Coleman, which was handed down on 30 October 2009—the president

of the Employment Appeal Tribunal reformulated the Disability Discrimination Act's definition of direct discrimination without using the language of "association". He preferred to,

"avoid language which encourages [employment] tribunals to become bogged down in discussion of what does or does not amount to an 'association', when that should not be the focus of the enquiry".

What matters is that A has treated B less favourably because of a protected characteristic, and the fact that the characteristic in question is not B's own is not of the essence. That is clear from the judgment of the European Court of Justice in the Coleman case.

We believe that we have addressed association, but Amendment 24 would explicitly confer protection from direct discrimination on those who are treated less favourably because they are "perceived", rightly or wrongly, to have a disability. It could also, in relation to Clause 13(3), explicitly protect, for example, a service provider who treats a person they wrongly perceive to be disabled more favourably than another, who then takes action against the service provider.

In relation to Amendments 24 and 38 which deal with perception, similar arguments against an explicit approach apply. We suggest that there is no need for such amendments. The definition of direct discrimination in Clause 13 is broad enough to cover cases where the victim of the less favourable treatment is wrongly thought to have any of the relevant protected characteristics, not just disability. The same principle applies in relation to subsection (3) when considered in the context of the operation of Clause 13 as a whole. Aside from it being unnecessary, by singling out disability, the amendment wrongly implies that discrimination based on perception is not prohibited if the protected characteristic is one other than disability.

Clause 13(3) as drafted will help to address the very real disadvantage that disabled people can face in their everyday lives and sits alongside the other key provisions in the Bill such as the reasonable adjustments duty. We have acted in the Bill to outlaw the direct discrimination and indeed harassment of people who are perceived to be disabled because that is the right thing to do. We are not convinced that there is any need to be prescriptive in circumstances where more favourable treatment is afforded to a person who is incorrectly perceived to be disabled. The broad, single definition of direct discrimination in Clause 13 allows the courts to be flexible in their approach to its interpretation. On the other hand, listing the different kinds of direct discrimination could not be done exhaustively and would arguably reduce the courts' ability to interpret the legislation flexibly in the future.

I would like to say a little more on Amendment 38 which would extend protection from indirect discrimination to people who do not have a disability. If an employer refuses to employ a person because the employer thinks that the person has HIV/AIDS, a remedy is provided for such a person under Clause 13, even if the employer is wrong and the person does not have HIV/AIDS. What matters in a case of direct discrimination is that the victim has received less favourable treatment because of a protected characteristic. The fact that they do not actually have the protected characteristic is not relevant. They should not suffer discrimination because of that incorrect perception, just as someone else should not suffer discrimination because of a correct perception.

By contrast, indirect discrimination in terms of both the Bill and underlying European directives occurs where an apparently neutral provision, criterion or practice puts or would put people who have a protected characteristic at a particular disadvantage compared to others, unless the application of the provision, criterion or practice can be objectively justified. An example of this would be where a bus company has a general policy of not allowing on its buses people who swear loudly. Unless the bus company could objectively justify the application of this policy, it would be indirectly discriminatory if the policy is applied to a person who has Tourette syndrome and as a result could not help swearing loudly in public. However, if the policy is applied to someone who does not have this disability, the policy would be perfectly reasonable. The bus driver's perception of the person who swears loudly would be totally irrelevant. In the absence of any evidence that this protection is required, it is the Government's view that only people who actually have a protected characteristic should be protected from indirect discrimination. Further, if we did extend protection from indirect discrimination to those who are perceived to have a particular disability, we would be giving them greater protection than those perceived to have any of the other protected characteristics listed in this clause. This would run contrary to the overall harmonisation and simplification objective of this Bill. The approach we have adopted in this clause is consistent with our obligations under European law.

More generally there is a further risk, were discrimination based on association or perception to be set out on the face of the Bill, that this could be interpreted in a different way from how the courts have read that concept into the "on the grounds of" formulation used in current domestic and European legislation. Some might argue that the absence of a specific prohibition risks leaving victims unaware of their legal rights or generating uncertainty among employers and service providers. However, it is well established and well understood that the definitions of direct discrimination in current legislation using the "on the grounds of" formulation are broad enough to cover discrimination based on association and perception. As I will explain when we come to consider Clause 13, the "because of" formulation in that clause does not change the legal meaning of the definition. Guidance from the Equality and Human Rights Commission will clarify the legal position.

9 pm

Amendment 54 relates to the definition of harassment. Clause 26 defines one of the three forms of harassment as,

"unwanted conduct related to a protected characteristic".

This formulation means that protection is not limited to a person who has one of the characteristics to which the prohibition of harassment applies but also covers the person who is harassed because they are perceived, whether or not correctly, to have a protected characteristic. Indeed, its coverage is even wider than that and also includes protection where a person is

[Baroness Thornton]
harassed because of their association with someone who has a protected characteristic. This broad protection applies equally to all of the protected characteristics listed in Clause 26(5), of which disability is one.

To set out explicitly that harassment related to perceived disability would cast doubt unnecessarily on the breadth of protection which can be covered by the "related to" formulation in respect of all the characteristics protected against harassment. We therefore consider the amendment is not necessary. For all those reasons, I urge the noble Lord to withdraw his proposed new clause and ask the noble Baronesses not to move their amendments.

Lord Lester of Herne Hill: Perhaps I may make a practical suggestion. I know it is the first day in Committee and we are far from achieving our target, but might it be possible, as in previous Bills, for the Government to circulate notes on clauses and amendments in order to make the proceedings a bit quicker and to avoid the poor old Minister having to read it all out? In my experience of previous Bills, Ministers have authorised the distribution of notes on clauses and amendments. It does not mean that the notes cannot be read in, but it would accelerate the process. I know that has all the disadvantages of common sense.

Baroness Thornton: I shall look into that. Thank you.

Lord Ouseley: My Lords, I thank the Minister for her response and those who have contributed in support of the proposed new clause. I had hoped that we would provide the opportunity for a wider understanding of the accessibility that association and perception in the Bill as a protected clause would have offered. However, I shall not press the matter and I beg leave to withdraw the amendment.

Amendment 7 withdrawn.

Clauses 5 and 6 agreed.

Schedule 1 : Disability: supplementary provision

Amendment 8

Moved by ***Baroness Warsi***

8: Schedule 1, page 129, line 16, at end insert—

"( ) Without prejudice to the operation of sub-paragraph (2), the mental impairment consisting of or resulting from depression that has ceased to have a substantial adverse effect on a person's ability to carry out normal day to day activities shall always be treated as if that effect is likely to recur if the person has had within the last 5 years a previous episode of such impairment which has had a substantial adverse effect on the person's ability to carry out normal day to day activities for a period of 6 months or more."

Baroness Warsi: My Lords, Amendment 8 is designed to address how long-term conditions fit into the provisions of the Bill. As currently drafted, Clause 6 is quite strict. It defines someone as having a disability if they have a "physical or mental impairment" and that impairment has a,

"substantial and long-term adverse effect",

on their,

"ability to carry out normal day-to-day activities".

This is quite tight but we welcome the fact that Schedule 1 includes the provision that,

"If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur".

We welcome the fact that this will include fluctuating and recurring conditions. In other words, even if the person suffered a condition which then subsided, they could still be considered to have a disability for the purposes of the Bill. This is important because it gives disabled people stability.

The obvious example is depression, which has been given in the Explanatory Notes to Schedule 1. This illustrates that the section is supposed to include the possibility of a person with depression finding simple decisions or tasks difficult, which would amount to a disability because it would be considered to have a "substantial adverse effect" on their ability to carry out daily activities. It would also count despite the fact that the occurrences of depression were split into separate periods over two years. It therefore appears at first glance that our concerns have been answered.

Nevertheless, we have tabled the amendment to probe in the Bill the status of "long-term" and fluctuating conditions because the Disability Charities Consortium remains worried. The example stated would allow the individual to be covered under the Act only because the separate instances of depression had been,

"diagnosed as part of an underlying mental health condition".

Many fluctuating and recurring conditions are very hard to diagnose, often because there is a lot of disagreement about them in the medical profession. This can mean that claims fail because of the expense and complexity of obtaining hard and firm medical evidence rather than because the condition is any less valid. The disagreements may be based, as in the case of depression, around whether the symptoms represent a continuous condition which also has separate episodes where it is specifically active or whether the episodes are self-contained occurrences. That would obviously affect whether such a person would be covered under the Bill. For this reason, the Joint Committee on Human Rights in conjunction with the Equality and Human Rights Commission and the Disability Charities Consortium recommended the removal of "long-term" to create a,

"simpler, more certain approach for identifying who has protection".

While we do not advocate its take-up here, our amendment specifically addresses depression to draw attention to the fact that it is vital to be clear about which conditions are included in the scope of the Bill. At this moment, it could be argued that it is quite vague.

As the Disability Charities Consortium states, it can be difficult to predict the duration of such a mental health problem. Without being able to forecast this accurately, it would be very difficult for one to judge whether the,

"effect is likely to recur".

There are two problems here. The first is that this vague area may mean that some people with very serious conditions are left out in the cold and not covered by the Bill. They may be people who have

recently been diagnosed as having had an "episode" of depression, but it is unclear whether they will have a repeat occurrence. The second, as we said in another place, is that a debate about the likelihood of recurrence will give rise to a legal wrangle where a court might be forced to take a decision. This is surely far from ideal. This issue was debated in another place and it was concluded that it might be best to put advice on how to deal with conditions such as this into statutory guidance. Will the Minister confirm that this guidance will contain provisions relating to specific conditions such as depression where medical opinion may be divided? Will she inform the Committee of any further provisions which might be included? Can we hope to see draft guidance soon?

The Solicitor-General in another place rightly pointed out that,

"there is a limit on what one can do in statute to clarify every possible situation that might arise".—[*Official Report*, Commons, Equality Bill Committee, 16/06/09; col. 201.]

This is true, but does the Minister agree that the language should not be left vague enough for the Disability Charities Consortium, the Equality and Human Rights Commission and the Joint Committee on Human Rights to worry that there may be groups who are not included? I beg to move.

Baroness Thornton: My Lords, this amendment would make an addition to the provisions in Schedule 1 for some people who experience depression. It would apply only to a person who has had a period of depression in the past five years that has had a substantial adverse effect on their ability to carry out normal day-to-day activities for a period of six months or more. It would enable them to always be treated as if that substantial adverse effect is likely to recur, and thus to meet the long-term element of the definition of disability.

I recognise that depression can have a profound effect on a person's life, but I do not consider that extending the Equality Bill in this way is the appropriate way forward. The Bill is intended to cover those people who are disabled in the generally accepted sense of the word. That is, they have a condition which is long-term, or even permanent. This is reflected in the current definition, which requires that a person must have an impairment that has a substantial and adverse effect on the ability to carry out normal day-to-day activities. These are issues that the noble Baroness referred to. That effect must have lasted, or be expected to last, at least 12 months, or for the rest of their lives.

If the amendment was accepted, it would treat some people with depression more favourably than others who experience periods of ill health or impairment, which can also have substantial adverse effects, but where those effects last for only a few months. Ill health, or an impairment such as a broken limb, is not the same as a disability. I am sure that we all know that. I am sure that people in that position would not regard themselves as disabled, because their conditions are temporary and short term. A disability is by its nature more substantial, as the noble Baroness has acknowledged. What is being suggested here is a move away from the well established approach taken in the Disability Discrimination Act, which we are carrying forward to the Equality Bill. Sub-paragraph 2(2) already provides for people whose impairment has fluctuating or recurrent adverse effects, and that provision can help people with recurring periods of depression to gain the protection of the Bill. If a person has experienced a six-month period of depression, which had a substantial adverse effect on their normal day-to-day activities, and that effect is likely to recur, the Bill enables those effects to be treated as continuing. That would apply regardless of whether the previous period was within the past five years or not.

Many people may experience separate and isolated periods of depression at traumatic times of their life—for example because of divorce, bereavement or redundancy. These do not necessarily arise from an underlying condition. I do not believe that it would be right to protect a person from discrimination on the basis of their having experienced two periods of depression, however substantial each one may have been, simply because they occurred within a period of five years. Changing the definition of "long term" just for depression, as this amendment proposes, would be unfair to other disabled people and would cause uncertainty, as there is no clear dividing line between depression and some other mental illnesses. The majority of disabled people do not have special provisions enabling them to meet the long-term condition of the definition, but they will have to show that the effects of their impairment have lasted, or are likely to last for at least 12 months.

Given the provision already in Schedule 1, I consider it unnecessary to make the addition put forward in this amendment. In any case, to do so would fundamentally alter the way in which the long-term element of the definition in the Bill operates. On that basis, I ask the noble Baroness to withdraw the amendment.

Baroness Warsi: I thank the Minister for her response. This was a probing amendment, and at this stage I am content to withdraw it. I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendment 9 had been retabled as Amendment 57B.

Schedule 1 agreed.

Clause 7 : Gender reassignment

Amendment 10

Moved by ***The Lord Bishop of Chichester***

10: Clause 7, page 5, line 15, at end insert "under medical supervision"

The Lord Bishop of Chichester: I move this amendment in the name of my right reverend friend the Bishop of Chester, who apologises that he cannot be in his place and asks me to speak on his behalf. The very large postbag that I and my colleagues have received from individuals and organisations about this matter has focused in the main on the need for faith communities to be protected in respect of particular protected characteristics for reasons that touch central aspects of the life of those communities, which should themselves be protected.

[The Lord Bishop of Chichester]

That focus is understandable, but this amendment has a different purpose. It asks that transgendering or transgendered people, claiming the legal protection of this Bill, would need to be or have been under the supervision of a qualified medical practitioner, which is the present situation. The promoters of this amendment certainly do not object to the inclusion of gender reassignment as a protected characteristic. I know from my own experience as a priest and pastor that those who suffer from gender dysphoria are in a particularly vulnerable position in society, which in many cases can be quite acute. To find oneself in a gender which one believes and experiences to be a false characterisation, possessing physical characteristics that one does not recognise as one's own, is a situation that most of us would find hard to imagine.

9.15 pm

There are some within and without different faith communities who doubt the possibility of genuine gender reassignment. Views vary within and between the churches and other communities on this matter and its implications for such matters as ordination or marriage. Some of my colleagues—including, so he tells me, my right reverend friend in whose stead I stand—would be willing in principle to ordain such a person or to solemnise their marriage in their new gender. Others would not, but we would all recognise the uncertainties and ambiguities which lead different people to different conclusions.

Although some scientific and legal aspects of the situation remain unclear, I hope that all noble Lords will share a sense of care and compassion for those in this situation. This amendment is not, however, about our individual attitudes or beliefs on the matter but about the rights of citizens to fair treatment and respect for their personal identity. Of course, one of the most headline-catching aspects of gender reassignment is the question of the surgery which forms part of some, although not all, cases. Normally, medical surgery removes diseased or dead tissue. Transgendering surgery removes what would otherwise present as healthy tissue, but of course that "otherwise" is absolutely critical. That is the problem, and it leads some people to question the authenticity of the condition of gender dysphoria—or, at least, the recourse to radical surgery in order to address it.

The Bill refers to people who are proposing to undergo, are undergoing or have undergone a process of gender reassignment, but to what does that "process" refer? It might seem to imply a formal process, overseen by the medical profession, but paragraph 64 of the Explanatory Notes states that the clause changes the existing requirements,

"by no longer requiring a person to be under medical supervision",

in order,

"to come within it".

What, then, is the process that is envisaged? Are we talking merely about self-certification that one is in the process of reassigning one's gender? That is what the Explanatory Notes say, and to many of us that seems to carry the notion of individual rights too far, because it detaches them too much from the rights of others and the ultimate good of the wider community. It is one thing to make proper provision for those suffering from gender dysphoria; it is another to enshrine in law the principle that one's gender is a matter of personal choice. Moreover, would this change not lay the provisions of the Bill open to potential abuse? Would it not make the legal question of who is or is not proposing to undergo, undergoing or has undergone a process of gender reassignation so vague as to make the work of a tribunal potentially very difficult indeed?

There are obvious practical problems with the clause. Does wider society not have the right to require that somebody in these circumstances, if they are to claim the legal protection which society can afford, should be under the supervision of a medical practitioner? That would guard against potential abuse of the provisions and give clear guidance to the courts concerning who is or is not potentially protected by the Bill.

To be under medical supervision would not require that any particular medical procedures have been carried out or are in prospect. People can, after all, undergo gender reassignment without surgical intervention. Nor would people need legally to reassign their gender in order to come under the protection of the Bill; they would simply need the supportive supervision of a medical practitioner, and to have got to that point in the process before claiming the formal protection of this law. To accept this amendment would not, of course, justify discriminatory behaviour towards those who are not under medical supervision, but it would mean that the formal support of the law could be claimed only by those whose sense of compulsion to reassign their gender had a degree of recognition and support by the medical profession.

I finish on a more general point that may be the most fundamental of all. The Bill appears to reduce gender identity to a matter of personal and individual choice. If so, are there wider problems beyond the specific and specialised issue of transgendering in such a move? We often dwell in our debates on the social consequence of family breakdown and the general confusion over human relationships in our society, and it is usually the children who suffer most, as the recent Second Reading debate on the Child Poverty Bill made plain once again.

The constitution of the human race as male and female is fundamental—equal and different. Certainly, the genetic and physiological differences between male and female are far greater than the other protected characteristics. Furthermore, it seems significant that people usually have an awareness of themselves as either male or female. There is no protected characteristic of being neither male nor female, or the androgynous state of being both male and female. Most people have a sense of being or wanting to be one or the other. Would giving legal protection to transgendering or transgender people on their self-certification alone serve further to undermine a proper sense of the differentiation of male and female and, therefore, equality? It is too important an issue for wider society to be regarded merely as a matter of individual decision and self-certification.

These more general concerns undergird the practical considerations that I outlined earlier. Would it not be safer all round—not least in relation to young people,

who often feel confusion about their gender as well as their sexuality—to continue to encourage the proper support and supervision of the medical profession; and to require this if legal protection against discrimination is to be invoked? It seems as though there is some confusion over whether the intention is to give protection to those who are seriously engaged in gender reassignment—which is how the clause sounds and, indeed, how it appears in the title—or whether, in accordance with the notes, it is designed to give protection to all and sundry, including those who are experimenting with cross-dressing.

Young people are most vulnerable in all this, not least because there are those who may experiment, suffer confusion about sexual identity and orientation, and need every encouragement to seek professional help. This is, at this stage, a probing amendment, designed to clarify what the Government intend in amending the Sex Discrimination Act by removing the requirement for medical supervision. I beg to move.

Baroness Gould of Potternewton: My Lords, I fully understand the sentiment with which this amendment has been moved. I listened carefully to the words of the right reverend Prelate, but I have to oppose the amendment, which would limit—as I think the right reverend Prelate said—discrimination protection only to those transgender people who are receiving medical supervision.

The current provisions reflect the Government's response to the discrimination law review, which stated that the legislation will make it clear that a person is protected,

"whether or not they undergo medical supervision".

That has to be right, because many transgender people do not live permanently in their acquired gender. Many do not undergo medical reassignment at all. This may be due to age or health, for example, and not necessarily to choice. However, they nevertheless face significant discrimination and harassment in every aspect of their lives. Surely the Bill is designed to protect people in such situations.

A definition based on the medical process of gender reassignment particularly fails to protect children or young people, who, as the right reverend Prelate rightly said, are the most vulnerable. Their gender identity may be less well developed or self-understood than that of an adult and they are, therefore, unlikely to seek medical supervision relating to gender assignment. While they are going through that process of misunderstanding and sorting out for themselves what their own position is, they may face transphobic discrimination and harassment every day. I cannot believe that it would be right not to make sure that the Bill particularly protects young people in that position. I am afraid that the amendment that has been proposed would prevent such protection for those young people.

Lord Lester of Herne Hill: My Lords, I agree with everything that the noble Baroness, Lady Gould, has just said. I represented a transsexual person in a case in Strasbourg. The amendments to our law sprang out of the enlightened decisions of the European Court of Human Rights about the right to respect for private life without discrimination. I think that the right reverend Prelate was attacking the idea that this was too individualistic. Exactly the same argument was made about sexuality when we debated, for example, civil partnership and other aspects of sexuality. I am sure that, with all the difficulties that the churches have in deciding what to do about homosexuality, no one would suggest these days—at least, no one outside Northern Ireland—that a gay son or lesbian daughter who considered themselves to be gay or lesbian should be put under medical supervision in order to ensure that the personal choice that they were making was valid. The reason why no sensible person would suggest that is that we now understand, I think, that homosexuality is not just a matter of choice but arises out of how one is born and one's early years. Personal choice is paramount. That is even truer with transgender people. They are the most vulnerable. There are very few of them—I think not more than a few hundred in this country—but in my professional experience they are the most vulnerable people of all because they touch on the fears of ignorant people and they need protection.

The Explanatory Notes give the following example. They state:

"An unemployed person who was born physically female decides to spend the rest of her life as a man. He starts and continues to live as a man. He decides not to seek medical advice as he successfully 'passes' as a man without the need for any medical intervention. He would be undergoing gender reassignment for the purposes of the Bill".

Why on earth should such a person be required to show that he was undergoing medical supervision? If that person were discriminated against because of gender reassignment, it is a question of fact whether that was the basis for the less favourable treatment. To say that that person must undergo medical supervision as a condition for enjoying a basic right—the right anchored in Article 8 of the European Convention on Human Rights as well as in our domestic law—would be wholly unacceptable. That is a wholly different matter from how the churches react in their liturgy, dogma, practices and anything else, where I fully respect their right to follow the dictates of their religious beliefs. What we are concentrating on in this amendment is what should be the condition for entitlement for a transgender person who faces discriminatory treatment. For that reason, I strongly oppose the amendment.

Lord Mackay of Clashfern: My Lords, arising out of this amendment, I would like to know what the Government intend by the reference to,

"a process (or part of a process)".

I notice that the Equality and Human Rights Commission objects, in its response to the amendment, to adding the words "under medical supervision", but it says:

"Most transgender people do not live permanently in their acquired gender and many do not undergo medical reassignment at all. This may be due, for example, to their age or health".

It then goes on to talk about younger people. I would like to know what the Government say about this.

I am not clear how Clause 7 will work if the transgender people do not live permanently in their acquired gender. What happens after they stop living in their acquired gender, because the definition in the Bill refers to a person who is,

"undergoing or has undergone a process"?

[LORD MACKAY OF CLASHFERN]
I think that that would mean that, if this had happened at one stage in a person's life, it would stay like that for the rest of their life. However, the commission, which knows much more about this than I could ever do, says:

"Most transgender people do not live permanently in their acquired gender".

9.30 pm

Baroness Thornton: My Lords, this amendment would mean that transsexual people would have protection from discrimination because of gender reassignment only if they were under medical supervision. It would change the definition of the protected characteristic back to what it is in the Sex Discrimination Act 1975.

The consultation document on the Government's proposals for the Bill asked whether consultees agreed that we should keep the existing definition of gender reassignment. A majority of those who responded said no and most of them took issue with the reference to medical supervision in the current definition. We therefore decided to amend that definition to make it clear that the reference to gender reassignment being a process taken under medical supervision does not go so far as to require either ongoing medical supervision or gender reassignment surgery. Our intention has never been to limit the protection of discrimination law to transsexual people who undergo such supervision or surgery. Rather, the definition is intended to apply to people who make a commitment over a period of time to live permanently in their non-birth gender, with or without requiring surgical intervention. It might be helpful to the Committee if I explore the definitions more fully.

This clause defines what is meant by gender reassignment and a transsexual person. The definition is central to how the provisions relating to discrimination because of gender reassignment will work. Transsexual people have a gender identity that does not correspond with their physical identity and this can cause great distress. People with this condition who decide to adopt the opposite gender to the one assigned at birth are known as transsexual people. Those individuals who attempt to reconcile their gender and physical identity undergo the process known as gender reassignment. That is the process being referred to. It is not a medical process; it is a process that they go through. They permanently make a transition to a new sex opposite to their birth sex. Reassignment can range from changing name, title, clothing and appearance to undergoing hormone treatment and surgery. This transition from one gender to another can mark the person out as different and that can give rise to discrimination.

I hope that that has explained the process. It is a personal matter for each individual. It is a commitment that they have made to living for the rest of their lives in a gender opposite to their birth gender. That is the process that we have been referring to.

Lord Mackay of Clashfern: I am grateful for that explanation. I still find it difficult to understand how this is a process. It sounds like a decision, rather than a process in the way that the noble Baroness described. She has repeated more than once that it is a decision to live permanently in the opposite sexual situation, whereas according to paragraph 27 of the Equality and Human Rights Commission document:

"Most transgender people do not live permanently in their acquired gender".

Therefore, it is not a permanent matter. If the process is to reach a permanent decision, that does not happen in the majority of cases that this clause seeks to protect.

Baroness Thornton: The point that is being made in the Bill is that discrimination takes place against people who are transsexual. That is what we need to focus on.

Lord Lester of Herne Hill: Would I be right in saying that "process" refers to the course of conduct that leads someone who is not going to stay in their birth gender to transfer to the other gender? The process is the way in which that happens over time. It does not matter for the purpose of discrimination law whether they are discriminated against because they intend the change to be permanent. Is it not the case that what matters is whether they are discriminated against because of their gender reassignment? Therefore, we should not get hung up about "permanent" or "impermanent". Even if you did not live in your gender identity for ever, it would not matter; what matters is the unfair treatment of someone who is going through that process.

Baroness Thornton: The noble Lord has explained it much better than I did. That is exactly the point that I was trying to make. However, the definition in Clause 7—

Baroness O'Cathain: Perhaps I may ask for clarification. I thank the Minister for giving way. The first thing that she said about the process concerned wearing the clothes of the different gender, behaving in that way, probably getting their hair cut very short and things like that. Some people then decide that they do not much care for that and go back, because it is not permanent. Where are we then? Are these transgender people or are they not? I ask because the Minister said that the process starts with wearing different clothes and goes through to gender reassignment.

Baroness Thornton: The point I was making is that that is the range of things that could happen for a transsexual person. However, Clause 7 does not cover transvestites or others who choose temporarily to adopt the appearance of the opposite gender. While we do not condone anyone being treated badly because of the way in which they present themselves, it would not be appropriate to provide people who present themselves temporarily as of a gender other than their birth gender with the same protection against discrimination that is available to a person with gender dysphoria, who is somebody who has been assigned one gender at birth, but believes that they are of another gender. That is the point—it is what happens to that person that the Bill attempts to address.

Baroness O'Cathain: Perhaps I may pursue this. I promise that it will not be for long. We received a document from the Equality and Human Rights Commission. The noble Baroness, Lady Gould, quoted from it. Paragraph 27 states:

"Most transgender people do not live permanently in their acquired gender and many do not undergo medical reassignment at all".

That means that they are at the beginning of what the Minister described as the process running from clothing through to gender reassignment. I do not know where we are on this, and who is covered and who is not.

Baroness Thornton: The noble Lord, Lord Lester, and I have explained that we are attempting to protect people who are undergoing this process from the discrimination that we know they suffer. I want to reassure the Committee that we are not altering the requirements of the Gender Recognition Act 2004. This was the cause of some confusion at Second Reading for the right reverend Prelate. The Act provides people with legal recognition of their acquired gender. Part of the requirement to obtain a gender recognition certificate is that an individual will have to provide to the gender recognition panel evidence of a secure diagnosis of gender dysphoria. This will be in the form of two medical reports, one of which must be from a registered medical practitioner practising in the field of gender dysphoria or a chartered psychologist practising in that field. The second report must also be from a registered medical practitioner, who may or may not practise in that field. With those reassurances, I hope that the right reverend Prelate will withdraw his amendment.

The Lord Bishop of Chichester: My Lords, I am grateful to the Minister and to all noble Lords who have contributed to the debate. Far be it from me to attribute confusion to the noble and learned Lord, Lord Mackay, but I share his confusion. It seems that there is a muddle about whether we are talking about a floating situation or a question of genuine gender dysphoria, which is a medically recognised condition in which people are trapped in a gender other than that which they consider their own. We as a community must do more work to understand what we are talking about.

I was grateful to the noble Lord, Lord Lester, for his clarification. The philosophical argument will continue. There is an irresistible force/immovable object struggle going on at the moment. On the one hand, there is the proper desire to remove and outlaw all forms of discrimination. On the other hand, there is a very important question about understanding sex and gender in the community as a whole. It seems to me that, pace what the noble Lord said, this is a question not just of doctrine and liturgy but of pastoral care. As someone who has been involved in the pastoral care and, indeed, the defence of employment rights of church employees who have been in this situation, I know a certain amount about this issue. It seems to me that there are big questions about how we understand what it means to be a human being and the role of gender, and I do not think that we are quite at the end of that discussion yet.

I am more than happy, with permission, to withdraw the amendment at the moment but I am sure that I shall want to consult my colleagues and we may come back to this issue.

Amendment 10 withdrawn.

Clause 7 agreed.

Clause 8 : Marriage and civil partnership

Amendment 11

Moved by ***Baroness Coussins***

11: Clause 8, page 5, line 27, leave out "marriage" and insert "marital status"

Baroness Coussins: My Lords, all the amendments in my name in this group are on the same small and specific point. They seek to extend the protection for married people and civil partners to single, widowed or divorced people who may experience discrimination on grounds of their marital status, and they apply only where the discrimination is in the field of employment.

I am a strong supporter of the Bill. I want to see it further improved and on the statute book as soon as possible. I am very sorry that I was unable to be present at Second Reading to flag up my concerns on this point but I believe that my amendments are simple and straightforward. They are, I believe, entirely compatible with both the strategy and the spirit of the Bill, and I do not believe that any undue delay would result if the Government were to take them on board.

The intention of the Bill is to harmonise protection and, where appropriate, to strengthen and extend protection in certain circumstances. My amendments would do exactly that by remedying one of the defects in the original Sex Discrimination Act 1975. The amendments are supported by Liberty and, in principle, by the Discrimination Law Association.

As it stands, the Bill continues the status quo and makes it unlawful to discriminate in the field of employment against married people because they are married. The Bill also, rightly in my view, extends this protection to those in a civil partnership. I cannot see any good reason why it is—and without my amendments would remain—lawful for employers or prospective employers to discriminate against single people on grounds of their marital status. For example, it is, and would remain, lawful for an employer to offer relocation expenses only to married employees, to turn down a divorced person for a job simply because he or she is divorced, or to say that single employees are not entitled to the same compassionate leave as married employees. There were many cases just like these when the Sex Discrimination Act first came into force. However, I do not have a long list of current cases and examples to quote.

I do not claim for a moment that this is the type of discrimination which is most often experienced or most contentious, or which causes the most hardship or makes the most headlines, but in my opinion this should not mean that the basic principles are discarded. After all, these days marriage discrimination is not exactly rife either.

When the Government consulted on what the Bill should contain, they canvassed views on whether the protection for married people should be dropped from discrimination law altogether on the grounds that it did not really exist any more. If we were having this debate several decades ago, we would be looking at a situation in which women would automatically lose their jobs as nurses, teachers or civil servants the

[Baroness Coussins]
minute they got married, but that is a thing of the past. However, my understanding is that the responses to the consultation were divided as to whether it would now be right to ditch the protection for married people, so the Government decided to keep it in just in case its absence sent out the wrong signal and perhaps had the unintended consequence of reviving this undesirable behaviour.

My argument is simply that, if there is a case for preserving the protection for married people on a just-in-case basis, it must surely follow that, even if wider forms of marital status discrimination are not common, people should still have equal principled protection under the law just in case.

I have not been overambitious in my amendments. I have confined them to the employment provisions of the Bill in order to be as pragmatic as possible. In principle, of course, I should have liked to see marital status discrimination also outlawed in the areas of goods, facilities and services for married and single people alike. It is still lawful, for example, for a landlord to refuse a tenancy to a single parent because of her marital status, but in the interests of expediency I have limited myself just to the provisions where married people already have protection but single people do not. That is just in employment.

9.45 pm

I have also tried to make the terminology as helpful as possible by using "unmarried" rather than "single" in my amendments to avoid any possible ambiguity over "single" when it refers to number rather than status. In case noble Lords might be concerned that protecting unmarried, widowed or divorced people from discrimination would open the floodgates to unintended consequences for the tax, pensions or benefits systems, I emphasise that we are talking only about the way in which employers treat their existing or prospective employees, and no wider. These amendments are no Trojan horse.

Many employers in all sectors have detailed written policies on equal opportunities and non-discrimination. They list all the grounds on which they will not discriminate, such as race, sex, sexual orientation, age, ethnicity and so on. The list invariably includes "marital status", not "marriage". I decided to do a quick spot check of the policy statements of three random employers in the private, voluntary and public sectors. In the private sector, I checked Marks & Spencer, whose policy uses "marital" or "civil partner status". In the voluntary sector, Oxfam uses "marital or family status". In the public sector, I looked at the policy that governs the employment of people who work here in your Lordships' House, or indeed anywhere in Parliament and the Civil Service. Yes, the phrase used is "marital status", not marriage and not just for married people, but fair, non-discriminatory treatment for everyone whatever their marital status.

Why should the law lag behind common practice, indeed best practice? How can we be content with terms and conditions for people working in the service of this House to be one thing but legislate for inferior standards for everybody else? The amendments are not anti-marriage; they are pro-consistency. They are reasonable, small and logical. I dare say that the drafting could be improved. The noble Baroness, Lady Afshar, who kindly added her name to the amendments in support, unfortunately could not be here today. Several other noble Lords have approached me to signal their support but they could not attend or stay here tonight.

I appeal to the Government to think again about making this small adjustment which would send out a signal about a big principle. I beg to move.

Baroness Morris of Bolton: My Lords, given that this is the first time I have spoken in Committee and the wide-ranging nature of the Bill, I declare my interest as set out in the Register of Lords' Interests.

The noble Baroness, Lady Coussins, raises some interesting points. The amendments would make an important change to the Bill and I very much look forward to listening to the Government's response.

We tabled Amendment 55 to seek clarification on an important issue. I will, however, given the hour and my voice, be brief. My right honourable friend David Cameron has repeatedly made it clear that we on these Benches are committed to recognising marriage and civil partnerships in the tax system in the next Parliament. Support for marriage and civil partnerships does not in any way suggest criticism for those in other relationships, nor does it suggest a criticism of single parents. I am on record in your Lordships' House as paying tribute to the heroic job they do, often through no choice of their own.

However, we believe that recognising marriage in the tax system would send out a strong signal and would help to support stable relationships. This is particularly important as the evidence available demonstrates that a stable couple relationship is beneficial for a child's development. Moreover, the UK is actually unusual for not recognising marriage in the tax system at the moment. Mexico and Turkey are currently the only other OECD countries which do not.

Noble Lords will be aware that of course there are lots of different ways of recognising marriage in the tax system. We have not set out our specifics partly because they would depend on what was affordable at the time. However, should there be a change of government in the next Parliament, we on these Benches would want to enact this policy. I would therefore be most grateful if the Minister could confirm that there would be no provisions in the Act that would prevent that happening.

Baroness Howe of Idlicote: I very much support the amendment tabled by my noble friend Lady Coussins. Indeed, I thought that I had put my name down in support of it. Having listened to what she had to say, and having taken my mind back to the Sex Discrimination Act 1975, I can say that she makes a very good case indeed, particularly her comments on the goods, facilities and services areas. I support what has been said about all the other amendments and hope that the Minister will be able to agree with them. I see no reason why the change cannot be made, because it carries exactly the same strength of feeling as the other amendments we debated earlier today and on which we await a reply.

Lord Lester of Herne Hill: I shall be brief. I personally support the amendment, provided that it is confined to employment. Treating someone in employment less favourably because they are widowed, divorced or unmarried seems to me to be as unfair as doing so l4-cobecause they are married or a woman.

We had all this out more than 30 years ago when we were considering the original Sex Discrimination Bill. Reluctantly, we then came to the conclusion that we would not make the change. The problem about doing so is political—that the right honourable William Hague and the Conservative Party have decided to pin their colours to marriage to the exclusion of non-marriage. Many of the right reverend Prelates may also feel that they have to defend marriage as an institution. I am in favour of marriage and defend it as an institution, but I introduced a cohabitation Bill last year to give some protection to those who are not married—unmarried, widowed, divorced and so on.

The one very good reason to be in favour of the amendment which has not so far been mentioned is children. The fact is that if employment discrimination is permitted against single parents, whether they are unmarried, widowed or divorced, the people who really suffer in the end are the children. The major social problem of children living with a single parent, or with an unmarried non-civil partner, is a very serious social problem for which we all pay as taxpayers. It leads ultimately to going on social security and so forth. Therefore, there are compelling arguments in favour of the amendment. The main argument against it is that, if it is taken seriously, it will probably lead to hours of debate subsequently. If that were so, I would not be in favour. However, personally, I strongly favour the idea behind the amendment, provided that it is confined to employment.

Finally, there is one problem and I do not know whether the noble Baroness, Lady Coussins, has thought about it. It is that you do not want to pit married women against single women; married women against widows; or married women against divorced women. The problem about the concept of indirect discrimination is that you have to work out which group you are talking about. If you are talking about, say, single women, you have to ask whether it is right that they should be treated better or worse than married women. This is a mistake that we made in the original Sex Discrimination Bill without thinking about it, by including marriage discrimination in the first place. No one has noticed it for the past 30 years, but it is true that there are some situations in which married women might seek to have greater rights than single women. That may be an argument for not extending this to indirect discrimination, but it is not an argument for not extending it to direct discrimination.

Baroness Royall of Blaisdon: My Lords, Amendments 11 to 15 would add marital status, including those who are unmarried, widowed or divorced, to the list of characteristics protected by the Bill. Amendments 25, 16, 39 and 46 to 48 are consequential to that. That would extend the protection offered by the protected characteristic of marriage and civil partnerships. Although I understand that the amendments are certainly not a Trojan horse and I recognise the careful drafting of the noble Baroness, we do not consider that such an expansion of protection is warranted.

The purpose of the Bill is to provide protection against discrimination where such discrimination exists and legal protection is necessary. If we were to extend the protection of the Bill to characteristics where there is no evidence that people encounter harmful discrimination, it would dilute the force of discrimination law. We would consider adding further characteristics to the scope of protection under the Bill if this were a proportionate response to a real problem experienced by individuals who share a particular characteristic. We have not been provided with any evidence of such problems being faced by those who cohabit or who are single.

I heard the arguments put forward by the noble Baroness, Lady Coussins, and her account of her swift research, and I heard the arguments put forward by the noble Lord, Lord Lester. However, as the noble Baroness pointed out, as part of the *Discrimination Law Review*, the Government consulted on whether to remove the existing marriage and civil partnership protection. We listened to the responses and considered them very carefully, as they were almost equal on whether to remove the protection or not, but some the replies indicated that there were still instances of discrimination on this basis, mainly when an employer attempts to prevent a married couple from working together. However, there was no such evidence of any discrimination against people in other forms of marital status, including widows, widowers and divorcees.

The issue of equalising the rights and responsibilities of people who are married or in a civil partnership with those who are not is one which goes to the heart of the status in society of the institutions of marriage and civil partnership. This is not an issue that the Government are seeking to address in the Bill. For these reasons, the Equality Bill will continue to provide protection only for married and civil partners. On that basis, I ask the noble Baroness to withdraw the amendment.

Amendment 55 is a clarificatory amendment to make clear that any benefits dependent on marriage or civil partnership are not discriminatory. I am glad that the noble Baroness has a clear statement of her party's policy on this matter. A week is a long time in politics, one might say. We do not consider the amendment to be necessary. The Equalities Bill prohibits discrimination against someone on the grounds of their married or civil partnership status. We believe that it is confusing to suggest, even for the avoidance of doubt, that anything done in the tax system to favour spouses or civil partners could be discrimination under the Bill, which explicitly protects marriage or civil partnership status. On the other side of the coin, treating married or civil partnership couples more favourably might be said to discriminate against an unmarried person, but as noted earlier, being unmarried is not a characteristic protected by the Bill. Therefore, it is impossible that recognising marriage in the tax system could be discrimination against an unmarried person under a provision of the Bill.

[Baroness Royall of Blaisdon]

More fundamentally, revenue collection is a public function, and we have not made discrimination in the exercise of public functions on the grounds of marriage or partnership unlawful. Finally, there are cases where being married or in a civil partnership is already recognised in the tax system, in inheritance tax, capital gains tax and for those who remain entitled to the married couples allowance. Nothing in the Bill prevents that. Consequently, we believe that the provision would have no effect. On that basis, I ask the noble Baroness to withdraw the amendment.

Lord Mackay of Clashfern: Has the noble Baroness any comment on the equal opportunities policy in relation to employment in this House and in the Civil Service, in Oxfam and in Marks & Spencer?

Baroness Royall of Blaisdon: I listened with interest to those comments. It would seem that those are excellent employers and there is no reason why other employers should not follow suit. For the purposes of the Bill, however, we are content with it as it stands.

Baroness Coussins: I thank the Minister for her response and other noble Lords who have spoken. Clearly I am disappointed with the response; I do not share the Minister's view on this point, and I do not think that the Government's consultation exercise, as I understand it, explicitly sought views on marital status discrimination, only on the protection of married people. So I am not surprised if not much evidence was forthcoming to suggest that such protection was needed in the Bill. Although I am disappointed and do not accept the Government's view, I do not want to hold up the Bill's progress. I therefore beg leave to withdraw the amendment.

Amendment 11 withdrawn.

Amendments 12 to 15 not moved.

Clause 8 agreed.

Clause 9 : Race

Amendment 16 not moved.

Clause 9 agreed.

Amendments 17 to 19 not moved.

House resumed.

House adjourned at 10.02 pm.

Written Statements

Monday 11 January 2010

Armed Forces: Medical Care

Statement

Baroness Thornton: My right honourable friend the Minister of State, Department of Health (Mike O'Brien), has made the following Written Ministerial Statement.

The Government are committed to ensuring that those who are seriously injured or who develop mental health problems while in the service of their country will receive the best possible care from the National Health Service for the rest of their lives.

The department is today announcing a package of measures to support service personnel who have received serious injuries while on active service. I have worked closely with my honourable friend the Minister for Veterans (Kevan Jones) to put in place new arrangements with the Ministry of Defence for life care planning, together with a guarantee that all those seriously injured will receive an early and comprehensive assessment of their long-term needs. It is intended that those needing continuing healthcare will receive high-quality care for life based on a regular review of their needs overseen by an NHS case manager.

As committed in *New Horizons*, a cross-government vision for mental health, the department is also responding to concerns expressed about the impact of recent and current deployments on the mental health of those in and those leaving the Armed Forces. The community mental health services currently being piloted in six mental health trusts are expected to continue their work beyond the end of the pilot period. The findings from the evaluation of these pilots will allow other mental health services to gear their services towards meeting the needs of veterans. We expect that all mental health services will make special provision for veterans during 2011-12.

In addition, we are providing grant funding for Combat Stress to work directly with mental health trusts to ensure that the services they provide are accessible to and appropriate for military veterans. The two departments have today signed a tripartite agreement to facilitate the work that Combat Stress will be doing in partnership with the Government. The department will also be extending its Third Sector Strategic Partner Programme with the third sector to include the involvement of charities representing those in the Armed Forces, their families and veterans.

The major improvements in trauma care made in recent years by Defence Medical Services and the excellent work of the emergency teams in Afghanistan means that people are now surviving injuries which would have taken their lives in former times. The department has previously undertaken to ensure that recent service leavers who have lost a limb while serving will—where clinically appropriate—be entitled to receive from the NHS an equivalent standard of prosthetic limb to those provided by Defence Medical Services.

Today I can announce that this undertaking will be extended to all veterans who have lost a limb while serving, where clinically appropriate.

The department will also ensure that a responsible director within strategic health authorities, together with primary care trust champions for the Armed Forces, are identified to advocate for them and to ensure that their needs are fully reflected in commissioning plans and service provision.

The department will also be working with the Ministry of Defence to ensure an improved transfer of medical records to the NHS on retirement from the Armed Forces. This will facilitate GP awareness of the veteran status of new patients to ensure veterans receive their entitlement to priority treatment for any injuries or illness attributable to their time serving in the Armed Forces.

Finally, the department is working with the military to develop clearer and easier routes into accredited NHS jobs to provide employment opportunities for those leaving the Armed Forces.

Internet: Children

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My honourable friend the Parliamentary Under-Secretary of State for Crime Reduction (Alan Campbell) has today made the following Written Ministerial Statement.

Further to my Written Answer (*Official Report*, House of Commons, 16 December 2009, col. 1392W), the Home Office is today publishing *Child Exploitation and Online Protection Centre: The Way Forward* as Command Paper Cm 7785, which sets out the Government's proposals for the creation of the Child Exploitation and Online Protection Centre (CEOP) as a non-departmental public body. Copies will be placed in the Vote Office.

The Government set up CEOP in 2006 with the remit of protecting children online and to help tackle child sexual offenders. This was seen as a new area of threat to children, and the centre was created to ensure that there was a law enforcement unit capable of responding to these threats. CEOP is currently affiliated to SOCA and, as such, has had operational independence.

Since its inception, CEOP has been a remarkable success. It has rescued over 500 children, and has led to the arrest of a significant number of people seeking to harm them. It has also developed the leading UK child internet safety website, "Think U Know", complemented by a comprehensive education programme in schools.

Having considered the work of the centre, and the ongoing online and offline threats to children, we believe that the centre should now become an NDPB. This will allow CEOP to further develop its work to protect children including tackling the issue of missing children, and to be able to have the powers to ensure that it is able to continue to protect children.

The Government are publishing these proposals today, and will bring forward the necessary legislation in the next Parliament.

Written Answers

Monday 11 January 2010

Afghanistan

Question

Asked by ***Lord Morris of Aberavon***

To ask Her Majesty's Government whether Her Majesty's armed forces in Afghanistan can operate with allies that impose restrictions on the use of their forces there; whether they have made representations to the NATO Secretary General to have such restrictions lifted or amended; which countries have such restrictions; and what they are. [HL560]

The Minister of State, Department for Business, Innovation and Skills and Ministry of Defence (Lord Drayson): The UK works very effectively with International Security Assistance Force (ISAF) partners in southern Afghanistan. While some nations impose caveats based on their national politics, domestic laws and risk tolerance, these caveats are a decision for individual nations.

Caveats are agreed between contributing nations and the Supreme Allied Commander Europe as conditions for their deployment. Their public disclosure could have an impact on force protection measures or a nation's ability to carry out its mission effectively. As such, they remain classified NATO information.

Art Galleries: Grants

Question

Asked by ***Lord Fearn***

To ask Her Majesty's Government what grant was given to art galleries in Merseyside in 2007 and 2008; and how it was divided. [HL658]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): Art galleries in Merseyside that have received departmental funding in 2007 and 2008 are:

	06/07 *Revenue/ Capital*	*07-08* *Revenue/ Capital*	*08-09* *Revenue/ Capital*
Walker Gallery*	1,352,000	1,224,354	1,283,438
Lady Lever*	458,000	432,473	***511,922
Tate Liverpool**	2,927,260	3,004,615	3,248,851
Total	4,737,260	4,661,442	4,994,211

* part of the grant-in-aid allocation to National Museums Liverpool

** part of the grant-in-aid allocation to the Tate Museum

*** this includes the Department for Culture, Media and Sport/Wolfson Museums and Galleries Improvement Fund grant of £50,000 to Lady Lever Art Gallery.

Arts galleries in Merseyside are also funded by the Arts Council. They inform us that they spent £1,578,600 on visual arts in Merseyside in financial year 2007-08 and £1,710,421 in 2008-09.[1]

Finally, the Department for Culture, Media and Sport invested heavily in making a success of the Liverpool '08 Capital of Culture events, which further enhanced Merseyside's cultural profile providing short and long term benefits to local galleries.

Footnote

[1] It is not possible to divide this figure between individual galleries.

Child Maintenance and Enforcement Commission

Questions

Asked by ***Lord Kirkwood of Kirkhope***

To ask Her Majesty's Government when they expect the Child Maintenance and Enforcement Commission to publish its client fund accounts showing the most recent levels of outstanding debt owed to parents with care. [HL632]

To ask Her Majesty's Government what discussions they have had with the Child Maintenance and Enforcement Commission about the proportion of outstanding debt owed to parents with care that is likely to be recoverable. [HL635]

To ask Her Majesty's Government what discussions they have had with the Child Maintenance and Enforcement Commission about its debt reduction strategy. [HL636]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): It was the intention of the commission to publish its client fund accounts as soon as the House returned from the Summer Recess. It has not been possible to adhere to that timetable.

The commission is now working towards laying the 2008-09 client funds account by 31 March 2010. To this end, the commission has developed a joint work plan with the National Audit Office.

Upon transfer of responsibility for the Child Support Agency functions to the commission, a review was undertaken to assess the level to which outstanding maintenance arrears were collectable. The conclusion reached was that the assumptions used previously had been over-optimistic and should be revised downwards to more realistic levels. The commission currently estimates that £1,065 million is potentially collectable.

The work plan with the National Audit Office includes a further review of the arrears classification to identify the proportion of the £1.065 million that is likely to be collected.

The commission currently prioritises collection of ongoing regular maintenance above collection of arrears. However, the full balance of arrears remains due and the commission is committed to maximising the value of the arrears it collects, within available funding.

Constitution: Succession

Question

Asked by ***Baroness Quin***

To ask Her Majesty's Government whether the law on succession to the Crown or proposals for changing that law have been discussed with other Commonwealth countries; and, if so, what was the outcome of such discussions. [HL645]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): I refer the noble Baroness to the reply given by my right honourable friend the Secretary of State for Justice to Lynne Featherstone, the honourable Member for Hornsey and Wood Green on 4 June 2009 (*Official Report*, col. 617W).

Control Orders

Questions

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many people are subject to control orders; and, of those, how many are in receipt of each type of benefit. [HL821]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): In relation to the total number of individuals currently subject to control orders, I would refer the noble Baroness to the latest Written Ministerial Statement in relation to control orders which was published on 15 December 2009. This Statement explains that, as of 10 December 2009, there were 12 control orders in force.

The latest information that the Home Office holds shows that as of 10 December 2009, 10 of the individuals subject to control orders were in receipt of benefits that are administered by the Department for Work and Pensions (DWP).

Some individuals are in receipt of more than one form of DWP administered benefit. Of these individuals: two receive incapacity benefit, five receive jobseeker's allowance, three receive employment and support allowance, and one receives income support.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how much has been spent by the Home Office since the commencement of the Prevention of Terrorism Act 2005 on providing individuals subject to control orders with telephone line rental and phone-cards, including VAT thereon. [HL823]

Lord West of Spithead: The Home Office spent £7,856.44 including VAT on telephone line rental for individuals subject to control orders between April 2006 and October 2009. It is not possible to provide the amount spent on telephone line rental prior to April 2006 due to the way the costs have been accounted for. The information requested can be provided only at disproportionate cost.

It is not possible to provide the total amount spent on phone cards for this period as this information forms part of the total amount spent on the provision of accommodation for individuals subject to control orders and cannot be extracted from this figure. However, as phone cards have been issued only infrequently, and not at all since 2007, this figure is assessed to be small.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many civil servants are employed to administer the control orders programme. [HL824]

Lord West of Spithead: Within the Home Office, 10 full-time equivalent staff are currently employed to work on control orders.

Cultural Development: Grants

Question

Asked by ***Lord Fearn***

To ask Her Majesty's Government what grants were given to organisations in the Metropolitan Borough of Sefton in 2007 and 2008 for cultural development. [HL659]

Lord Davies of Oldham: Cultural development can be funded by central government, their agencies and local government. No record of local government investment is held centrally. No specific grant for cultural development was awarded to Sefton Metropolitan Council by the Arts Council in 2007-08 or 2008-09.

The National Lottery has, however, supported hundreds of projects in the area providing community benefits in the heritage, sport, arts and culture sectors. Residents of the borough have also benefited from government support for Liverpool '08 Capital of Culture events, which were widely praised for being one of the most inclusive of such events held in the culture sector.

Energy: Nuclear Power Stations

Questions

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many unauthorised incursions onto the premises of the 31 licensed civil nuclear sites in the United Kingdom there have been in each year since 2001. [HL486]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): The Office for Civil Nuclear Security (OCNS) is the security regulator for the UK's civil nuclear industry. In April 2005, OCNS introduced a reporting database to record information on security-related events. This reporting database has been used since April 2005.

There have been two unauthorised incursions onto civil nuclear licensed sites since 2001. These were carried out by Greenpeace protesters at Sizewell B power station on 14 Oct 2002 (103 protesters gained access to the site) and 13 Jan 2003 (34 protesters gained access to the site). Immediate action was taken to assess the threat posed by the intrusions and the appropriate contingency arrangements were activated.

Records before April 2005 are paper-based and would require the recall of OCNS Approvals and Compliance Unit Nuclear Security Inspectors from front-line inspection duties to conduct a manual trawl with each inspector going through the files relating to the civil nuclear sites he is responsible for. This constitutes a disproportionate amount of effort and would be at disproportionate cost.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many instances of damage to a building or equipment on the premises of the 31 licensed civil nuclear sites in the United Kingdom which were assessed to affect the security of those premises there have been in each year since 2001. [HL488]

Lord Hunt of Kings Heath: The Office for Civil Nuclear Security (OCNS) is the security regulator for the UK's civil nuclear industry. In April 2005, OCNS introduced a reporting database to record information on security-related events. This reporting database has been used since April 2005.

With the exception of criminal damage caused by protesters during the two Sizewell B incidents (as reported in the Answer to HL486), which were appropriately monitored and dealt with at the time, there have been no cases of damage to buildings or equipment as a result of malicious activity.

Records before April 2005 are paper-based and would require the recall of OCNS Approvals and Compliance Unit Nuclear Security Inspectors from front-line inspection duties to conduct a manual trawl with each inspector going through the files relating to the civil nuclear sites he is responsible for. This constitutes a disproportionate amount of effort and would be at disproportionate cost.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many instances of theft or attempted theft of any nuclear material there have been at the 31 licensed civil nuclear sites in the United Kingdom in each year since 2001. [HL489]

Lord Hunt of Kings Heath: None reported.

The Office for Civil Nuclear Security (OCNS) is the security regulator for the UK's civil nuclear industry. In April 2005, OCNS introduced a reporting database to record information on security-related events. This reporting database has been used since April 2005.

Records before April 2005 are paper-based and would require the recall of OCNS Approvals and Compliance Unit Nuclear Security Inspectors from front-line inspection duties to conduct a manual trawl with each inspector going through the files relating to the civil nuclear sites he is responsible for. This constitutes a disproportionate amount of effort and would be at disproportionate cost.

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government how many instances of theft or attempted theft or loss or unauthorised disclosure of sensitive nuclear information there have been at or from the 31 civil licensed nuclear sites in the United Kingdom in each year since 2001. [HL490]

Lord Hunt of Kings Heath: The Office for Civil Nuclear Security (OCNS) is the security regulator for the UK's civil nuclear industry. In April 2005, OCNS introduced a reporting database to record information on security-related events. This reporting database has been used since April 2005.

Since then, there has been one occasion, in 2006, when protectively marked information was disclosed inadvertently by a civil licensed nuclear site. Action was taken to ensure that the information was withdrawn and an enquiry held into the disclosure.

Records before April 2005 are paper-based and would require the recall of OCNS Approvals and Compliance Unit Nuclear Security Inspectors from front-line inspection duties to conduct a manual trawl with each inspector going through the files relating to the civil nuclear sites he is responsible for. This constitutes a disproportionate amount of effort and would be at disproportionate cost.

Extremist Organisations

Question

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government whether (a) Ministers, or (b) officials, have had contact with (1) Islam 4UK, (2) Al-Ghurabaa, (3) Al-Muhajiroun, (4) the Saved Sect, and (5) Sunnah wal Jamaah; and, if so, (i) when, and (ii) in what form. [HL584]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): To the best of my knowledge no Minister or official has had any contact with any of the groups mentioned.

Freedom of Information Act 2000

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what assessment they have made of how the Freedom of Information Act 2000 is working; and whether they are considering amending it. [HL901]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): Since 1 January 2005 the Freedom of Information Act has enabled the public greater access to official information held by over 100,000 public authorities. The Ministry of Justice

publishes annual reports on the operation of the Act in central government and quarterly statistical reports on the performance of central government monitored bodies and their handling of FOI requests since the Act came in to force.

A total of 171,000 requests have been dealt with under the Act by central government monitored bodies during the period January 2005 to September 2009. Eighty-nine per cent of these requests were answered within time, that is, a response was provided within the standard deadline or a permitted deadline extension was applied. Of those requests where it was possible to give a substantive decision on whether to release the information being sought, 62 per cent were granted in full.

In January 2009 the Dacre review of the 30-year rule recommended that the Government should consider a reduction to the 30-year rule—the point at which government information is usually opened to the public at an archive or other place of the deposit. The Government have accepted that there should be a reduction to the rule. Any such change would require amendments to the Freedom of Information Act. We are currently considering our response to the review and will publish it in due course.

House of Lords: Office Equipment

Question

Asked by ***Lord Bates***

To ask the Chairman of Committees further to the Written Answer by the Parliamentary Under-Secretary of State for Communities and Local Government, Barbara Follett, on 9 December 2009 (*Official Report*, House of Commons, col. 390W), what was the average purchase price, excluding value added tax, of a 500 sheet ream of white A4 80 gsm photocopier paper paid by the House of Lords in the latest period for which figures are available. [HL1116]

The Chairman of Committees (Lord Brabazon of Tara): The House of Lords currently pays £1.65 plus VAT per 500 sheet ream of white A4 80 gsm photocopier paper.

House of Lords: Parking

Question

Asked by ***Lord Berkeley***

To ask the Chairman of Committees how many parking places are available for members and staff of the House of Lords for (a) cars, and (b) bicycles. [HL934]

The Chairman of Committees (Lord Brabazon of Tara): There are 216 car parking spaces available for Members and staff of the House of Lords, of which 100 are located in the Abingdon Street car park. There are 77 spaces for bicycles and 43 for motorcycles.

Human Rights

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they favour community rights over individual rights in considering human rights issues in other countries. [HL947]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): With the exception of the right of self determination, the UK considers that human rights belong to individuals and not to communities or groups. When we lobby other countries on human rights issues, we lobby for changes to laws and practices so that all individuals can enjoy their human rights, without discrimination.

Kyrgyzstan

Question

Asked by ***Viscount Waverley***

To ask Her Majesty's Government whether Kyrgyzstan will be the only central Asian country not invited to the international conference on Afghanistan to be held in London on 28 January 2010; if so, why it will not be invited; and whether the transit centre supporting military operations in Afghanistan is based in Manas International Airport. [HL925]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): I can confirm that Kyrgyzstan has been invited to the London conference along with Foreign Ministers from International Security Assistance Force partners, Afghanistan's immediate neighbours and key regional players, together with representatives from North Atlantic Treaty Organisation, the UN, the EU and other international organisations such as the World Bank. On 22 June 2009, the Governments of the United States and Kyrgyz Republic signed an agreement providing for a transit centre at Manas International Airport, operated by the United States, to provide logistical support to coalition forces in Afghanistan.

National DNA Database

Question

Asked by ***Baroness Neville-Jones***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 1 December (*WA 28*) concerning the national DNA database, what guidance they provide to assist the chief officers of police in determining whether to retain DNA and fingerprints taken from persons detained under the Terrorism Act 2000; and whether they will place a copy of any such guidance in the Library of the House. [HL790]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): There is currently no such guidance to assist chief constables in determining whether to retain DNA and fingerprints taken from persons detained under the Terrorism Act 2000. This is not a role they currently undertake. Currently where DNA and fingerprints are taken from a person detained under the Terrorism Act, that material may be retained indefinitely.

As the noble Baroness will be aware from the Government's announcement on 11 November, we are proposing a new retention scheme for DNA and fingerprints via the new Crime and Security Bill. When the proposed retention scheme in the Bill becomes law, we will look to place any new guidance in the House Library.

Northern Ireland Office: Bonuses

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government how many officials in the Northern Ireland Office earn over £100,000 a year including bonuses; what grades they are; and how much each earned in each of the past five years. [HL808]

Baroness Royall of Blaisdon: All staff in the Northern Ireland Office (NIO) are paid in accordance with guidance issued by Cabinet Office/HM Treasury.

The details of those officials who have earned over £100,000 in the past five years are contained in the following table:

Year	*Number of officials earning over £100,000*	*Grades*	*Amount Earned*
2008-09	Six	One Permanent Secretary, two Director Generals and three Directors	£177k, £127k, £118k, £111k, £110k and £104k
2007-08	Six	One Permanent Secretary, two Director Generals and three Directors	£175k, £120k, £115k, £115k, £106k and £106k
2006-07	Six	One Permanent Secretary, two Director Generals and three Directors	£158k, £112k, £112k, £112K, £104k and £102k
2005-06	Three	Two Permanent Secretaries* and one Senior Director	£109k, £147k and £103k
2004-05	Two	One Permanent Secretary and one Senior Director	£158k and £124k

* Please note that the former Permanent Secretary retired and a new Permanent Secretary was appointed during December 2005.

This information is available in the NIO resource accounts which are published each year in accordance with government guidelines. These accounts are available to view on the NIO website www.nio.gov.uk.

Northern Ireland Office: Consultants

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what consultants the Northern Ireland Office has employed since 1 January 2008; for what tasks; and at what costs. [HL900]

Baroness Royall of Blaisdon: The information is not available in the format requested. However, the following tables provide a breakdown of the type of consultancy provided and the costs in the each of the past two financial years.

Expenditure on consultancy in the Northern Ireland Office has reduced year on year for the past four financial years, and in 2008-09 was 45 per cent less than in 2005-06.

NIO and Executive Agencies Financial Year 2007-08

Management	
NI Youth Forum	£1,007
Anderson Spratt	£17,049
Kairos	£8,500
Deloitte	£24,663
FGS McClure Watters	£14,000
Capita Learning & Dev	£1,415
Grafton Recruitment	£12,756
Odgers Ray and Berndston	£35,281
Jenkinson Consulting	£1,800
Others/Individual Contracts	£10,176
Cumulative total	£126,618
Financial	
Disability Action	£4,179
Moore Stephens (CJINI)	£2,926
PKF Consultancy	£50,878
PWC	£60,350
Cumulative total	£118,333
Assurance	
T&S International	£23,262
UKAS Accreditation	£2,203
Jenkison Consulting	£895
Others/Individual Contracts	£11,515
Cumulative total	£37,875
Research	
Quality Business Management	£5,423
Others/Individual Contracts	£52,517
Cumulative total	£57,940
Marketing	
GPS	£2,500
Coppernoise	£1,145
Label One Ltd	£3,273

NIO and Executive Agencies Financial Year 2007-08

Peninsula Print & Design Ltd	£998
Page Setup	£1,262
Milward Brown Ulster	£21,385
Cumulative total	£30,562
General Consultancy	
Carter Globe associates	£36,000
Myles Danker Estate Man Advice	£2,500
Quest Consulting	£17,000
Williams & Shaw	£1,000
BDP	£8,267
L'Estrange and Brett	£9,598
Others/Individual Contracts	£61,106
Cumulative total	£135,471
IT Consultancy	
Mott MacDonald	£295,220
Deloitte	£22,770
PWC (CJINI)	£5,170
Microsoft	£48,000
ICS	£20,000
Fujitsu	£513,000
iB Solutions	£22,000
NDI	£20,000
Selex	£23,778
ICS	£29,150
Real Estate Management	£3,990
Cumulative total	£1,003,078
	£1,509,877
Total Expenditure 07/08	

NIO and Executive Agencies Financial Year 2008-09

Management	
MacDonald Stephen Consultancy Ltd	£33,044
Deloitte	£57,554
KPMG	£22,000
Hays Healthcare Consultancy	£20,139
Kairos	£8,500
Social Research Centre Ltd	£10,315
Carter Goble Lee	£32,400
SRB Consultants	£4,469
PWC	£5,220
Others/Individual Contracts	£87,858
Cumulative total	£281,499
Financial	
PWC	£60,853
BDP	£29,719
Deloitte	£11,260
Clarke Shipway	£8,721
Cumulative total	£110,553
Assurance	
OCPA	£1,393
OGC	£13,600
Grant Thornton	£19,650
Key Forensic Services	£43,436
Others/Individual Contracts	£21,979
Cumulative total	£100,058
Research	
Williamson Consulting	£1,884
Cumulative total	£1,884

NIO and Executive Agencies Financial Year 2008-09

Marketing	
N/A	0
General Consultancy	
PWC	£89,776
Fitzsimons Kinney Mallon Sols	£532
Hamilton Architects	£1,500
Grant Thornton	£19,815
DLA Piper	£37,519
Hays Construction & Property	£9,769
Others/Individual Contracts	£134,516
Cumulative total	£293,427
IT Consultancy	
Deloitte	£20,000
Fluent Technology	£1,050
Fujitsu	£233,000
Lagan	£5,000
ICS	£40,000
Mott Macdonald	£212,137
Selex	£11,000
Biznet	£4,994
Cumulative total	£527,181
Total Expenditure 08/09	1,314,602

Phone Tapping: Members

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they have been involved in the telephone tapping of any member of the House of Lords since 1997. [HL839]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): I refer the noble Lord to the Answer given by the Prime Minister on 21 July 2009 (*Official Report*, House of Commons, col. 1166W).

Questions for Written Answer

Questions

Asked by ***Lord Jopling***

To ask the Leader of the House what changes have taken place in the Foreign and Commonwealth Office to enable it to answer Questions for Written Answer within 14 days, in view of the department's performance in the 2008–09 Session to 30 April, when it was the second worst department with 32 per cent of questions answered within 14 days. [HL767]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): The Foreign and Commonwealth Office has introduced a range of new management and procedures to ensure it answers questions on time. For example, procedures now ensure that Questions, once ready for reply, are sent to *Hansard* immediately.

From Questions due for reply in June 2009 to December 2009, the proportion of Questions, cleared for response within 14 days, has been consecutively 83 per cent, 94 per cent, 58 per cent, 75 per cent, 88 per cent, 98 per cent, and 87 per cent.

Foreign and Commonwealth Office Ministers and officials take very seriously their responsibility to reply to Parliamentary Questions on time.

Asked by ***Lord Jopling***

To ask the Leader of the House whether she will publish the analysis of the number of Questions for Written Answer directed to each department between 30 April and the end of the Session, together with the number and percentage of those Questions which were not answered within 14 days. [HL898]

Baroness Royall of Blaisdon: The table below sets out information on the number of Questions for Written Answer tabled and answered within 14 days by department.

			May			*June*			*July*			*August*
Department	*Total*	*In 14*	*%*	*Total*	*In 14*	*%*	*Total*	*In 14*	*%*	*Total*	*In 14*	*%*
AGO	1	1	100	0	0	n/a	1	1	100	0	0	n/a
CLG	15	13	87	21	21	100	35	33	95	1	1	100
CO	25	9	36	24	14	58	32	22	69	1	0	0
DCMS	19	11	58	16	12	75	44	32	72	1	0	0
DECC	41	22	54	13	5	38	16	9	56	4	0	0
DEFRA	39	35	90	39	38	97	41	41	100	0	0	n/a
BIS	11	5	45	29	15	52	24	14	58	0	0	0
DCSF	31	23	74	25	17	68	23	14	61	0	0	n/a
DFID	23	20	87	12	I1	92	9	9	100	7	7	100
DFT	35	35	100	48	47	98	49	46	94	0	0	n/a
DOH	113	102	90	125	121	97	126	107	85	27	0	0
DWP	12	4	33	19	16	84	18	16	88	0	0	n/a
FCO	93	68	73	72	60	83	72	68	94	12	7	58
GEO	8	3	38	8	1	13	9	6	67	3	0	0
HMT*	39	26	67	43	30	70	66	64	97	0	0	n/a
HO	146	56	38	43	25	58	111	51	46	9	0	0
MOD	25	24	96	23	20	90	43	37	86	9	4	44
MOJ	43	39	91	33	31	94	62	61	98	13	7	54
NIO	52	31	60	28	17	61	58	55	95	3	0	0
SO	2	1	50	0	0	n/a	0	0	n/a	0	0	n/a
WO	1	1	100	0	0	n/a	0	0	n/a	0	0	n/a
DIUS	19	11	58	3	0	0			See BIS			See BIS
	793	540	68%	624	501	80%	839	686	82%	90	26	29%

			September			*October*			*Nov (up to 18th)*
Department	*Total*	*In l4*	*%*	*Total*	*In 14*	*%*	*Total*	*In 14*	*%*
AGO	0	0	n/a	5	5	100	1	0	0
CLG	7	2	29	15	7	47	17	13	77
CO	5	2	40	8	8	100	18	15	83
DCMS	3	1	33	16	7	44	7	7	100
DECC	4	0	0	45	31	69	2	1	50
DEFRA	7	7	100	16	15	94	42	40	95
BIS	I1	6	55	22	20	91	7	7	100
DCSF	3	0	0	17	17	100	16	15	94
DFID	4	4	100	4	3	80	5	4	80
DFT	10	7	70	56	56	100	11	11	100
DOH	16	15	94	35	28	80	36	36	100
DWP	6	4	66	13	2	15	20	13	65
FCO	8	6	75	25	23	88	80	78	98
GEO	0	0	n/a	4	4	100	7	7	100
HMT*	32	29	91	27	26	96	32	28	88
HO	4	0	0	17	15	88	62	54	87
MOD	13	7	54	19	15	80	50	40	80
MOJ	9	9	100	6	6	100	33	29	88
NIO	3	0	0	27	18	67	27	17	63
SO	0	0	n/a	0	0	n/a	0	0	n/a
WO	0	0	n/a	0	0	n/a	0	0	n/a
DIUS			See BIS			See BIS			See BIS
	145	99	68%	377	306	81%	473	415	88%

Asked by ***Lord Jopling***

To ask the Leader of the House further to her Written Answer on 3 December (*WA 77*), in respect of how many of the Questions that were not answered before the end of the 2008–09 Session was an apology sent to the Member concerned for not having been answered within 14 days. [HL899]

Baroness Royall of Blaisdon: I remain determined that departments take seriously their responsibilities to answer Questions on time and continue to reinforce that message with them. My office urged all those departments concerned to provide substantive Answers to the six Questions for Written Answer referred to in my Written Answer of 3 December. The precise terms in which they did so are, of course, a matter for the departments themselves.

Religion: Defamation

Question

Asked by ***Lord Patten***

To ask Her Majesty's Government what is their stance on the resolution promoted by the Organisation of the Islamic Conference before the United Nations General Assembly on the defamation of religion. [HL1038]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): The Government share the concern of the Organisation of Islamic Conference that individuals around the world are victimised because of their religion or belief. We all need to do more to eliminate religious intolerance and to ensure that those who incite hatred or violence against individuals because of their religious beliefs are dealt with by the law.

But the Government cannot agree with an approach that promotes the concept of "defamation of religions" as a response. This approach severely risks diminishing the right to freedom of expression. We believe that international human rights law already strikes the right balance between the individual's right to express themselves freely and the need for the state to limit this right in certain circumstances. International human rights law provides that only where advocacy of religious hatred constitutes incitement to discrimination, hostility or violence should it be prohibited by law.

We believe that the concept of "defamation of religions" puts in danger the very openness and tolerance that allows people of different faiths to co-exist and to practise their faith without fear. It risks changing the focus of international human rights law from examining how countries promote and protect the right to freedom of expression to censoring what individuals say. If this happened, people might feel unable to speak out against human rights abuses or hold their government to account. It is also inconsistent with the international human rights legal framework which exists to protect individuals and not concepts or specific belief systems.

For this reason the UK, along with our EU Partners and other like-minded countries, voted against the resolution put forward by the Organisation of Islamic Conference at the 64th session of the UN General Assembly on Combating Defamation of Religions.

Somalia: Pirates

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government on how many occasions Royal Navy units have made contact with suspected pirates off the coast of Somalia; and, for each incident, how many suspects were involved, and whether they were armed. [HL524]

The Minister for International Defence and Security (Baroness Taylor of Bolton): Since October 2008 the Royal Navy has carried out compliant boardings on seven suspected pirate vessels. Figures shown below detail the number of suspected pirates involved for each boarding and whether they were armed.

Incident	*Total number of suspected pirates*	*Armed*
1	8	yes
2	16	yes
3	8	yes
4	13	yes
5	10	yes
6	6	yes
7	13	yes
Total	74	

Universities: Museums and Galleries

Question

Asked by ***Lord Smith of Finsbury***

To ask Her Majesty's Government what criteria regarding public access and benefit have been included in the terms of reference for Sir Muir Russell's review of funding for university museums and galleries. [HL1088]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): Institutions in receipt of this funding have been asked to submit evidence to the review against three criteria. One of these asks for "the extent to which the activities of the museums and galleries address the Higher Education Funding Council for England's widening participation objective to promote and provide the opportunity of successful participation in higher education to everyone who can benefit from it, and the broader government objective of increasing public access to such institutions for the wider community to promote lifelong learning and social cohesion. Submissions may also include evidence of public engagement activities directly beneficial to higher education undertaken by the museum/gallery (for example, work contributing to public understanding of the research process and its outcomes)".

Monday 11 January 2010

ALPHABETICAL INDEX TO WRITTEN STATEMENTS

Monday 11 January 2010

ALPHABETICAL INDEX TO WRITTEN ANSWERS

NUMERICAL INDEX TO WRITTEN ANSWERS

Volume 716
No. 22

Monday
11 January 2010

CONTENTS

Monday 11 January 2010