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House of Lords

Thursday, 25 March 2010.

11 am

Prayers—read by the Lord Bishop of Lichfield.

Death of a Member: Baroness Park of Monmouth

Announcement

11.05 am

The Lord Speaker (Baroness Hayman): My Lords, it is with the deepest regret that I have to inform the House of the death yesterday of Lady Park of Monmouth. On behalf of the whole House, I extend our condolences to her family and friends.

Baroness Ramsay of Cartvale: My Lords, in losing Lady Park of Monmouth, this House has lost a voice of great experience and wisdom; she was always listened to with affection and respect. Although we were not on the same political Benches, we were very old friends, having a shared political experience in government service. Also, as this House knows, we were quite often comrades in arms in battles about things that we cared about, such as interception and pre-charge detention. I have lost a very, very dear friend and the House has lost the valuable contribution of a very able and much loved lady.

Royal Assent

11.06 am

The following Acts were given Royal Assent:
Child Poverty Act,
Third Parties (Rights against Insurers) Act,
Cluster Munitions (Prohibitions) Act.

Royal Navy: Aircraft Carriers

Question

11.07 am

Asked By ***Lord Lee of Trafford***

To ask Her Majesty's Government what progress they have made in constructing the new aircraft carriers HMS "Queen Elizabeth" and HMS "Prince of Wales".

The Minister for International Defence and Security (Baroness Taylor of Bolton): My Lords, first, I am sure that the whole House will wish to join me in offering sincere condolences to the family and friends of Serjeant Steven Campbell from 3rd Battalion The Rifles, who was killed on operations in Afghanistan this past week.

Turning to the Question, the contract for the QE class aircraft carriers was signed on 3 July 2008 and work is now under way in five UK shipyards—Appledore, Rosyth, Govan, Portsmouth and Tyne—with work due to start at the sixth and final yard, Birkenhead, in the next few months. In addition, equipment sub-contracts to the value of some £1.2 billion have been placed to date.

Lord Lee of Trafford: First, I enjoin these Benches with the earlier tribute. Combined annual Franco-British defence expenditure totals $130 billion, with significant duplication. Given that a carrier embraces the three elements of crew, escorts and aircraft, both fixed-wing and rotary, will not our two new carriers provide a unique opportunity to develop a joint Anglo-French naval force? Is it not time to show leadership and think outside the traditional box of national sovereignty, especially given the immense pressures on our defence budget?

Baroness Taylor of Bolton: My Lords, I see very little prospect of an Anglo-French naval force, but that does not mean that co-operation cannot take place. Indeed, the United Kingdom and France signed a memorandum of understanding in March 2006 with the aim of co-operating on carrier design. Indeed, the French have contributed to the design and have contributed money, as well as expertise, and they retain an interest in that design. However, the decision, which I understand will be made next year, on whether the French will go ahead with their carriers is for them. It has been an example of good co-operation, but I do not think that taking it further to an Anglo-French naval force is on the cards at the moment.

Lord Astor of Hever: My Lords, we on these Benches also send our condolences to the family and friends of Serjeant Campbell of The Rifles. Turning to the Question, we know that the JSF programme, which is due to fly off the carriers, is delayed by 13 months. Can the Minister give the House some assurance that there will not be any further delays?

Baroness Taylor of Bolton: My Lords, the JSF programme is extremely important and significant progress has been made. There has been some reprofiling of the timescale, but it is important to recall two or three things. British pilots have now flown JSF, the STOVL variation has flown and, perhaps most important of all, the memorandum of understanding that we signed in 2001 means that the contribution to our programme has not changed. Therefore, approaching this contract incrementally was the right way forward.

Lord Berkeley: My Lords, in today's world scenario, what is the purpose of these aircraft carriers? Is it defence, or is it attack? If it is attack, who are we proposing to attack?

Baroness Taylor of Bolton: My Lords, the Green Paper that we published recently shows the changing trends in the world, the rise of Asia-Pacific and the threats from globalisation and climate change. We are facing many threats. The idea of having an expeditionary capability is thoroughly appropriate in the modern age.

Lord Burnett: My Lords, will the Minister confirm that the carriers will have a flexible role and not be confined to a fixed-wing strike role and that they are designed to be deployed not only for all-out combat but also for humanitarian operations?

Baroness Taylor of Bolton: My Lords, that is a very good example of the range of work that carriers can undertake. Those who are interested in rotary capability are also very excited at the prospect of the carriers.

Lord Geddes: My Lords, is it normal practice for such vessels to be named before they are named, if you follow me?

Baroness Taylor of Bolton: I do not think that this is the first time this has happened. The names that have been given are ones that should get the overall support of the whole House.

Lord Hylton: My Lords, it seems clear that there will have to be retrenchment in government expenditure. Would it not therefore be much better to have the aircraft carriers rather than new nuclear missile submarines?

Baroness Taylor of Bolton: My Lords, we have made it clear that the Green Paper and the Strategic Defence Review are not expected to revisit the decision that was made by Parliament in 2006 on nuclear deterrence. As for the future of the carrier, we do not want to pre-empt the Strategic Defence Review, but the First Sea Lord is extremely confident that it will confirm the need for the carriers, and the Secretary of State said recently, in answer to a PQ in another place, that he cannot foresee any outcome of the Strategic Defence Review that would lead to the cancellation of the carriers. We do not have such a clear commitment from other parties, and those who are threatening to revisit and to go clause-by-clause to find break clauses that could lead to the cancellation of the carrier are going down exactly the wrong track.

Earl Attlee: My Lords, does the Minister agree that it would be madness to engage in combat operations on land without appropriate air cover?

Baroness Taylor of Bolton: Yes, My Lords.

Teenage Pregnancies

Question

11.14 am

Asked By ***Baroness Walmsley***

To ask Her Majesty's Government why the target to halve the rate of teenage pregnancies is not on course to be met.

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): My Lords, our target is to halve the 1998 rate of teenage conceptions by 2010. Data for 2010 will not be available until February 2012. While we accept that we are currently behind the trajectory needed to achieve the target, real progress has been made in tackling our historically high teenage pregnancy rates. Between 1998 and 2008, the under-18 conception rate fell by 13.3 per cent to its lowest level in over 20 years.

Baroness Walmsley: I thank the Minister for that reply. Teenage pregnancy is indeed a complex social issue, on which the independent advisory board has made a lot of sensible recommendations. I would like to ask her about two of them. The first is for early identification of risk, followed by early intervention. Can she say how much money the Government have spent on that programme, and what are their plans for the long-term evaluation of its benefits? The second is for statutory sex and relationship lessons in school. Will she join me in urging parents to engage with schools so that they can satisfy themselves that this very sensitive subject is being taught appropriately and therefore refrain from withdrawing their children?

Baroness Morgan of Drefelin: My Lords, I apologise to the noble Baroness; I shall have to write to her on her first question because I do not have that information with me today. However, I agree that early intervention is vital. That is why the teenage pregnancy prevention strategy the Government have been promoting for the past 10 years has worked to ensure that there are co-ordinated services and that PCTs are working with the education sector and so on. Since we relaunched our strategy, that has been very important.

On the question of parental involvement in schools, the noble Baroness is absolutely right. We must ensure that all schools have policies around sex and relationship education and that parents are consulted and involved. And, yes, while parents can at present withdraw children up to the age of 19 from sex and relationship education, we would like to see that limit lowered to 15. That is why the Children, Schools and Families Bill is so important.

Baroness Massey of Darwen: My Lords, does my noble friend agree that this is indeed, as the noble Baroness, Lady Walmsley, said, a very complex issue? Does she further agree that it is clear from the evidence that, both in this country and abroad, girls who are encouraged to have aspirations tend not to get pregnant? Therefore, what will the Government do to encourage girls to have such aspirations in order to defer pregnancy?

Baroness Morgan of Drefelin: My Lords, the noble Baroness is right in her analysis. We know that teenage pregnancy rates are highest in areas and wards associated with the lowest educational outcomes. As well as ensuring that we have the right of early intervention and that we continue to reduce the rate of teenage conception across the board, we must focus our efforts to enable all girls to attend the best possible schools. Where there is a risk of teenage pregnancy, we have to ensure that we intervene early, offer advice and support and do the best for all the girls of our country.

Baroness Gardner of Parkes: The Minister and the noble Baroness, Lady Walmsley, referred to early intervention. Can the Minister define what she means by early intervention, which she says is so essential?

Baroness Morgan of Drefelin: My Lords, the teenage pregnancy strategy, which has six strands, has invested £246 million over the past 10 years. It is looking at the

co-ordinated delivery of services for early intervention; at media campaigns to raise young people's awareness of the value of avoiding engaging in early sex; and at driving up the quality of advice to young people and making contraception and other services more accessible to them. This is all early intervention. We also ensure that parents have access to information through helplines and so on in order that they, too, can be a key part of early intervention and provide confident advice to their children when they engage in such conversations.

Baroness Tonge: My Lords, did the Minister wonder, as I did this week, about the quality of sex education in our independent schools when David Cameron, in reference to his wife's pregnancy, said:

"Sometimes it takes a while before the stork pops one down the chimney".?

More seriously, can the Minister tell the House what measures the Government have taken to make teenage boys more responsible in their sexual activities? What steps are being taken to make them and their families support the babies they create?

Baroness Morgan of Drefelin: My Lords, the role of PSHE in ensuring that sex and relationship education becomes statutory is key, along with making sure that advice and information services are accessible to teenagers—not only to teenage girls but to teenage boys. Where boys engage in sexual relationships, it is vital that they do so when they are over the age of 16, or older wherever possible. Our strategy is always to encourage young people to delay engaging in sexual relations.

The Earl of Listowel: My Lords, given the complexity of communicating with young people about these issues and the importance of being effective, is the Minister concerned that more and more teachers are having shorter training? For instance, this weekend I spoke to a young woman who wants to train as a teacher. She will go to one school where she will be trained, rather than doing the postgraduate certificate of education and getting a range of placements. Will the Minister look at this and try to ensure that all our teachers get the very best and widest foundation for their teaching?

Baroness Morgan of Drefelin: My Lords, part of this Government's achievement in transforming the status of the teaching profession has been to transform the training opportunities for teachers, and we expect that teaching should in time become a Masters profession. Far from reducing the opportunities for training for teachers we are increasing them. There is a range of options for initial teacher training, but we are ensuring that PSHE becomes a much more focused, professional subject with the kind of initial teacher training that noble Lords would expect.

Baroness Verma: My Lords, will the Minister accept that the £280 million that the Government have spent on trying to tackle teenage pregnancy is just the tip of an iceberg on which they have wasted money, and that what they are really ignoring is our broken society?

Baroness Morgan of Drefelin: My Lords, I was wondering whether I would get the opportunity to make reference to the Conservative analysis of teenage pregnancy. I will answer the question, because the suggestion is that the investment in preventing teenage pregnancy is not an effective use of resources. That investment has resulted in 42,000 fewer pregnancies in underage and teenage girls, which has led to an enormous saving of costs elsewhere in public services.

I do not trust Her Majesty's Opposition's analysis of the position regarding teenage pregnancy. Only recently, the Conservatives put out a document in which they completely missed the point, suggesting that 52 per cent of girls in poorer areas were falling pregnant as opposed to 5.1 per cent.

Baroness McIntosh of Hudnall: My Lords, it is clear that most people agree that teenage pregnancy is not desirable, but it does happen and some young people engage in their parental responsibilities very seriously. Can the Government say what is being done to support teenage couples who decide to take a responsible attitude to bringing up their child together?

Baroness Morgan of Drefelin: My noble friend makes a very important point. For some young people it is a very positive choice to have a child. It is essential that all our services for children and young adults work to support these families. There is a whole range of services, such as family intervention services and nurse practices, which are designed specifically to support young people who opt for parenting.

Political Parties: Funding

Question

11.23 am

Asked By ***Lord Dykes***

To ask Her Majesty's Government whether they have any legislative proposals regarding overseas-based persons making donations to United Kingdom political parties via personal or corporate channels.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My Lords, the Government recently legislated in the Political Parties and Elections Act 2009 to provide that individual donors who give or lend more than £7,500 must complete a declaration confirming that they are resident, ordinarily resident and domiciled in the United Kingdom for income tax purposes. Under the Act, a donation cannot be accepted from an individual if no such declaration has been made. The Government have no further legislative proposals regarding overseas-based persons making donations at this time.

Lord Dykes: I thank the noble Lord for that Answer. Was it not deeply shocking that in its report of 4 March the Electoral Commission had to admit that it had inadequate investigative powers to analyse completely the complex money flows that have now famously ended up as tainted money in marginal constituencies? Bearing in mind the Chancellor's remarks yesterday, should not parliamentarians be obliged to answer fully questions for Select Committees and the public?

Lord Bach: My Lords, it is right to point out that the commission found in its report on Bearwood that there was insufficient evidence to conclude that there was a breach of the rules in the PPER Act 2000. The commission therefore concluded that donations were acceptable. However, as the noble Lord rightly pointed out, the commission commented that it had sought to interview Conservative Party officials but that, for some reason, the request was declined. I cannot possibly answer why that request should have been declined.

Lord Waddington: My Lords, does the Minister agree that those in glass houses should not throw stones and that, when a party such as the Liberal Democratic Party accepts a gift of millions of pounds from a crook who is subsequently convicted of fraud, it should return the money to the creditors of that fraudster? Otherwise, does the party not risk being thought implicated in the fraud?

Lord Bach: My Lords, this question-and-answer session can develop in one of two ways. Either we can indulge and have fun in terms of the forthcoming election by putting blame on one another, or we can have perhaps a slightly more serious discussion about this issue. It seems to me that no party in this House or elsewhere—except perhaps, of course, the Cross-Benchers—is perfect.

Noble Lords: What about the Bishops?

Lord Bach: I am most grateful to noble Lords for pointing out that the Bishops are of course absolutely perfect. It is a question of deciding which way we want to go.

Lord Richard: My Lords, my noble friend will certainly have read yesterday that this country is going to conclude various tax statutes with different countries. In response to my noble friend's suggestion that we should take this matter seriously, I propose doing so. What are we seeking from Belize and, if we get it, how will it enable the tax affairs of people who spend a lot of time in Belize but also spend a certain amount of time and money in this country to be more transparent? Will we learn more or will we not?

Lord Bach: My Lords, I do not know the answers to my noble friend's question. Double taxation agreements, one of which, as the Chancellor—famously now—announced, is to be with Belize, protect against the risk of double taxation where the same income gains or assets are taxable in two states. The exact outcome depends on which country is concerned and the terms of the agreement. Where a Peer or Member of Parliament has income, gains or assets in a state that has a double taxation agreement with the UK, they will be taxed in accordance with that agreement. The effect of the provisions in the Bill, which I think is what my noble friend is getting at, will be that MPs and Peers are to be treated like the vast majority of people in the United Kingdom who are resident, ordinarily resident and domiciled in the UK for tax purposes. As such, they will be subject to double taxation agreements in the same way as the majority of people in the UK. The new provisions do not override double taxation agreements.

Lord Rennard: My Lords—

Lord Pearson of Rannoch: My Lords—

Baroness Trumpington: My Lords—

Baroness Royall of Blaisdon: My Lords, I think that we should hear from the Liberal Democrat Benches and then from the noble Baroness.

Lord Rennard: My Lords, does the Minister have any regrets about the Government's failure 10 years ago to support amendments that I moved from these Benches that would have banned completely multimillion pound donations to political parties? Does he now recognise that they would have prevented the noble Lord, Lord Ashcroft, from spending the millions of pounds that should have gone to the taxpayer on trying to buy seats in Parliament for Conservative candidates in marginal constituencies?

Lord Bach: My Lords, je ne regrette rien.

Baroness Trumpington: My Lords, I declare an interest as a former board member of Crimestoppers. Without the initiative, hard work and money of the noble Lord, Lord Ashcroft, Crimestoppers would not exist today, as I am sure other Members in this House who are on the board would agree. I think that it is quite extraordinary—and I ask the Minister for his reaction to this fact—that none of the newspapers has ever mentioned the association of the noble Lord, Lord Ashcroft, with Crimestoppers. Only once has his name been mentioned on the BBC in this context, by a Conservative Member of Parliament. I think that this country owes the noble Lord, Lord Ashcroft, a debt of gratitude.

Lord Bach: My Lords, I have done my best in these eight minutes not to enter into the fun and games that all sides sometimes seem to want to have on this issue, particularly in this House. I am sure that the noble Lord, Lord Ashcroft, has done some wonderful things, but I also think that the way in which he has behaved over the past years is not so good.

Lord Pearson of Rannoch: My Lords—

Lord Davies of Oldham: I am afraid that our time is up.

Identity Cards

Question

11.30 am

Asked By ***Baroness Hanham***

To ask Her Majesty's Government whether they plan to substitute identity cards for older people's bus passes.

Lord Brett: My Lords, there are no current plans to substitute identity cards for bus passes for the over-60s. However, an identity card is a convenient proof of age, and could be used by holders to prove that they qualify for age-related services, such as when they apply for a bus pass.

Baroness Hanham: My Lords, I thank the Minister for that reply. Is he aware that, in a recent interview, the Home Office Minister in the other place said that some local authorities and transport groups were interested in replacing bus passes with identity cards? To date, the Government have persuaded just 10,000 members of the public to have identity cards. Since the Government are obviously struggling with this policy, would the Minister say whether either the Home Office or the Department for Transport would be tempted to follow this suggestion of using ID cards for bus passes so that they could compulsorily increase the numbers for the over-60s?

Lord Brett: The word "compulsory" is not in our lexicon when it comes to discussing identity cards. They are entirely voluntary. We are looking at and are in dialogue about a number of public and private sector partners who could increase the services offered. Those, of course, are services focusing on the requirement of citizens to prove identity. There are no plans at present to involve the bus pass in that.

I think that the noble Baroness is being a little bit selective with the statistics. Over 8,000 ID cards have been issued, over 10,000 people have enrolled, over 70,000 people have requested application packs; and this is on a rollout which is restricted to certain parts of the country. We intend that rollout to continue. The major endeavour will be in 2012 when we will have biometric passports, and people have a choice of a biometric passport, an ID card, or both—or neither.

Lord Bradshaw: Will the Minister ask his colleague in the Department for Transport what progress has been made on introducing smart cards instead of the present identity cards, so that the revenue which is spent on concessionary bus travel may be fairly divided among the authorities that are spending the money?

Lord Brett: I take note of the noble Lord's question. I will refer that matter to my colleague in the Department for Transport.

Lord Mackenzie of Framwellgate: My Lords, does my noble friend agree that the use of biometric passports, as suggested in the identity card system, would have gone a long way to preventing the forging of passports as used in the recent murder in Dubai?

Lord Brett: My noble friend is correct. The aim of the identity card and biometric passport is to make them unique. Therefore, the ability to have several British passports would be avoided because the biometric information will prevent that. The rollout continues, and I believe that biometric passports will prove to be both popular and very effective. If we have, as we hope to have in the next Parliament, the opportunity to amend the Identity Cards Act 2006, it will of course provide this ability in 2012 for people to have a passport, to have an ID card which is a passport for Europe anyway, or to have neither or both.

Lord Phillips of Sudbury: The Minister in answering the question used the phrase, "compulsion is not in our lexicon". Given that in the Identity Cards Act 2006 there is a provision that, from 2011 onwards, ID cards can be made compulsory by law, is he now assuring the House that, should the Government be returned at the election, they have absolutely no intention of exercising that power?

Lord Brett: I can offer that reassurance to the noble Lord. It was given in the other place as recently as this month. When we are re-elected in the coming general election, the Government have no intention in the next Parliament of legislating for compulsion in this area. We have a situation here whereby the opposition parties are promising, if elected, to scrap the ID card scheme, under the illusion that money will be saved. It will not. If ID cards are scrapped, the income that comes with ID cards is scrapped. It is an ill thought-through policy which will only take away choice from British people. It will cost more to cancel them than to maintain them.

Baroness Royall of Blaisdon: My Lords, I remind noble Lords that for the Questions to the Secretary of State there are five minutes per Question, so we need short questions and short answers.

Taxation: Small Businesses

Question

11.35 am

Asked By ***Lord Bates***

To ask the Secretary of State for Business, Innovation and Skills what discussions he had with the Chancellor of the Exchequer before the Budget on reducing the tax burden on small businesses.

The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson): My Lords, the Chancellor and I regularly discuss how we can promote small business. Yesterday, the Chancellor unveiled a budget for growth supporting new, small and growing businesses. Announcements included a 12-month business rate reduction for more than half a million small businesses, a doubling of the annual investment allowance to £100,000 and a doubling of the threshold to £2 million for entrepreneurs' relief on capital gains tax. He announced that Her Majesty's Revenue will continue with "time to pay", which so far has involved £5.2 billion of delayed tax payment. So the Government are certainly not standing still in their support for small businesses.

Lord Bates: I thank the Minister for that reply. Is he aware that half of all small businesses in this country do not claim the small business rate relief to which they are entitled because of the complexity of the process of applying and the complexity of the rules? As a result, small businesses are missing out on £400 million of vital support. Can the Secretary of State think of any reason why this payment should not be made automatically to all eligible small businesses, as we on this side of the House have proposed?

Lord Mandelson: My Lords, I am very glad that the noble Lord, Lord Bates, has drawn this to my attention. I shall look at it and, if there is a problem with the administration, I shall see what can be done to simplify it.

Lord Higgins: My Lords, in the course of the noble Lord's discussions with the Chancellor, did he also stress the importance of the provision of finance to small businesses? In that context, can he explain why, despite the process of quantitative easing, the actual figures for the growth in the money supply show a precipitous decline in the latest report from the Bank of England?

Lord Mandelson: My Lords, the issue of small businesses' access to finance has been at the forefront of my mind for the past 18 months. I am very glad that the Chancellor was able to announce yesterday the creation of UK Finance for Growth—it represents an overall £4 billion of funding for SMEs, including growth capital to meet the needs of those small businesses that seek to expand but cannot get hold of growth capital to the extent that they want—as well as further lending commitments between the Government, RBS and Lloyds. We also announced the creation of a small business credit adjudicator, which will work with SMEs struggling to secure finance to ensure that they are better treated by the banks. I know that all the small business organisations, as well as the CBI and the Institute of Directors, have given a very strong welcome to all these measures.

Lord Marlesford: My Lords, does the Secretary of State realise that Her Majesty's Revenue and Customs has required every book-keeper, on however small a scale the book-keeper operates, to register under the money-laundering regulations and to pay a £95 per year fee? Given that he has 1.7 million small businesses with fewer than five employees and more than 2 million small businesses with fewer than 10 employees under his care, and given that only 12,500 book-keepers have registered so far—and they are not the book-keepers but the bigger people—will he take steps to end this burdensome bureaucratic nonsense for small businesses?

Lord Mandelson: My Lords this seems like an issue that is a good candidate for the Better Regulation Executive in my department and I will refer the matter to it.

Lord Razzall: My Lords, bearing in mind the well known views of the noble Lord, the Lord Sugar—who I am glad to see is in his place—that there is no difficulty of small or medium-sized businesses obtaining finance from banks, can he confirm that the noble Lord, the Lord Sugar, will not become the adjudicator he referred to?

Lord Mandelson: No, the noble Lord, Lord Sugar, has other responsibilities and duties which he is fulfilling extremely well, working very hard across the country, much to the delight and encouragement of many small and medium-sized businesses in the country.

Lord Campbell-Savours: My Lords—

Lord Haskel: My Lords, other than bank finance, there is invoice discounting, pre-shipment finance and export credits. Has my noble friend taken those into account when considering finance for small companies?

Lord Mandelson: Yes, my Lords. My noble friend raises important issues and these are precisely the sorts of paths we need to pursue and issues we need to examine. UK Finance for Growth, which will be taking on responsibility for the Government to oversee new funding arrangements for small businesses, will pick up precisely those matters that my noble friend has identified.

Manufacturing

Question

11.40 am

Asked By ***Lord De Mauley***

To ask the Secretary of State for Business, Innovation and Skills what action he is taking to encourage manufacturing in the United Kingdom.

The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson): The Government are fully committed to a strong future for British manufacturing, leading the world in new technologies and the transition to low carbon. We have earmarked almost £1 billion in investment to build key manufacturing capabilities in coming years, helping to turn UK research strengths in innovative technologies into commercial manufacturing opportunities.

Lord De Mauley: My Lords, I thank the Secretary of State for that Answer. Given that since his party came to power in 1997, almost 1.7 million manufacturing jobs have been lost and that manufacturing has fallen as a share of the economy by the largest amount on record under any Government—9.3 per cent of GDP—why did the Budget make no specific mention at all of manufacturing, and why were any plans to make Britain more attractive to foreign investment in manufacturing put off until the 2011 Finance Bill?

Lord Mandelson: My Lords, the noble Lord must have been listening to a different Budget yesterday. If I can simply point out to him that the British manufacturing sector did not in fact contract in absolute terms during the course of the last decade— before the recession that is—its output in both value and volume has remained stable despite the fiercest possible competition. China now defines the global economy in a way that it did not even a decade ago. What is clear is that competition is going to get a lot tougher in decades to come and therefore we all have to raise our game, including in the Government, in the support that we give to manufacturing in this country.

Lord Brooke of Alverthorpe: Does my noble friend think that the unilateral imposition of a levy on the banks will assist manufacturing in this country?

Lord Mandelson: I do not know anyone who supports a unilateral imposition of a levy on British banks, apart of course from the Leader of her Majesty's Opposition—although I notice that by the end of the day, following his speech on Saturday, even he is becoming decidedly wobbly on the issue.

Lord Razzall: My Lords, I am sure noble Lords will join me in congratulating the Minister on his new self-appointed title, which he announced at the UK Space Agency launch on Monday, of "Space Mandy". Does he agree with the report from the Space Innovation and Growth Team on a strategy to expand the industry six-fold, which it is estimated would produce 100,000 manufacturing jobs over the next 20 years and create an industry of £40 billion a year, and are the Government committed to that strategy?

Lord Mandelson: We are committed in principle to the strategy and adopting the measures recommended by the Space Innovation and Growth Team, which is why on Monday at the conference I announced government funding for the new International Space Innovation Centre at Harwell in Oxfordshire. We will be following up with other measures. If he does not mind my slightly correcting his pronunciation, it was actually "Space Man-dy".

Lord Hunt of Wirral: I am delighted to hear that Lord Pooh-Bah has accepted another title in life. Is he aware, though, that the late payment of bills has now reached a record £24,000 million, which is affecting manufacturing industry in particular? Is he aware that much of this is by government bodies, including HMRC? What is he going to do about it? Does he accept that we cannot possibly go on like this?

Lord Mandelson: My Lords, the Government's record is much better than that operating in the private sector. Since I challenged my central government colleagues to reduce their payment to a 10-day limit, most of them have successfully adopted that and are now operating it. The problem really lies in the private sector where there are many large companies which simply treat the companies that are supplying them as banks and insist on a 60, 70, 80 or 90-day payment period. That is completely unacceptable. I say to those in the private sector who are operating that sort of delayed payment system that they are putting in jeopardy the future of many businesses—small, medium-sized and somewhat bigger alike. I hope that they start revising their practice and approach in the payment of their invoices.

Further Education: Funding

Question

11.46 am

Asked By ***Lord Cotter***

To ask the Secretary of State for Business, Innovation and Skills whether he undertook a cost-benefit analysis before deciding to reduce the funding of adult education in further education colleges.

The First Secretary of State, Secretary of State for Business, Innovation and Skills and Lord President of the Council (Lord Mandelson): My Lords, the decisions that have been taken in this area have, of course, been based on rigorous analysis of how to maintain a strong skills system that helps to get people into work, not least for adult learners, while finding the necessary efficiencies required to reduce the deficit. The Government are confident that we will continue to sustain a strong base of adult education in further education colleges.

Lord Cotter: I thank the Secretary of State. The importance of skills training has been emphasised time and again. It is concerning that my local college, Weston College, reports that £1.7 million is being taken away from the £6.7 million allocated to adult learners in the area. In addition, vulnerable adults over 25 and those with severe learning difficulties are not getting support at all. Surely this hits hard at the heart of the commitment to provide vocational training and jobs.

Lord Mandelson: My Lords, the Government have a strong record of investment in further education and skills. The core investment remains high, at unprecedented levels. Despite efficiency savings, more funds than ever are going into post-16 education and training for this next financial year, including, I am glad to say, £8.2 billion for 16-to-18 learning and £3.5 billion for adult training places. I know that future adult learner reductions will be challenging for some colleges, but transitional funding arrangements will protect colleges from financial difficulty and I will make sure that that remains the case.

Lord Elton: My Lords, is the Minister saying that these cuts will have no effect on outcomes? If not, what does he expect the effect to be?

Lord Mandelson: No, my Lords, I am not denying that there will be an effect. All I am saying is that the modest reductions that we are proposing, in line with our commitment to reduce the deficit over the coming four years, require belt-tightening of this sort across the public sector. I cannot exempt FE colleges or adult learning courses from that, but this has to be seen in the context of the colossal catch-up investment that the Government have made available during the past 10 years, which we are not proposing to put into reverse.

Lord Martin of Springburn: My Lords, will the Secretary of State encourage the colleges to take on adult apprentices in the building industry? If we train adults to become electricians, plasterers and bricklayers, they can become self-employed very easily.

Lord Mandelson: My Lords, the Government always insist on the value of training and adult skills for future jobs and growth and I underline that again today. Since 1997, we have expanded apprenticeships from 65,000 starts, which we inherited from the previous Government, to 240,000 starts in 2008-09, with the number rising since then. We are funding more apprenticeships than ever before in our country. In the financial year 2010-11 we will be investing over £1 billion. Of course, we can do better and we will seek to do so within the tighter financial climate that we are now entering.

Lord Hunt of Wirral: Is the noble Lord aware that the number of those unemployed for longer than six months has now risen to 1.24 million and that there has been a substantial rise in the economically inactive to over one in five of the working-age population? Does he not agree that further education for adults

[LORD HUNT OF WIRRAL]
provides people with an invaluable second chance in life? He has already enjoyed three chances in life. Will he continue to deny this second chance for others?

Lord Mandelson: My Lords, it is true that I have been serving a long and recurrent apprenticeship for my current role. That is why, among other reasons, I am firmly committed to apprenticeship training for others. However, the figures that the noble Lord quotes about economically inactive people mask the fact that a rather large number of them are in full-time training and education, even though they may be registered as looking for work. While I strongly welcome the noble Lord's support for further expansion of apprenticeships, training and further education, I hope that he will be able to have a word with his friend the shadow Chancellor to make sure that such activities are exempted from his plans for large-scale spending and investment cuts. The shadow Chancellor has made it clear again today that he has those in mind for the country should he ever be elected.

Business of the House

Timing of Debates

11.52 am

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

That the debate on the Motion in the name of Lord MacGregor of Pulham Market set down for today shall be limited to three hours and that in the name of Baroness Turner of Camden to two hours.

Motion agreed.

Business of the House

Motion on Standing Orders

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

That Standing Order 41 (Arrangement of the Order Paper) be dispensed with on Monday 29 March to allow the five Motions relating to draft National Policy Statements to be taken before the Second Reading of the Crime and Security Bill.

Motion agreed.

National Assembly for Wales (Legislative Competence) (Housing and Local Government) Order 2010

National Assembly for Wales (Legislative Competence) (Transport) Order 2010

Wireless Telegraphy Act 2006 (Directions to OFCOM) Order 2010

Orders of Referral to Grand Committee Discharged

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

That the order of 18 March referring the draft orders to a Grand Committee be discharged.

Motions agreed.

Economy

Debate

11.53 am

Moved By ***Lord MacGregor of Pulham Market***

To call attention to the state of the United Kingdom economy; and to move for Papers.

Lord MacGregor of Pulham Market: My Lords, the economic outlook is grim, and yesterday's Budget makes it grimmer still. It was pure fantasy land: the last gasp of a spent Government. Much of it will not be implemented. It has been variously dismissed as pie-in-the-sky, irrelevant and so on, and has had a pretty substantial panning.

The Minister was recently reported to have said that every bank needs a dour Scot; since his recent experience has been in the Treasury rather than the City, perhaps he was really referring to the Treasury. There are two types of dour Scot: the one who is genuinely not prepared to spend beyond his means, and invests for the future; and the other, who is dour only in manner. I have much sympathy with the genuinely dour Scot, the present Chancellor. He inherited an appalling legacy from the other dour Scot, his predecessor, and has largely fought off the "forces of Hell" from Downing Street. He has been, if not authorised, then at least not discouraged by the Prime Minister, who was still last summer clinging to the absurd belief that this election would be all about Labour investment versus Tory cuts, and who created on the back of an envelope the Personal Care at Home Bill, with the huge black hole in its financing so ruthlessly exposed by your Lordships' House. No doubt the dour Scot the Chancellor has had to fight hard for even the Budget, against the profligate tendencies of the dour Scot the Prime Minister.

The Budget was also a failed attempt to get credit for clearing up the messes which this Government, and especially the former Chancellor, have themselves created. I must briefly refer to the background. In 1997 they inherited the legacy of a strong economy—a £6 billion budget deficit, compared to £167 billion today. As a demonstration of this, the UK was then ranked seventh in the world for competitiveness, while it is now 13th; and fourth in the world for tax and regulation, while it is now 84th and 86th. For the first two and a half years, with prudence at his side, the then Chancellor retained control over spending, though pensioners will not forget that one of his first acts with regard to advanced corporation tax has since drained tens of billions of pounds from pension funds and has, in part, contributed to the serious decline in pension provision under this Government.

All hell was then let loose. With the benefits of an internationally benign economy and economic environment; lower inflation, not least because of the impact of widespread cheap imports from the Far East and China, in particular; overdependence on financial services for tax revenue; and, above all, fuelled by huge government and personal borrowing, the then Chancellor was able to spend money as if there was no tomorrow or any reckoning on debt. I used to be

alarmed, Budget after Budget, by his monotonous churning out of new public sector schemes, proclaiming loudly the large expenditure programmes attached; and by the extent to which capital expenditure then was off balance-sheet. This was all without regard to the rise in government borrowing. Dour in demeanour and, no doubt, prudent with his own spending, he loves spending everybody else's money, and so the huge fiscal deficit grew.

I pay particular attention to the waste. So much of this extravagant programme has been unnecessary. Billions have been wasted to no good effect and no lasting benefit—indeed, often no benefit at all—to the citizen by, for example, the identity card project; the National Health Service IT projects; the Rural Payments Agency fiasco; and the £1 billion revealed by the National Audit Office to have been incurred in reshuffling Whitehall departments to give a false impression of dynamism and to satisfy certain ministerial egos. A huge number of quangos have been set up to administer this, regulate that and advise on the other—a huge bonanza of public sector jobs for the boys and girls. I believe I recently saw a figure of £43 billion for quangos. Vast sums have been spent on management consultants and other advisers for work that, in many cases, civil servants should be doing. Billions have been lost in fraud on the tax credit schemes.

There was a £7 billion cost to the taxpayer of Gordon Brown's decision to sell Britain's gold reserves at the bottom of the market, against the advice—so press reports suggest—of the Bank of England. We will know the truth shortly, as a result of the Information Commissioner's decision that the Treasury should release the details. I could go on. No wonder public spending now makes up 52 per cent of GDP, compared to 40 per cent when Labour came to power in 1997. Yet it is the private sector which is the engine of growth and profitability. That is an indication of the huge public expenditure incurred by this Government.

To conclude by looking back, the golden rules—easily manipulated—have been consigned to the dustbin. The proud and oft-repeated boast that this Government had conquered boom and bust is dead and buried, but not forgotten. The verdict of history will be harsh. Time and again yesterday, the Chancellor put the blame on the international crisis. I do not blame this Government for the international banking crisis, though in retrospect the removal from the Bank of England of macro-prudential control over the financial sector did not help. However, I do blame the Government for making our economy one of the weakest among the G20 to face the crisis when it came, and one of the slowest to recover from the recession. This was the consequence of the overspending, the overdependence on the City, the decline in manufacturing, which the noble Lord, Lord Mandelson, was boasting about a short while ago, by over 9 percentage points—the largest fall in history with almost 1.7 million manufacturing jobs disappearing and about one-fifth of UK manufacturing firms, and the huge increase in borrowing, even before the crisis and the bailing-out of the banks. That is the charge.

The Chancellor tried to claim credit—modest, I grant you—for the small decline in the borrowing figures compared with the pre-Budget statement. He was clutching at straws, for the overall figures are still huge. They are dependent on growth forecasts over the next few years which most outside commentators are wildly optimistic about, including the Governor, who said the other day that the recovery will be more painful and longer than most people are prepared for. Even Anatole Kaletsky declared them as "not worth the paper they are written on", rather like the Government's Fiscal Responsibility Bill.

The Government's argument that they should not be cutting expenditure now because of the recession is a false excuse—a cover-up for their unwillingness to face the facts and take action before the election. That is so clearly revealed by their decision to put off the Comprehensive Spending Review until after the election. But as the Institute of Directors has pointed out as an example of the need to take action now, in the first three years of the Labour Government, total public spending fell by 4 per cent of GDP and the public sector deficit tightened by 5 per cent of GDP, yet GDP growth was faster over those years than at any other time in the Labour Government up to 2009.

All we have had in terms of action and savings programmes is a great emphasis on efficiency savings—not very encouraging when the Government have achieved only £10 billion of the £35 billion on efficiency savings sought in the last Comprehensive Spending Review. Speaking as an ex-dour Scot, or a dour ex-Scot, and as a former Chief Secretary, I absolutely subscribe to the view that efficiency savings will only achieve so much. The Government are, in a number of cases, trying to deliver the efficiency savings twice. In the Personal Care at Home Bill, they left a black hole for local government to fill in terms of spending on that Bill and they said it could be achieved by efficiency savings, when they had already achieved all the efficiency savings that they possibly can. So there is a great limit on efficiency savings.

I regret the failure of this Government to always be seeking value for money in government spending—there are so many government spending problems when they simply have not sought value for money—and to constantly be erasing the test of affordability. One example of this is the debate we had on the Norwich and Norfolk order earlier this week, when the Government went ahead with that order, ignoring the fact that the Permanent Secretary in the department had said that it failed the tests of value for money and affordability—both key tests. So the Government have failed heavily on that front. Every government programme should be subject to these tests.

When faced with reducing government spending on the scale now required, whole programmes sometimes need to be rejected, and that will undoubtedly have to be done. Sometimes the only response can be—I have had to say this as Chief Secretary—"It is a nice idea, but I simply have not got the money". The Government have not been prepared to do that. I was described in the headlines when I was Chief Secretary as "Mac the Knife", which was a reference to a current pop song at that time. But sometimes ruthlessness has to be applied and I regret to say that the Government have failed to do this in terms of their massive overspending on programmes. In 1987, when the Labour Party was in

[Lord MacGregor of Pulham Market]
opposition, just before the election I costed the party's programme with all the commitments it had given itself. It was quite clear that it had no idea of the cost of those programmes and it became a major issue in that election.

After all this, the Government's target is for a fiscal deficit quite close to that when the noble Lord, Lord Healey, had to go to the IMF for loans in 1976 after the four years of so-called reductions in the fiscal deficit. He had to go because he had run out of lenders elsewhere. That brings me to the nightmare scenario which I have raised in this House before—that the international financial community is casting a very sceptical eye over the reality of the fiscal deficit. Sterling has already declined recently against the dollar by 22 per cent, and the international lenders upon whom we depend are wholly unconvinced by the Government's position and await the outcome of the election.

I have only two questions for the Minister. First, what proportion of gilts is now held by overseas investors? I am quite sure that it is many more than in 1976, although there is a much greater risk. Secondly, what are the Government's plans for coping with the ending of quantitative easing—the further unloading onto the market of up to £200 million in gilts? The nightmare scenario would be further declines in sterling, which would include the effect on domestic inflation, and the need to push up gilt yields, including interest rates, to secure the lending—with consequent further misery for all, increasing the cost of mortgage borrowing, and a whole host of other things. The other consequence would be that the costs of debt interest would outstrip even the largest of all departmental spending programmes. Debt interest is already £35 billion and is estimated to increase by 2014 to £71 billion, even if the Government achieve all their objectives.

This Government have for years been spending beyond their means. That is what the fiscal deficit implies and, just like any family that does that, the day of reckoning comes. I come back to where I started. Yesterday's Budget was unreal. The real work will have to start after the election.

12.06 pm

Lord Giddens: My Lords, I congratulate the noble Lord, Lord MacGregor of Pulham Market, on initiating this debate. As a not-quite-so-dour north Londoner, my views are very different from his.

The aim of Labour economic policy is to reconcile economic efficiency with social justice. In pursuit of this end, since 1997 a whole raft of policy initiatives has been introduced. The initiatives include active labour market policy—protect the worker, not the job, and provide retraining as workers move between jobs. That is very important in an era of high job destruction that is much higher than 20 years earlier. The initiatives also include very heavy investment in education and skills training, which is necessary in an economy that has become much more skewed towards symbolic occupations than manufacturing ones. That will not be reversed too far, whatever happens to reinvestment in manufacturing. There has been strong investment in family-centred policies, including the setting up of day care centres thereby making it possible for a substantial proportion of mothers—including single mothers—to be in the labour force.

These policies have been successful. As an economist, I know that the best way to look at the economic health of a society is by looking not at the unemployment rate, but at the employment rate. The UK employment rate for 2007 was 75 per cent. Moreover there has been a decent and increasing minimum wage. Compare that with, for example, Germany, where the employment rate in 2007 was only 66 per cent, or France, where it was only 64 per cent. These achievements accompanied important achievements on the level of social justice. If anyone still wants to talk about the, to me, somewhat risible notion of the "broken society" they should look at the book that is about to come out by Jane Waldfogel, an American academic, which compares Britain's anti-poverty strategies with those of other industrial countries and finds that Britain has done better than virtually any other industrial country in limiting poverty. It has, in fact, done better than some of the Scandinavian countries where poverty, including child poverty, has actually increased over this period. The combination of those successes in Britain is a considerable achievement.

Do these policies still have bite in a period of recession and on the point of recovery from recession? You bet they do. On the most recent unemployment figures, unemployment has started to decline, but it is much more important to note that throughout the recession employment remained above, and is still above, 72 per cent. These policies make it possible for this country to recover much more effectively from recession than many industrial competitor countries.

Against the backdrop of financial crisis, it is obvious that we need policy reorientation. I am not a Labour tribalist and I am sure that the Government have made mistakes along the way, but a policy reorientation is clearly necessary and it has to have three key elements. First, I think it is clear to everyone that more regulation of financial markets, both nationally and internationally, is imperative to do two things: first, sharply to reduce system risk; and, secondly, to reduce inequalities that have become socially destructive. This is not an easy balancing act, because this has to be achieved against a background of ensuring that markets can function in such a way as to draw on their creative and innovative properties. Markets have the qualities of innovation and creativity that Governments do not by and large possess. The further work that is needed to stabilise both the national and global economic system will have to balance these things out, but the Prime Minister has displayed very able leadership on the world scene, as has the Minister.

Secondly, there has to be a return to industrial activism. Industrial activism should not be equated simply with the re-stimulation of manufacture. Against the background of energy security, climate change policy and other areas, it is important, and indeed possible, for the UK to recover competitive manufacture in certain poor areas. However, industrial policy will also have to cover a range of other industries because we will still live basically in a post-industrial economy for many years to come. Therefore, the stimulation of

the creative industries, for example, is very important, and, despite what was said about the Budget, there were a number of very important innovations in it, including a green investment bank to help to re-stimulate active industrial policy.

Thirdly, there has to be a return to long-term policy. Deregulated markets do not provide long-term policy. This has been plain in the background to the economic collapse, but it is also plain if you look at various industrial sectors such as the energy industry. It is quite interesting that Ofgem has now accepted that deregulated energy markets do not provide the long-term investment that is needed for the future or a long-term planning framework.

I repeat that I am a sociologist and an economist and not really a Labour tribalist, but when I look at current Tory economic policy, which is based on continuing deregulation—this in turn is based on rolling back the state in an era, and in all these areas, in which we need more state activism on the part of an intelligent state, not an overbearing one—it is impossible for me to see how it can cope with these new demands.

12.14 pm

Lord Bilimoria: My Lords, we in Britain have a lot of which to be proud. We are still one of the 10 largest economies in the world, and four or five of our universities continually rank among the top 10 universities in the world. Yet we must not delude ourselves. We are a small nation, we have dreadful weather, we have little landmass, and we have few natural resources, although I hope that we strike oil in the Falklands. In fact, our main asset—our only asset—is our people. With the odds stacked against us, it is crucial that we maintain a sense of balance in our country and our economy, and here we have been failing abysmally.

As a small country, we can flourish only if we have the right economic environment to attract inward investment and the best brains and create a highly skilled, highly creative, value-added economy. How can we possibly achieve this with a top tax rate of 50 per cent, one of the highest in Europe, the forthcoming 1p rise in the national insurance rate and the non-dom levy? This kind of tax burden is anticompetitive, and if we lose our competitive edge, we will fall into oblivion, especially given the rise of India, China and Brazil. I could go on.

Not only is excessive tax a burden on business, a disincentive to entrepreneurship and a burden on the consumer, but it is a disincentive for overseas talent. We are driving people away. As the noble Lord, Lord MacGregor, said, not that long ago we were one of the five most competitive countries in the world when it came to tax. Now we are nowhere near that. Why are we in this position? The reasons behind these elevated and anticompetitive tax rises are disheartening, to put it lightly. As the noble Lord, Lord MacGregor, said, in 1997, government spending accounted for 40 per cent of GDP, similar to that of the United States. That figure rose to 52 per cent last year, and is expected to rise by another percentage point this year. We are pouring our life's blood into a bloated and inefficient public sector, while watching our dynamic private sector suffering.

Let us not make the great recession the excuse; government spending increased from 40 per cent in 1997 to 47.5 per cent before the recession in 2008. The public sector is not delivering, yet it is overpaid and full of jobs for life and gold-plated pensions. This is not fair. It is not a balanced economy. This is in addition to government borrowing because we did not save for a rainy day; this is in addition to trillions of pounds of funding for the financial sector; this is in addition to UK personal debt at close to £1.5 trillion, public sector debt at £848 billion—53 per cent of GDP—and 8 million inactive people of working age in a population of 60 million.

I thank the noble Lord, Lord MacGregor, for securing this crucial debate at this crucial time: the day after the Budget and before the election. If the election is going to be decided on one subject, it will be the economy. I welcome some good moves in the Budget. The Chancellor mentioned £35 million for university enterprise capital and £270 million to fund 20,000 university places in science, maths and engineering. This is great. We have some of the best higher education, but as a function of GDP we spend less than half of what the United States spends on higher education. Are we rewarding our excellence in higher education? Any cuts in higher education spending would be cutting off our nose to spite our face. Because of our success in higher education, we attract 60,000 students from the European Union. How many of our students study in the European Union? It is a small fraction of that number, yet we contribute £6 billion to the European Union. Is this fair? Is this a sense of balance? Thanks to not being in the euro, we have not been straitjacketed and we are not suffering as badly as the PIGS countries. It may be that the IMF will bail out Greece.

I welcome the £4 billion extra spending for Afghanistan. We have troops fighting two wars, yet defence spending is less than half the percentage of GDP that it was 30 years ago at the time of the Falklands war and the Cold War. We have been fighting wars non-stop for nine years now. Is what we are spending fair? Are our troops getting the best equipment, welfare, support, care and employment after they stop serving? What about the families, the widows and the wounded who are not receiving the care that they deserve? Where are the Government's spending priorities? Is this a sense of balance? The winter of discontent is swiftly becoming the spring of discontent—look at British Airways. This is déjà vu, this is Groundhog Day.

I welcome the measures for small businesses. I hope that the banks will lend £94 billion and that growth capital will be provided to small firms, which make up nearly 60 per cent of private sector employment and generate 50 per cent of private sector turnover. Small firms desperately need help. From everything I still hear, I gather that they are not getting the funding that they need. As the noble Lord, Lord MacGregor, said, manufacturing as a proportion of our economy is far smaller now than it was 12 years ago. It is no excuse to point to India and China and the developing of the east. We have continually to invest in higher value-added manufacturing, at which we are good.

We cannot change the past. We cannot reverse the decisions that were made leading to the crisis—the FSA being asleep on the job, the Bank of England

[LORD BILIMORIA]
being stripped of its powers, and Britain lagging six months behind the United States and Bernanke in dropping our interest rates and being straitjacketed by inflation targeting when we should have been looking at the economy as well. When we did it in October 2008, it was too late; we should have done it earlier. However, we can decide the future. Like a business, it is possible for us to survive by cutting costs, but you cannot progress by doing that alone. We need to sell. We need to go out into foreign markets much more than now.

We have a lot to be proud of—our great history, our great institutions—and we cannot let this country down. Once again, we have projections for growth that are not substantiated and, once again, the Opposition and the Government do not seem to be able to articulate clearly what the British people really want: a clear vision and path for our country. That is desperately needed. This Government are feeding the monster with low cuts and high taxes. We have to get lean; we have to get keen. We need to restore a sense of balance and fairness. We need to encourage and enable business through a competitive tax regime and to return public spending to 40 per cent of GDP. We need the politics of aspiration, not the politics of envy. That is going to take leadership, vision, and guts.

12.21 pm

Lord Sanderson of Bowden: My Lords, I thank my noble friend Lord MacGregor for initiating this debate, which is important coming as it does just after the Budget and just before a general election. I too was going to compliment the noble Lord, Lord Myners, on his remarks last week about dour Scotsmen. Certainly it is important that dour Scotsmen—I emphasise "dour"—should be present in every bank. I can think of no better example than the progress that HSBC made under the undoubted leadership of Sir William Purves. I am also interested in what the noble Lord, Lord Giddens, had to say, but I have certain reservations about economists. After all I remember that, when my now noble and learned friend Lord Howe of Aberavon was at the Treasury, a letter was sent by a lot of economists to the *Times*. I am delighted that he took no notice of what they had to say.

I return to my remarks in the debate here on 4 February, at col. 307 of *Hansard*, when I deplored the fact that one in four people in Scotland was employed by the state. That situation has reared its head again. It is not a good omen for sorting out the massive deficit and giving the market the right message. The most depressing headline in the press recently read "Relentless march of state spending", and the article stated that the private sector now made up less than half the economy. I cannot do better than quote the OECD economist who said that the 52 per cent figure "definitely" signified that something was wrong. That was last week. Now we come to the morning after the day before, and what do we see as a headline? The verdict of the City on the Budget was "swift and damning". The article stated that,

"shortly after lunchtime … the gilt market … crumpled. Investors around the world started selling British government bonds",

and the market closed last night with the pound at a two-week low against a dollar level of $1.49.

No doubt the Minister is sick of hearing—he has heard it already today—about Denis Healey and the IMF, but these recent acts, not by politicians but by the marketplace, are deeply disturbing. It saw a Budget that failed to address any concrete plans beyond this year for addressing the deficit, together with projections that are very, very optimistic.

Those of us in business do appreciate the help given to us in concessions on capital allowances and other measures, but I ask whether the Government are fiddling while Rome burns. After all, Portugal's credit rating has just been downgraded and our deficit is two times the size of that country's. I hope that in his reply the Minister will assure us if he possibly can—and I am not sure that he can—that our credit rating is beyond doubt.

As I go around, I hear constant grumbles about the new 50 per cent tax on high earners and other taxes affecting not just high earners but middle England and, dare I say it, middle Scotland as well. However, if we are to retain high-flying executives, this measure will have to be reversed as soon as possible. As an employer, I sincerely hope that the next Government, while taking tough actions to tackle the £160 billion-odd deficit, will not introduce the tax on jobs due next April.

I conclude by using the well known word of my noble friend Lady Thatcher, whom I see sitting in her place. If we are the next Government, we must not be frit to tackle this situation.

12.26 pm

Lord Hunt of Chesterton: My Lords, I emphasise that in this debate there are many positive features about the high-technology and industrial aspects of the UK's economy and its future prospects. Many of these result from government measures focusing on manufacturing and technical services, as well as continuing to work with the City, which provides a very important component of the UK economy that contributes to manufacturing as well. I declare my interest as the chairman of a small consulting company and a former head of the Met Office.

I endorse the remarks of my noble friend Lord Giddens: the UK is a remarkable example of a dynamic population and Government. As I visit other countries, including in Europe and the United States, I am much struck by how perhaps 60 or 70 per cent of young people in the UK still have an ambition to form their own company. The figure is very much lower on the continent. The United States, in contrast with the UK, is finding it extremely difficult to make adjustments to its own governmental and bureaucratic agencies to deal with the issues of climate change and energy shortage. The way in which this Government have, albeit slowly, come round to making very profound changes is, I think, an example of where the economy will benefit in future.

The specific point that I should like to make is that the European Union is, as I hope all noble Lords will agree, central to the development of the UK as a strong economy and that this will be threatened if the next Government withdraw their involvement. The UK Space Agency, which has already been mentioned

today, was launched to ensure that the UK's expenditure on space projects in Europe leads to greater UK participation and success. Over the past five years, the UK space industry and our scientific activities have already been very effective in utilising our EU framework project funding, but I regret that there are other examples of where EU research programmes have not led to the UK's industrial involvement, and that is something at which the Government must work very hard. This will require a Government who are positive about the EU. It would be nice to think that we were going to have a Government who finally had the courage to fly the European flag over their Parliament building, as they do in all other countries in Europe with the exception of, I believe, the Czech Republic.

The other feature is that this Government have moved away from the very curious views of the previous Government. I was a chief executive working for that Government in the 1990s, when it was suggested by many of the chief executives of government agencies that the investments by those agencies were not being used as effectively as they might be to encourage UK business. I was told at the time that that is the kind of thing they do in France but not in England. That sort of attitude has gone with the coming into power of the present Government, and we have had very effective methods of using public procurement to help UK business.

There are still ways in which this could be considerably improved. The overseas representation of the UK could be more proactive on behalf of UK business—one hears this comment made over and over again. The UK could encourage its government agencies to have overseas branches. For example, there is a branch of the Environmental Protection Agency of the United States in Beijing, in what will be one of the largest countries in the world for an environmental market. The Environment Agency in Britain would not be allowed to do that. Other European countries use their overseas aid and development programmes to help their businesses. Those countries are always very surprised that the UK overseas development programme is not used as effectively as it might be to work with UK industry. This approach has broad-based support in the UK, and I am not convinced by the DfID approach of apparently favouring so many overseas suppliers of goods and services which one knows very well can be provided by the UK. That might be something that a different Government would change.

If the UK is to contribute in future to the enormous tasks of helping vulnerable countries with growing populations and climate change, this will require very long-range collaboration between Government, industry and the scientific community. Such countries have enormously growing populations and huge areas of water shortage. If you go into the main offices of Mitsubishi in Tokyo, you will see displayed in front of you all the kinds of new industrial projects that they are working on in those countries to help energy and desalination. This will be an enormous industrial and economic project for the future. There is mass migration to coastal cities in Africa and Asia, which will require very innovative and large industry. This requires collaboration on a very long timescale between businesses and government. The kind of approach we have at the moment needs to be changed.

I endorse again the point made by my noble friend Lord Giddens that in the UK, industry and business could work more closely with Government on energy, if we moved away from the idea that you can change your electricity supplier every couple of weeks, which is the current policy. You cannot have combined heat and power, which would almost double the efficiency of the use of fuel, unless you have an agreement between the user and the provider that may last for 20 or 30 years. It is very good that Ofgem is moving in this direction.

The interventionist approach of Government is essential. We have seen the successes of that, but it has in no way led to a diminution of interest by university students, or by plumbers and plasterers, at all levels of Britain, who want to participate and to generate new industries and companies. I see this in many examples. My noble friend Lord Giddens referred to his origins. I come from a very classical family of professionals, most of whom had absolutely nothing to do with business and forming companies. The number of my friends, colleagues and relatives who have formed companies in Britain over the past 30 years is quite extensive, but hardly any of my friends on the continent have done so. That is a measure of how Britain is moving in a positive direction, and this Government have greatly helped.

12.35 pm

Lord Higgins: My Lords, I congratulate my noble friend, Lord MacGregor, on introducing this debate, not least because his timing appears to be impeccable. We need to broaden the debate a bit beyond the Budget. Before I concentrate on the question of the overall management of the economy, I would like to deal with one particular problem which has always been my concern—namely, the question of pensions. Having represented for many years the constituency of Worthing, about which it is said that people go there to die but forget what they came for, I think this is a crucial issue. If we compare the situation now with the situation in 1997 when this Labour Government came to power and when I had the privilege of entering this House, we see that the deterioration in the position on pensions is absolutely appalling. At that time, we had a massive system of final salary schemes in existence, where the amount invested in the UK was greater than in the rest of Europe put together. Over the past 13 years, that system has virtually disappeared, to the tremendous loss of all those who might otherwise have benefited from it.

There is also a serious tactical problem for existing pensioners. The recent uprating was dependent very much on a particular moment in time, as far as the relevant index is concerned. The figures have changed since that decision on uprating was mentioned. Having said that, we underestimate the catastrophic effect on many prudent pensioners who were relying on their savings and on the return on those savings. With interest rates of less than 1 per cent as far as the Government is concerned, their return is impoverishing them in their late years, in a way which has never happened previously.

I turn to the question of the overall management of the economy. What used to be called the Red Book,

[LORD HIGGINS]
though it is no longer red, is very much preoccupied with forecasts. There is a very simple fact about debt. If the forecast is for an even greater increase in debt, and the actual amount of debt is less than that, that does not mean that the actual amount is not horrific. The fact that the forecast was even worse is neither here nor there. The Government forecasts on growth, of 3 to 3.5 per cent in 2011, are overoptimistic. They have said that these are partly because of easier credit conditions, and I will come back to that in a moment.

I also have a technical point about the way the Government look at the economy, and in particular what they describe as a growth-cycle approach, which compares the trend level of economic growth with cyclical movements and the so-called output gap. It is very clear from the figures in chart B3 in the Red Book that we are now forecasting a very large output gap indeed, but this way of looking at it is, in many ways, misguided. I much preferred the older system, where one looked at the proposed growth in productive potential and then compared it with the growth in demand. The way this looks at it ignores, or smoothes out of consideration, the fact that we have lost a massive amount of productive capacity as a result of the recent economic crisis. Therefore, to look at it in terms of trends, rather than what is happening, is inclined to be misleading.

I turn to the crucial point I have in mind on monetary policy. The noble Lord, Lord Myners, and I have exchanged views on this before. I will try not to repeat what I said previously too much, or I will apparently appear on his blog with a critical comment, although how he finds time to write a blog I cannot imagine, given his many other duties. The problem is that there is a gap in organisation between the Bank of England and the Debt Management Office as a result of the change Mr Gordon Brown introduced in 1997. The *Debt and Reserves Management Report 2010-11* is a huge volume setting out the objective of the policy, which includes being consistent with monetary policy. However, there is no mention whatever in the report of how it is being made consistent with monetary policy. There is a lack of co-ordination between the Debt Management Office and the Treasury, on the one hand, and the Bank of England on the other.

The figures show that, despite quantitative easing, what has been happening to the monetary supply is quite extraordinary. The leaders in the *Times* seem to think that it has gone up as a result of quantitative easing. However, I refer the Minister—and I hope also the noble Lord, Lord Mandelson, who was in earlier, because it is crucial to implementing the proposals for small businesses—to the latest Bank of England statistical release. It shows that growth in M4, and in particular credit lending, has been plummeting for a long time. Quantitative easing, so called, was introduced, but the reality is that the actual money supply and growth of M4 lending, which is the broad measure of money supply, has plummeted. The tables are very disconcerting because they show that Government's plan for recovery cannot operate if the money supply is behaving in the way it is. It would seem that the Monetary Policy Committee is underestimating the effect of this and the fact that quantitative easing does not appear to have had the effect the Government intended. This is a very serious matter for the management of the economy and I hope that it will be taken into account by a future Government under the Conservative Party.

Finally, when often in the past I spent many weeks or months in the preparation of a Budget, I thought I understood what it was all about. However, I never really understood it until I saw the headlines the following morning. In that respect, I do not think the Chancellor of the Exchequer can be very satisfied with the response he has produced.

12.42 pm

Lord Haskel: My Lords, I participate in the Lord Speaker's outreach campaign. This means that I go to conferences and schools and explain who we are and what we do in your Lordships' House. Last Friday, I spoke to about 60 A-level students at a school in Dagenham. At question time, one student told me that he has local politicians who say that they do not want him—Dagenham has got BNP councillors—and national politicians who run down the country, politicians who are themselves a bit dodgy. His question to me was why he should bother with politics. This encounter set me thinking. Surely this bright young person has everything to look forward to. However, he was accusing us of saying otherwise—that he has no future—and, listening to some of the things that are being said, I think he has got a point. Some of us are talking down our future, particularly our economic future.

Of course the situation is difficult; of course we have a lot of debt; of course we need new jobs; of course the economy was in recession—but if you talk down our ability to win through with phrases such as, "These problems are not solvable by a Labour Government", or, "We will end up like Greece", of course people will wonder if it is worthwhile bothering. Most people do not know that this is just rhetoric. What they do know is that this talk can affect their jobs, their quality of life, their homes and, yes, their future. We know that we are in a fragile situation and that if we talk ourselves down like this we can help precipitate a sterling crisis and deter inward investment.

On Tuesday in this House, yet again, Members on the Tory Front Bench insisted that the lights would go out; that we would run out of electricity. How can they be so certain? We know that this is political scaremongering, but think about its effect on the confidence that the noble Lord, Lord Bilimoria, said was so important. Think about its effect on the confidence of someone planning the future of a business in these difficult times. Do you ride out the storm or do you prepare for the worst? Do you cancel investment plans and make compulsory redundancies or do you ask everyone to tighten their belts and for a while defer investment? I know what decision I want them to make, and running down Britain will not help them to make it. What will help them to make the right decision is the temporary cutting of business rates, doubling investment allowances and doubling entrepreneurs' capital gains tax relief, as was announced in the Budget. There is a line between being a prophet of doom and being constructive. I believe some have crossed that line.

It is not all doom and gloom: we have low inflation; we have low interest rates; job losses are less than expected; and prospects are looking up, especially in the car industry. We are better off than we thought we would be 12 months ago. We still have to be careful not to precipitate a double-dip recession, and yet the shadow Chancellor writes and speaks of his concern about a sterling crisis and a government default on our loans. One way in which he can reduce the likelihood of that happening is to stop talking Britain down.

So what did I reply to that young student in Dagenham? I said that some may be running us down for their own political ends but that most of us were concerned that we should have a strong and fair economy when he starts work. We are not going to let the past bury the future. We believe that we can change society and save it from itself. This is what the debate should be about—policy reorientation, as my noble friend Lord Gidden put it.

A picture is emerging. In recent weeks, Ministers have indicated that the Government would like us to concentrate less on ownership and more on stewardship. Why? Because we have learnt that some of the activities in the financial sector have benefited the few at the expense of the many; that the single-minded pursuit of share price benefits the few but not the many; that what the few call financial engineering, the many consider dishonest cooking of the books. Taking a bigger share of the pie benefits the few; increasing the size of the pie benefits us all. This new knowledge helps us to draw the picture of our new economy—a fairer economy. The proposals that Ministers have made during these past weeks in regard to corporate governance, the management of salaries, fiscal policy and regulation chime exactly with this new vision.

I thank the noble Lord, Lord MacGregor for moving the Motion. His timing is perfect. Budget time is the one time of the year when the economy really has the nation's attention.

I started by pointing out the dangers of talking Britain down. Not only is it dangerous but it is also untrue, a point made by other noble Lords. So let us not talk ourselves down. Let us be positive; let us be fair; let us be reassuring that we are going to work our way out of this recession and pay off our debts, and that we do not need a change in Government to do it.

Lord Bradshaw: My Lords—

Lord Hamilton of Epsom: My Lords, I join other noble Lords—

Lord Davies of Oldham: My Lords, it is the turn of the noble Lord, Lord Bradshaw.

Lord Hamilton of Epsom: I am sorry.

12.49 pm

Lord Bradshaw: My Lords, we were treated by the noble Lord, Lord MacGregor of Pulham Market, to a speech that led me to believe that the world began in 1997, when the wicked Labour Government marched on to the scene. The fact is that he was responsible beforehand for some things to which I wish to draw your Lordships' attention.

Privatisation is described variously as selling the family silver, if you are Harold Macmillan, or creating a workforce of shareholders, if you are the noble Baroness, Lady Thatcher. The problem with selling the family silver is that it cannot be done again. Companies in the public sector that had low debts were sold cheaply in an unsophisticated marketplace. Most small shareholders sold out very quickly. The newly privatised companies geared up their balance sheets immediately, paying out huge, unearned dividends to their shareholders. They then told the regulators, some of whom were pretty toothless, that there was insufficient money in the coffers to upgrade their networks. Then they turned to their customers to pay for repairs and upgrades. In other words, taxation was transferred from the Government taxing people to the newly privatised companies raising prices to take money from people—at a level, of course, that would never have been allowed had those companies remained in public ownership. All this was overseen and encouraged by the noble Lord, Lord MacGregor of Pulham Market, in his role as Chief Secretary to the Treasury, together with his friends the finance men and corporate lawyers in the City. The taxpayer was robbed.

It gets worse. When the noble Lord was appointed Secretary of State for Transport, he presided over the privatisation of the railways. I went to see him with the late Robert Adley and pleaded with him to adopt a better model. My advice was swept aside and, instead of listening to professional railwaymen, he preferred to listen to clever lawyers and merchant bankers, who once told me that you could privatise any business, however weak, if you provided potential investors with sufficient returns—in other words, bribes. Was this what the noble Lord who introduced this debate intended when he was in office? Is this the sort of thing that we can expect from the Conservative Party, in the unlikely event—in my estimation—of its being returned to office?

My criticism of the Labour Party is that it allowed this robbery of the ordinary citizen to continue when it should have taken steps to stop the rape of industry and the demutualisations of institutions and building societies. Alas, it was still in thrall to the City and its manipulations. Even when Railtrack deservedly went into liquidation, Labour created an almost unaccountable successor, Network Rail, which spends taxpayers' money extravagantly and with totally inadequate checks.

We do not think that public ownership and mutualisation are bad. We are certainly against grandiose bureaucracies, the creation of quangos and the centralisation of decision-making, but we believe that many changes could be made in spending plans that would both save money and create jobs in Britain.

The cupboard of things to sell is now almost bare. As the Conservatives say that they are averse to tax rises, we can expect their agenda to contain cuts upon cuts. As far as possible, to quote the *Daily Telegraph* this morning, they will choose to avoid the middle classes.

[LORD BRADSHAW]

As a result of these policies, many of our industries are now controlled by foreign owners whose interests are unlikely to be influenced by their effects on Great Britain. The cost of regulation is vast, both in itself and in the money spent by companies in trying to obstruct the regulators, and, as the noble Lords, Lord Giddens and Lord Haskel, said, it does not reflect the longer-term priorities that are essential in any large infrastructure industry.

We could have a railway to challenge those of Europe—a power industry where there is no mention of the lights going out. Whatever arrangement succeeds the present Government as the outcome of the forthcoming election, it should concern itself with satisfying the end customer and not with placating greedy people in the City.

12.55 pm

Lord Hamilton of Epsom: My Lords, I must apologise to the noble Lord, Lord Bradshaw, for getting up too quickly; I must have been too keen. I congratulate my noble friend Lord MacGregor on introducing this debate and managing such excellent timing. I say to the noble Lord, Lord Haskel, that I was the candidate in Dagenham a very long time ago, although I did not win, as one might imagine. I would say to his schoolboy that he would be slightly less disillusioned with politicians if he got the truth from this Government.

At the moment we are involved in a complete phoney war. This Government are trying to spin a narrative that Labour would avoid cuts in the short term and that the Tories would cut at once and pitch the country into a double-dip recession. That is not true at all. I do not think that the public expenditure review promised by Labour in the unlikely event that it was to win the election would happen; I suspect that, like the Conservatives, it would have an emergency Budget after 50 days, when the serious issues as to how we are going to bring this deficit down would be tackled.

The only thing that could go wrong is that there could be a hung Parliament, in which case all the critical decisions would be deferred—the first 50 days would be spent trying to form a Government rather than tackling the whole question of the public finances. The Government who emerged might well represent the majority of Members of Parliament in another place, but they would not give any voter anything that he voted for; manifesto commitments would be binned as discussions took place about how a coalition Government should go ahead. I am quite convinced that a hung Parliament would be the very worst solution for this country, for the simple reason that everybody would anticipate another election coming up shortly and therefore they would not want to have their fingerprints on hard decisions. I suspect that the IMF would be round very shortly afterwards to tell us how to run our economy.

Government spending is being reduced as we speak. I am amazed that the Chancellor yesterday came out with this extraordinary statement:

"I know there are some demanding immediate cuts to public spending. I believe such a policy would be both wrong and dangerous".—[*Official Report*, Commons, 24/3/10; col. 255.]

I suggest that he walks across the road to the Foreign and Commonwealth Office, where he will find that it is cutting expenditure as we speak. That is, of course, because the pound has devalued so much against foreign currencies that the Foreign Office is running out of money. I know that the Treasury Minister will say that the sterling amounts going to the Foreign Office have not changed, but I do not think that the Foreign Office will see it that way. A noble Lord who formerly ran the Foreign Office has told me that, in past times when there were exchange movements, either the Foreign Office paid money back to the Treasury or the Treasury compensated it for any loss of money, so that it did not suffer as a result of movements in the exchange rate.

If you look now right across the public sector, you see signs of people cutting expenditure with recruitment bans and so forth. I was talking to somebody the other day who is on the finance committee of a London borough; he says that they are working now on the basis of 15 per cent cuts, which will of course be brought about by cuts in government support to local government. This is taking place at the moment. I therefore find great difficulty in aligning the Chancellor's saying that cuts will somehow be avoided during the next 12 months with what is actually happening. It is all very misleading.

There was an interesting vignette in Questions yesterday. Noble Lords will remember my noble friend Lord Selborne asking whether funding would come through for Ordnance Survey so as not to threaten its handing out free maps. There was tremendous support for Ordnance Survey carrying on as it has done for so long. I was rather cowardly; I did not want to find myself, like somebody in Bateman cartoon, getting up and saying that if it was the Government's proposal—as I am sure it is—to cut the Ordnance Survey grant, I suspected that it was just the start of something that would happen with quangos across the country during the next 12 months. It would be very surprising if Ordnance Survey got away without some reduction in its grant and I believe that the same will happen to a large number of other organisations. As they, too, are very well represented in your Lordships' House, I am sure that we will hear a cacophony of complaints during the next 12 months as everybody says that this is end of civilised life as we know it. This will be the world that we have to get used to.

We have a major problem to tackle. We have already seen the yields on 10-year gilts rising from about 3.6 per cent to more than 4.1 per cent. An independent economist said the other day that, had it not been for quantitative easing, 10-year gilts would have had to pay out another 1 per cent. We face very serious problems, which, regardless of who wins the election, must be tackled. My honourable friend the shadow Chancellor of the Exchequer, George Osborne, said on the "Today" programme this morning that he saw reductions in public expenditure having to take 80 per cent of the burden of closing the deficit and taxation taking 20 per cent. The position of my party on this is one of honesty. I wish that I could say the same of the Labour Party.

1.02 pm

Lord Sugar: My Lords, when I have been asked to give advice to small businesses, I often tell them that they should take a step back from the day-to-day mêlée and try to see the wood for the trees. Coming half way in this debate, I say that we, too, should take a step back and look at how the UK economy got to where it is today and at the real cause of the financial crisis that started just over two years ago.

The financial mess that we have experienced was not, as some might say, the fault of the UK Government, any more than it was the fault of the US, French or German Governments. It was caused in part by the creation of immoral financial products by our American cousins, who went on to package them up and sell them to banks, including many British ones, falsely labelling them as AAA instruments. An influx of foreign banks came to play in the UK market and, together with British banks, irresponsibly dished out vast sums for highly overvalued assets such as real estate.

There was a fast-buck culture: hedge funds and individuals manipulating markets by spread betting and short selling, artificially depressing values of banks and hurting real investors. People made millions without doing anything productive. Sitting in front of computer screens, they never produced anything or created employment; they simply preyed on the misfortune of others. It was morally wrong. It was a worldwide problem, not exclusive to the UK.

Now that I have got that off my chest, perhaps we should turn to what has been done about it. Despite a time of great uncertainty, the Prime Minister and the Chancellor stepped up to the plate and made the right decisions. Not a single retail investor lost their deposit and the banking system did not collapse. The UK's actions to rescue the economy and shore up the banks have been copied all over the world. Can others honestly say that they would have done anything differently? There have been a lot of "I told you so" comments. The honourable Member for Twickenham in the other place, for example, seems to have powers of clairvoyance, claiming that he saw all this happening. Well, it is easy to say that in hindsight.

Noble Lords should correct me if I am wrong, but I understand that the leader of the Opposition opposed the action taken on Northern Rock. If Northern Rock had been allowed to go bust, private savers would have lost their money. That would have created a run on all the other banks. It was simply unthinkable. Again, if I have interpreted things correctly, the leader of the Opposition and the shadow Chancellor are now threatening to choke off recovery by cutting support to the economy. Surely this would lead to a decade of low growth and austerity.

Despite the dire predictions of some, we have managed to avoid the mistakes of the recessions of the 1980s and 1990s. Repossessions are half what they were back then and only half as many businesses have gone under. The rate of job losses is four times less than if we had replicated what we experienced in the last recession.

Since my appointment, I have talked to real businesses and real banks. I do not rely on surveys and headlines that skew the message to fit certain agendas; I concentrate on the facts and make my own judgment. My message today remains the same as it always has been. Banks are now, quite rightly, returning to proper lending practices based on balance sheets, profits and collateral. That is how it was when I started out; that is how it should be; and that is how we will get this economy to recover. In fact, I hear from some banks that they have a lack of demand and are concerned about nervousness among their clients.

I am encouraged by the announcement in yesterday's Budget that the Government will build on their financial intermediary service and set up a national credit adjudicator for small businesses to ensure that they are treated fairly by banks when attempting to raise finance. I have been similarly encouraged in the recent Q&A seminars that I have carried out during the past three weeks with more 1,600 SMEs in Bolton, Birmingham, London and Newcastle. I will not say that they were all jumping up and down with excitement, but they had digested and understood the climate that we find ourselves in. They are reorganising and rethinking their strategies positively.

I am pleased that the Government are now offering entrepreneurs further encouragement, such as doubling both the entrepreneurs' relief threshold on capital gains tax and the annual investment allowance on capital expenditure. At the same time, they are ensuring prompter payment to those people by government.

The quickest and cheapest way to get the economy back on track is to endorse the words of my noble friend Lord Haskel and stop talking things down. Believe it or not, we need some help from the media; they should start reporting some of the good news out there. I have met hundreds of businesses that are doing well. They are expanding; they are taking on more people; they are selling more goods and services. We need to hear more of this, at least to encourage the others to think positively.

There are indeed important economic issues to discuss, but I urge your Lordships to reflect and look objectively at the period that we have come through. It has been tough, but we have come through it thanks to the actions taken. There is a brighter future ahead of us. The numerous initiatives that have been put in place in the past year and in yesterday's Budget are evidence that the current Government are best placed to take us forward.

1.08 pm

Lord Marlesford: My Lords, we owe a debt of gratitude to my noble friend Lord MacGregor, first, because it is the right moment to talk about the economy and the Budget and, secondly, because it has given the government party a great opportunity to stand up in this House and defend effectively what it has been doing. It has been quite disappointing to hear the rather few noble Lords from the government party who have spoken at all.

I agree with what the noble Lord, Lord Sugar, said at the beginning of his speech, but not about those three things that you would do about economic problems that seem to have echoed from the Labour Benches. One is that you blame the previous Government. But that was 13 years ago—surely it is a little difficult to

[LORD MARLESFORD]
talk about that. There were, of course, some echoes from the past. The noble Lord, Lord Giddens, rather reminded me of Messrs Balogh and Kaldor with his reference to what he called the "symbolic activities". I wondered whether he was about to recommend the reintroduction of a selective employment tax. On taxation—I am sorry he is not here, but he can read this—I was surprised that he did not talk again about the wealth tax because the last time he spoke in your Lordships' House, he recommended the reintroduction of a wealth tax. We all remember what happened to Denis Healey's attempts to do that in 1976—I remember it very well. The problem was that they never could find a way to avoid raiding the cash flow of small companies. I think the noble Lord, Lord Sugar, would probably agree that that is a non-starter.

Then we heard from the noble Lord, Lord Hunt. I love his idea that he would like the European flag to fly over Victoria Tower. I actually thought, from the earlier part of his speech, what he would really like is a flag with a floating polar bear on it.

Nor is it enough to say that we must not talk Britain down. It is not about what people say, it is about what is actually happening, which is serious. You cannot blame the media. What is happening in Greece is more serious. However much people try to conceal it, Greece is in a hell of a state. It could bring down the euro, and that could bring down the whole European endeavour, an endeavour which I strongly support.

I want to talk specifically about an issue which I believe to be important. The noble Lord, Lord Myners, knows that I am going to talk about it. I refer to credit card debt. According to the Bank of England, total interest-bearing credit card debt at January this year was £61.5 billion. That is a huge sum by any measure. The average rate of interest being charged is 17.8 per cent. Of course, for any bank, credit card lending can be wonderfully profitable—provided that the interest is paid and the debt is eventually repaid—just as sub-prime mortgages were very profitable and were even given the imprimatur of that one-time god-like figure, Alan Greenspan. Noble Lord should look at what he said about sub-prime mortgages in his book *The Age of Turbulence*, published too soon for his own record.

The rates charged for credit card debt vary between 12.5 per cent and 35 per cent. That means that the total interest liability on £61 billion is more than £900 million of interest per month. We do not how much of that is actually being paid, but I would guess that it is a pretty small proportion.

There are some 66 million credit cards in the UK. Credit card spending is about £10 billion a month—about £120 million a year. Therefore, credit card debt is about 50 per cent of turnover. That is an enormous figure by any business standards. Many people have more than one credit card. I understand that some 60 per cent of all credit card holders pay off their credit cards each month and do not enter a debt situation. That means that the debt is shared between about 26 million credit cards. That is roughly a debt of £2,000 per credit card, which works out at interest of about £7 a week for each cardholder. For some, that is viable; but for many, it will be a dark shadow over their lives.

In general, credit cards have been losing out to debit cards, the use of which has been increasing rapidly; indeed, the total number of plastic cards reached 169 million by the end of 2008, yet the debt on credit cards rose by some £8 billion during 2009. We know that a number of the credit card lenders have been securitising their debt, moving it on to the books of associated companies located outside the UK—our old friends, the special purpose finance vehicles, or SPVs. In effect, it means that the debts are handed over to debt collectors. Some £9 billion of credit card debt has been securitised in that way, but it is still shown as part of the £61 billion by the Bank of England. However, I understand that the rate at which this credit card debt of £9 billion has been sold off is between 10 and 20 pence in the pound. I assume—although perhaps I should not—that the asset value of that credit card debt in the bank balance sheets has been reduced

I ask the Minister a crucial question: what has the remaining £50 billion of credit card debt on the banks' balance sheets been valued at? If it is still valued at 100 pence in the pound, I would suggest that that represents a heavy burden of potential toxicity which could imperil, again, the financial system.

1.15 pm

Baroness Valentine: I congratulate the noble Lord, Lord MacGregor, on securing this debate. I also welcome the wise contributions that he and other speakers have made. I declare that I am chief executive of London First, a not-for-profit business membership organisation.

In talking to businesses in the capital, I detect a little more confidence and optimism than a year ago; yet that confidence is fragile. London has fared better than many parts of the UK, but that does not mean that the recession has not bitten deeply.

I will give noble Lords just a few statistics to give an indication of the depth of the recession. UK electricity demand in the first three quarters of 2009 was down by 6 per cent on the equivalent period in the year before. In the construction sector, there was a 20 per cent drop in orders, with a reduction in actual activity of around a quarter. Central London had 22 million square feet of vacant office space in mid-2009. Finally, retail and leisure businesses tell of a consumer in search of value, premium quality, and yet reducing peripheral expenditure. In London especially, overseas visitors, helped by the exchange rate, have bolstered both footfall and sales volume.

Looking forward, growth is by no means assured. After predictions of V-shaped recessions, W-shaped recessions and even a saxophone-shaped recession, the current preoccupation is with the prospect of a corrugated roof-shaped recession. However, it is the UK's strength in the service sector—including retail, logistics, creative industries, lawyers, accountants and, yes, bankers, and led by London—which has the potential to provide the growth to steer us clear of recession.

Successful business is fundamental to national economic well-being. However, the past few years have seen a decline in the willingness of the Government and the Opposition to acknowledge this fact to the electorate. The credit crunch and recession have coincided with a steep decline in the quality of the relationship between national politicians and the business community, and all three major parties have sought to position themselves as antipathetic to the wealth generators. This is economically, and thus ultimately politically, unsustainable.

After the election, there will be an onus on both business leaders and the Government to work together to restore their relationship and to build a successful and sustainable economy. After all, the wealth created by the private sector is the only means by which public services, from schools to bin collection, from hospitals to defence, can be sustained.

As the shadow Chancellor has been heard to say, we are all in this together. That means that the unloved bankers are on the same side as the rest of business and as the voters. Bankers fulfil services which businesses and consumers need and value. The voter wants businesses to succeed, for their employment and for the taxes they pay. But it goes wider than that. If we assume that UK growth can come from trading with ourselves, on this small island, we are much mistaken. It will not even be sustainable to hitch our fortunes to Europe. The real growth in the next decade will be in Asia; we must hard-wire London and the UK into that Asian growth. We must make it easy and attractive for Chinese and Indian companies and individuals to build their businesses and careers here in the UK and for companies to export their advice as invisible exports to these growing economies. That means that we cannot make tax policy or regulation in isolation; we have to remain competitive and compatible with overseas markets and other international cities. We cannot separate the interests of London and the UK from the international environment in which they operate. Monetary and fiscal policy has also to support international confidence in the UK's ability to tackle its debt. A run on the pound is the last thing we need.

On yesterday's Budget, a good point was that there were no surprises. The Strategy for National Infrastructure, announced alongside, has much to recommend it. In particular, the National Infrastructure Framework, while a long time coming from this Government, is good news indeed as a way of prioritising the most crucially needed investments. A similar approach would work well in determining where spending cuts could be made more widely across government. I also welcome the planned review of why construction costs of major infrastructure in the UK are higher than in neighbouring countries. I hope that both these initiatives from Infrastructure UK can carry on beyond the election, whoever is in power.

It is clear to everyone that the Budget that really matters will be the one after the election. What does business want from the post-election Chancellor? It wants a coherent plan for tackling the deficit. The Government have mapped out targets that any Government will find ambitious; many have strong views on whether it should be addressed more quickly or slowly. My point is that it should be tackled wisely, with clever cuts, both from efficiencies and from stopping those programmes which provide the poorest return. I stress that the Government should not cut those programmes and projects which are politically easiest to cut, but those which offer the poorest return. The new Government must make evidence-based judgments in a consistent way to deliver on this agenda.

I agree with the proposal that action to address the deficit should be made up roughly of 80 per cent spending cuts and 20 per cent taxation. But even in this order of magnitude, tax rises should be broad based, rather than at the margin, which could further compromise our competitiveness. Such changes should be clearly signalled. Rabbits out of hats such as the 50 per cent higher rate, the non-doms provisions or the changes to pension allowances create uncertainty, leading internationally mobile, highly talented people to reconsider whether the UK is the right place to be. The spending which must be protected is that which builds economic capacity—infrastructure in general and transport in particular. Crossrail and Tube upgrades are not a matter of comfort for London commuters but of necessity, to them and to the UK economy. After all, 70 per cent of UK rail journeys begin or end in London.

My final point is that the primary objective is not to get elected or cut the deficit or to increase or reduce taxes or to improve public services. The goal is to achieve sustained UK economic growth. The Government's role is to do all that they can to create an internationally competitive business environment which can support that growth. All other objectives depend on success in that goal.

1.23 pm

Lord Sheikh: I thank my noble friend Lord MacGregor for securing this timely debate. At present, we have one of the largest budget deficits in the developed world. I am deeply concerned about the state of British finances and the impact of the national deficit on our GDP. Government debt currently stands at more than 50 per cent of GDP, and the deficit this year will be £167 billion, which is a record high. According to the Government's own projections, they will be borrowing £734 billion over the next six years, taking our national debt to £1.3 trillion. The level of national debt has risen so drastically that next year we will spend more on debt interest than on education. These figures are extremely worrying.

We need to look at how this dire situation came about. The present crisis came to light because the banks were reckless in their lending and the regulatory authorities failed in their duty to ensure that proper practices were being undertaken. The situation was compounded by the fact that the Government had borrowed excessive amounts, no adequate controls were exercised on spending and there has been a considerable wastage of the country's resources. Furthermore, the Government failed to take appropriate actions to generate revenue in different channels. With regard to expenditure, in my own business operations I have always believed that my expense ratio should not exceed an acceptable percentage of the revenue. Now

[LORD SHEIKH]
that we are in a state of crisis, we need a clear plan to steer us out of this unfavourable situation and put us on a path to recovery.

The glaring failure of financial regulation must be adequately addressed, to the extent where a similar bailout by taxpayers of institutions becomes a distant possibility. I am in favour of plans to give the Bank of England greater responsibility concerning financial regulation. The economic downturn exposed the failure of the current system. We should seek international agreement on banking reform and the application of levies, if need be on a limited national basis. We now have a lower credit rating than other highly industrialised countries such as Germany and USA. We need therefore to safeguard Britain's credit rating with a credible plan to eliminate a large part of the structural deficit.

At this juncture, I declare that I am the chairman of an insurance broking and financial services organisation. We need to maintain and strengthen our role in promoting Islamic finance, which is based on mutuality, ethical behaviour, transparency and the acquisition of assets which give it more stability. Growth in the Islamic banking sector globally is nearly 30 per cent per annum. Therefore, there are further opportunities for our country's involvement. Had the financial institutions undertaken a greater volume of Islamic products, the financial problems we are facing would probably have been less severe. We must, of course, promote our financial services industry, but it is also imperative that we manufacture and export specialist goods such as precision machinery and pharmaceutical products. We have the expertise and resources to produce and export such goods. We need to have a balanced economy and encourage ideas which will further promote our manufacturing sector.

A large number of opportunities are presented by the improvement in the standard of living in countries such as India and China. We should be increasing our exports of high-value goods and financial services to these millions of potential new customers. It is important that our future economic strategy recognises the importance of small businesses, entrepreneurs and innovation to our recovery. Small and medium-sized companies play a vital role in job creation; it is therefore essential that those enterprises are not burdened by excessive bureaucracy. Cutting waste and reducing the layers of bureaucracy in our public services is vital to increasing efficiency in our industries.

The 1 per cent increase in employers' national insurance contributions will impact small and medium-sized businesses the most. The national insurance increase is estimated by the Federation of Small Businesses to cost 57,000 jobs. Furthermore, it is imperative that the banks increase their lending to small and medium-sized enterprises. The increase of tax to 50p will affect businesses as well as entrepreneurs who generate wealth for the country and create jobs. The tax is therefore counterproductive.

The level of youth unemployment is now one of the highest in Europe. Young people have the potential to make a vital contribution to our economy and society. It is the responsibility of those in government and commerce to work together to develop a strategy that will help our young people to weather the economic storm. Independent scrutiny of our fiscal policy is vital to repairing the fragile economy and building trust among the public, a large number of whom contributed to the recent bank bailouts. For this reason, I support the proposal of the shadow Chancellor to create an independent office for budget responsibility if the Conservative Party forms the next Government.

The Budget delivered by the Chancellor of the Exchequer was in fact a long political statement that lacked substance and constructive thinking. The Chancellor did not give us enough indication about what his party will do to tackle the present crisis. The Government wasted the years when we had economic prosperity and failed to make hay when the sun was shining. We need to rescue the economy from the dire state it is in by implementing the eight clear and transparent benchmarks suggested by the Conservative Party. In addition, it is imperative that we take remedial action immediately, rather than delay taking the strong medicine which will cure our illnesses.

The plan put forward by the Conservative Party to right 13 years of wrongs committed by Labour is one that will have Britain up and running again and will maintain our position as one of the leading nations in the world.

1.32 pm

Lord Parekh: My Lords, I thank the noble Lord, Lord MacGregor of Pulham Market, for securing this debate. He took one view of the British economy under the Labour Government's stewardship and will appreciate that I do not share that view. In fact, I take the opposite view—more like that of the noble Lord, Lord Giddens.

Labour has made many mistakes, but on balance, it has got most things right. I mention as examples expansion of education, social justice, mild redistribution, the reduction of child poverty, the National Health Service, development aid and so on. When I contrast this with Tory policies, I begin to see the fundamental limitations of the Tory policies. To start with, the Tories have not quite worked out what the role of the state is in the economy, especially in a period of recession. Deregulation is hardly the answer. Talking about spending cuts does not really help us much because often they are not costed, or if they are, they are wrongly applied and can easily create a grave and social and political crisis. The Tories were wrong to oppose the bank nationalisation, and they were also wrong to oppose the stimulus package to restart the economy.

I could go on, but my concern here is not to engage in a party political debate; rather I want to concentrate on one specific area, which has not been talked about and which will have to be addressed by whichever party comes to power. I want to speak about how the recession has impacted on the ethnic minorities. The unemployment rate among white men is 8.3 per cent. Among ethnic minorities, it is 18.2 per cent. If you take those between 16 and 24 years of age, it is 20 per cent among the white population and 48 per cent among the ethnic minorities. This is stark, striking and very disturbing and if we are not careful, it could easily generate a cycle of permanent unemployability.

Why has this happened? Unlike previous recessions, this one has impacted disproportionately on ethnic minorities. There are three or four reasons for this. The public sector is no longer as sheltered as it was in the earlier stages of the recession. Most ethnic minority workers work in manufacturing industries and these have been hardest hit. There is high incidence of discrimination when redundancies take place, as many reports have shown. The Government pledge last year to shield ethnic minorities by targeting support at disadvantaged groups has not been fully implemented. This was one of the major findings of the IPPR report a few weeks ago.

It is not just a question of unemployment among ethnic minorities. Ethnic minority businesses have also been hit harder than other businesses. The gap between the amount of business finance they seek and the amount they receive from banks and lending agencies is much greater than with other communities. They are more likely to be rejected for loans. They are also significantly more likely to feel discouraged from applying and they pay higher rates of interest than many other businesses. This again has been confirmed by several reports that have recently come out.

Now some of these discrepancies between ethnic minority business and the rest of the population can be explained in terms of business risk, limited collateral assets that the ethnic minorities have and the financial track record of these communities. However, these factors do not fully explain all the differences. This has been shown by the Runnymede report and, more recently, by the report from Department for Business, Innovation and Skills. I think we need to be very careful in exploring how banks and building societies give out loans and whether their policies are discriminatory.

What then should we be doing so far as ethnic minorities are concerned—both business and workers? I will end by suggesting three or four ideas at the rate of one a minute. First, the Government introduced the Social Fund budgeting loan scheme to help poorer people access credit. This could be extended to include those not on benefits, including ethnic minorities. Secondly, the Government might consider increasing the number of job placements in disadvantaged areas through which the Future Jobs Fund scheme creates jobs for young people. Thirdly, billions of pounds are spent on procurement—that is, on buying from the private sector. The Government should ask for the details of the diversity of workforces before contracts are offered. They should also think in terms of addressing the barriers that the ethnic minority businesses face, not just in terms of lack of information, but also in terms of lack of bidding skills and the way in which business contracts can be executed.

In this connection, I was disturbed to hear about the way in which the Olympic Games have impacted on ethnic minorities. One had hoped that the fact that our society is diverse and multi-ethnic had played an important part in our winning the Olympics. But if you look at the way in which the contracts have been awarded, or the way in which the workforce has been employed, one begins to see that ethnic minorities have not had their share of either the contracts or the employment.

For all these reasons, I think an ethnic audit is crucial. More money on Jobcentre Plus and other employment agencies needs to be spent in areas with high ethnic minority populations. James Purnell, when Work and Pensions Secretary, floated this idea and it was heavily criticised on the ground that he was arguing for discrimination in favour of ethnic minorities. I do not think that was the intention of the proposal. The idea was to concentrate resources on those whose disadvantages are greater.

Finally, the Government should think in terms of helping to tackle asset inequalities. If you are going to tackle these, ethnic minorities should be made aware of their eligibility for existing saving schemes, especially ISAs, Premium Bonds and saving gateways. In all, what I have been trying to argue is that although we are in a recession and the Government are slowly negotiating their way out of it, they need to take a multi-focal view, not just an abstract view, and concentrate on those pockets of the economy where the impact is disproportionately felt. I wanted to draw attention to the ethnic minorities.

1.40 pm

Lord Plumb: My Lords, when my noble friend Lord MacGregor called for a debate on the economic state of the nation, I thought, with his background as Minister of Agriculture—I remember those days extremely well—that he would accept, and that your Lordships would be prepared to consider, the important contribution that agriculture, food production, forestry and rural development make to the economy of this country. I declare my farming interests.

With the magical capabilities that my noble friend has, which many others have had the pleasure of witnessing over a few years, he could certainly pull a rabbit out of a hat. As he indicated in his opening address, though, clearing the country's debt might take a little longer.

The total farmed area of land in England is more than 9 million hectares—20 million acres, in my language. It continues to increase in value—the best arable land is now around £13,000 per hectare—but it is not immune from the recession that we have been going through. The noble Lord, Lord Bilimoria, spoke of the small land mass that we have in this country, but I remind him and your Lordships that the workbench of the land area is one of the largest industries that we have producing goods for this nation.

While there has been growth, banks have been very accommodating over many years, but facilities for overdrafts now amount to some £63,000 per farm on average. That is an incredible hangover that farmers are facing. Trade in food and drink does not help our economy as much as it should or could, showing an accrued trade gap of minus £4.3 billion. Sadly, production is declining when it should be increasing. We need to do more than pay lip service to food security. Yet the Minister, who I am delighted to see in his place dealing with agricultural questions, may remind us that 2008 was a record-breaking year of exports of food. The weak pound is making us more competitive. We are exporting one-third of our lambs, mainly to France, enabling farmers to build strong relationships for high quality products.

[LORD PLUMB]

The continuing decline in dairy herds is a concern. They have halved in the past 10 years. There is the incredible situation where we are slaughtering 40,000 cattle every year because of bovine TB, as we have done for the past three or four years. We know, and the Minister knows, that the disease is still spreading like a prairie fire. The result is that we are importing well over £1 billion of dairy products into the United Kingdom when we should be increasing our production from our excellent pastures.

As we now face a hungry world, continually talking about feeding a population of 9 billion in the not too distant future, and endeavour to increase production of both food and energy, I hope that the Government will do more to help by removing some of the barriers of the costs of administration. If anyone thinks that I am calling for more subsidy and grants to famers, I am not. Farmers are prepared to face the market. My noble friend referred earlier to existing quangos. I remind noble Lords that the National Audit Office published figures showing that the administrative cost of processing the single farm payment by the Rural Payment Agency is, on average, £1,743 per farm. That amount is more than the cheques that many of those farmers received, and compares badly with the figure of £285 for Scotland.

Defra funds the rural development agencies. Among eight different agencies interpreting European legislation, eight steering groups and eight communication plans, we get multiple newsletters and multiple confusion. There are no drivers for efficiency in rural development and I submit that there is a lot of overlap and duplication inherent in the system.

According to the Bank of England, lending to agriculture increased by 5.7 per cent last year but credit facilities shrank by some 13 per cent. Lending remains strong, favouring core farming activities rather than farm diversification, but I hope that the next Government will encourage growth in rural development and do everything possible to remove red tape and burdensome regulations. We have to cut costs by cutting wasteful administration and by the better use of waste generally through encouraging the use of anaerobic digesters to produce energy from products that currently pour into our infill sites.

Change is inevitable and demands a considerable increase in research and development. British agriculture can respond, help the economy and meet the demands of consumers. Our colleges are full of enthusiastic and optimistic future farmers. We cannot let them down.

1.47 pm

Lord Layard: My Lords, I thank the noble Lord, Lord MacGregor, for giving us the opportunity to discuss his arguments, especially because I recently wrote a letter to the *Financial Times* disagreeing with exactly those arguments. That letter was signed by three former deputy governors of the Bank of England or the Federal Reserve and a number of other distinguished thinkers.

We made two simple points, both of which are in support of the existing government strategy. The first was that this is not the time for further squeezes on public expenditure. The recovery is still weak, and it would have been non-existent without the fiscal injection that we have had. This injection was opposed by the Conservative Opposition but supported by all reputable organisations like the IMF and the OECD. The argument for it was taken from a standard first-year economics textbook: if the private sector cuts its spending, as now, in order to reduce its level of debt, the public sector should act to maintain a level of demand and prevent intolerable rises in unemployment.

That is what you read in every introductory economics textbook, and it is exactly what has been done. We had the private sector worldwide, in order to deleverage, cutting its spending. That is the cause of the world recession, and it leads to a collapse in tax receipts. The reason for the deficit that everyone is worrying about is the collapse in tax receipts that happened as a result of the world recession, with a small contribution coming from the policy-induced fiscal injection on top of that.

Now, though, what is the right way to correct the deficit that we have got into as a result of the fall in output? It is, simply, a growth in output. That is what will correct the deficit because it will increase tax receipts. So the strategic question facing any Chancellor is how to be sure of achieving the growth. The answer is that you can be sure of achieving the growth only if you maintain the fiscal injection long enough to be sure that the growth is under way—and we cannot yet say that. Everyone connected with business knows that the private sector has a lot more deleveraging to do, which is why it would be madness to follow the Conservative Opposition and have further cuts immediately. There is no convincing evidence that that would increase growth, and plenty of evidence that it would decrease it. It would make it even harder to get back to a good fiscal balance because we would not get the rise in tax receipts. That is a disaster not only for employment, for which we of course need growth, but it is also not good for the future of the public finances.

My second point concerns the debt. As we know, the rating agencies are threatening to downgrade our debt unless they do what the noble Lord, Lord MacGregor, proposes. What are the facts about our debt? First, relative to GDP, our debt is the lowest in the G7 except for Canada. Even when it reaches its peak, which it will in 2014, it will still be below the G7 average and below its level, relative to GDP, during most of the past 200 years.

Secondly, there is absolutely no problem with rolling over our existing debt. People seem to be unaware of this. Our debt has over twice the time to maturity of the debt of any other G7 country. For example, our average time to maturity is 13 and a half years, which compares to four and half years for the United States.

Thirdly, unlike some countries, which are, of course, in trouble, our debt is denominated in our own currency, mostly owed to our own citizens. There is actually no possibility of a default by the British Government. It is as simple as that. Does any sane person think that the British Government could default on their debt? I do not believe so. It is also extremely

unlikely that the Bank of England would allow sustained UK inflation to be above inflation elsewhere, which would reduce the relative value of our debt.

So what are the rating agencies doing when they make these remarks? They would be astonishing if it were not for the agencies' even more astonishing ineptitude over the past five years. We should simply take no notice of what they say, and opposition politicians who join their chorus are simply damaging our country. Nobody would want to be in the position that we are in, but we have the right strategy to get out of it and now is not the time to talk it down.

1.52 pm

Lord Northbrook: My Lords, like other noble Lords, I am grateful to the noble Lord, Lord MacGregor of Pulham Market, for initiating this debate. It is unusual for this House to have the opportunity to discuss the Budget the day after it is announced, but nevertheless extremely welcome.

The economic background to the Budget is depressing. The Labour Government inherited a strong and growing economy in 1997 with very little debt and a competitive tax regime. Initially they stuck sensibly to Conservative spending plans. Then they started to come up with stealthy ways to raise extra money. This began with the raid on pension funds. It was followed by selling a considerable part of the gold reserves at rock bottom prices, losing £7 billion. Then they decided to go on a spending spree in health and education, which sadly has produced much less than it should have done. They introduced fiscal rules—the golden and sustainable investment rules—which they proceeded to manipulate and then break when times got difficult.

Even before the banking crisis, our finances were in a weak state. To make matters worse, the Government encouraged a huge growth in public sector employment so that 6 million people now work for the state. State spending amounts to 53.4 per cent of GDP, and no fewer than 25,000 earn £100,000 or more. Thus it is wrong to blame the world economic situation for all our troubles, as we were already in a difficult situation before disaster struck. It is extraordinary that the Government are taking credit for solving the economic crisis that they played a large part in creating.

Turning to the Budget, I start, as always, by praising certain measures. I am in agreement with David Frost, director general of the British Chamber of Commerce, who said that,

"the Chancellor has clearly recognised the need to place business at the heart of this Budget. Doubling the annual investment allowance, help with business rates, and allowing entrepreneurs to keep more of their gains will prove especially popular".

I also welcome the increase in the ISA limits to £10,200 and the stamp duty relief to first-time buyers below £250,000, although I disagree with the means of paying for it.

Commentators are on the whole less kind to the Budget speech itself. Ben Broadbent of Goldman Sachs commented:

"We recently highlighted the clear pattern in the historical data that significant fiscal corrections are better for the economy, and better for debt reduction, if they occur through reductions in current spending rather than cuts in public sector investment or hikes in tax rates. On this score the Government's pre-existing plans did not measure up well. Today's budget does nothing to alter that, nor does it offer any detail on where cuts in current spending, such as they are, will fall".

Michael Saunders of Citigroup commented:

"The UK's fiscal plans remain relatively unambitious compared to other high-deficit countries. Moreover, the Budget has no proper medium-term public spending plans and, without those, the UK cannot claim to have a credible plan to return to fiscal sustainability".

The Chancellor delivered the Budget Statement in an ultra-calm manner disguising the terrible figures, in particular, of the budget deficit. It is not surprising but staggering that he failed to mention that Britain's national debt is going to rocket to £1.4 trillion by 2014-15, more than twice the level of just a year ago. I suppose we should rejoice that the borrowing figures have gone from the truly horrific to the simply terrifying. This year they are £11 billion lower than forecast at the Pre-Budget Report and £14 billion lower for the next financial year. However, the absolute level of borrowing is still horrendous.

The Government forecast that they will halve the deficit over the next four years, but this still relies both on spending cuts which have not been properly detailed and, almost certainly—as other speakers have mentioned—on overly optimistic growth forecasts. I accept the 1 to 1.5 per cent growth forecast for 2010, but the 3 per cent forecast for 2011 seems much too high, as does the 3.25 to 3.75 per cent figure for 2012 and beyond. I ask the Minister what the debt figure would be if growth only managed to be 2 per cent in 2011 and 2012.

It is all very well for government departments to spell out their cost savings, but it is difficult to put them into context when we do not have the absolute spending figures of each department in a Comprehensive Spending Review. Table 1.2 in the Red Book tells us that there is a relatively small total net increase in government spending of £1.4 billion for 2010-11, balanced by an £850 million net inflow over the next two years. The largest spending increases are the extra £600 million additional winter fuel age-related payments to pensioner households and the £550 million fuel duty phase increase. Can the Minister tell me what the £230 million savings labelled "reprioritised spending" from BIS and DfT are, as well as the £475 million "reprioritised spending" from DWP? It is interesting that the largest revenue gainer over the next three years is stated to be the Liechtenstein disclosure facility, which is said to bring in no less than £500 million over the next three years. Is this based on known tax avoidance moneys there?

Of course, there had to be a stealth tax lurking in the Budget and, after careful research, it turns out to be something that the Chancellor failed to mention. Personal allowances were frozen but, with the latest inflation figure at 3 per cent, will the Minister confirm that the revenue gain to the Exchequer would be about £1.8 billion in 2010-11 and £2.2 billion in 2011-12?

Overall we have far too little information on how the deficit is going to be reduced—I await publication of the IFS analysis later today—except that, in the next four years, the £78 billion to be saved will consist of £19 billion extra taxes and £38 billion cost savings, of which only £11.8 billion have been identified. Where are the rest of the savings coming from? In the Pre-Budget

[LORD NORTHBROOK]
Report, government departments were asked to find savings of £11 billion without damaging front-line services.

Finally, there seemed to be an answer to where spending cuts might fall, but even a cursory examination of yesterday's departmental press releases reveals questionable figures. For instance, how can the Department of Health save £550 million from staff sickness absence in the NHS? A key difficulty that any Government must face is predicting tax revenues in the next few years. For instance, financial services provide 25 per cent of corporation tax revenue. I am sceptical that it can recover from £36 billion to £42 billion in 2010-11 in such a difficult economic climate.

My final thought on the Budget again focuses on what was not said yesterday. Rises in national insurance will hit those on incomes of just £20,000, and firms face an annual bill of £4.5 billion from the increase in NI payments. A six-pronged attack will see the NI rises; the freezing of personal allowances; the threshold for 40 per cent tax frozen; 50 per cent tax rates for those earning £150,000 or more; personal allowance withdrawn for those earning more than £100,000; and withdrawal of pension tax relief. This, according to Deloitte's, amounts to a £15 billion raid on the middle classes by 2012. Is this the message to encourage business and economic recovery, and to enable us to compete with other countries?

2.01 pm

Lord Newby: My Lords, it is always a pleasure to take part in economic debates in your Lordships' House. This is the latest in a series that we have had in recent months. It is beginning to have a Groundhog Day quality. The arguments being advanced across the political divides have not changed at all in that period.

In terms of how we got to the current position, yes, the Government overspent in the good years. It was irresponsible to ratchet up deficits when growth was at an historically high level. Yes, the Government fiddled their own rules to enable them to get away with it and, yes, when the crisis broke, the size of the financial services sector meant that the impact on growth and the public finances was particularly severe. However, the Government moved swiftly to recapitalise the banks and to give a significant fiscal boost and, yes, that boost had a positive impact on unemployment levels and repossessions. There is a major fiscal tightening happening this year. The IFS has shown that this amounts to some £23 billion in terms of the ending of the temporary fiscal boost that the Government gave in 2009, so it is incorrect to say that this is a standstill year under government plans for the overall fiscal position.

For the future, it seems that there are two linked questions. How quickly should we reduce the deficit? More important, what kind of economy do we want to see in the future? We should start by recognising that the balance of the world economy is shifting rapidly eastward. I agree strongly with the comments of both the noble Baroness, Lady Valentine, and the noble Lord, Lord Sheikh, about this, not least what the noble Lord said about the need to develop the Islamic finance capacity in London.

There is agreement about the kind of economy that we want: it needs to be rebalanced away from financial services. Everyone is agreed in extolling the virtues of the manufacturing sector to achieve that. If we are to have a stronger manufacturing sector, we will need more concerted government action. Simply leaving this to market forces, along with tweaking tax rates, whether corporate or personal, will not have a big impact. We need a bold vision for how to rejuvenate manufacturing. The place to start is where the Government have started with infrastructure. The Institution of Civil Engineers has demonstrated a need for around £400 billion of infrastructure expenditure over the next decade if the country is to be at the leading edge in its infrastructure. There is a particular pressure and impetus for infrastructure expenditure because we need to rebuild the energy sector and move towards a low-carbon economy.

The Government have, in the Budget, made a tentative first step in this direction with their plans to establish a green investment bank, for which they are looking for a fund of £2 billion. That is probably rather less than 5 per cent of the amount that we need for infrastructure expenditure. Therefore, although this is a good first step, I would welcome any thoughts that the Minister might have about how the Government could build on it. More generally, when it comes to rebalancing the economy, the Government make the right noises but are too timid. The Conservatives, too, make the right noises but have, as far as I know, no specific policies to achieve what they claim they wish to do.

On the deficit, the Budget has changed nothing. There was nothing significantly new in it and the arguments advanced on all sides are ones that we have heard for some time. Not surprisingly, our approach to deficit reduction has not changed as a result of yesterday's activities and announcements. We have set out criteria for determining the point at which the deficit should begin to be reduced. We judge that now is too soon. We have identified an initial £15 billion of expenditure cuts and several areas—for example, public sector pensions—where costs have to be reduced over the longer term. We have set out how the banking sector could be required to increase its lending to small and medium-sized businesses. Although we welcome some of the initiatives that the Government announced yesterday, their track record to date in persuading the state-owned banks to lend to small businesses is not encouraging.

We have also set out a package of tax changes that would create a fairer system in that those earning less than £10,000 a year would not need to pay any income tax. We have suggested that, as part of the Comprehensive Spending Review process, we should follow the Canadian example of consulting widely with the population at large and stakeholders with a big economic interest so that we can, we hope, tap into ideas that others have, rather than those of the parties on their own. We have suggested that the parties should seek to agree, in consultation with the Bank and the FSA, a timetable for and scale of deficit reduction.

We simply do not believe that, with the major rebalancing of the public finances that we are going to see, a single party—possibly elected on less than 35 per

cent of the popular vote—should be able to force through its policies on its own. Although I am sure that this will pain the noble Lord, Lord Hamilton of Epsom, recent polls show that many people believe that it would be in the country's best interests if no single party formed the next Government. Many more people who will vote in six weeks' time take that view than believe that the Conservative Party should form a majority Government. We look forward to the election with great anticipation.

The Government are committed to big public expenditure cuts from 2011. However, we have no idea at all how they are to be achieved. They have said what they are not going to cut—popular big items such as education, health, the police and international development—but nothing whatever about whether they mean that other areas of public expenditure should be cut in real terms by 15 to 20 per cent. As far as the Conservatives are concerned, they use language designed to make your flesh creep but are totally silent on what they will do. They have been much clearer about which taxes they will cut. They will cut inheritance tax and stamp duty on share sales. They will cut taxes for those who are married and remove the proposed national insurance increases. These are big additional expenditure items, but on the other side of the balance sheet there is total silence.

Given that both Labour and the Conservatives clearly intend to give no indication before polling day of how they are going to bring public expenditure under control, voters are not going to be able to decide how to vote by comparing detailed expenditure plans. Instead, they are going to have to ask themselves which of the parties' economic teams they most trust to sort out the public finances and the economy in general. That is why we approach the next election with such confidence.

2.10 pm

Baroness Noakes: My Lords, I congratulate my noble friend Lord MacGregor on securing this debate within 24 hours of what we hope will be the last Budget from this Government. I also congratulate him on a marvellous opening speech. Yesterday we had an empty Budget, containing nothing of substance to show how our country's finances will be put on an even keel. On that, at least, I agree with the noble Lord, Lord Newby. Predictably, the Chancellor aimed his darts at those whom he considers rich, but even he cannot escape the fact that millions of people who are not rich will be worse off in the next financial year as personal allowances are frozen.

As many of my noble friends have pointed out, 13 years ago the Labour Party inherited an economy that had been growing for five years, with public finances moving strongly in the right direction. The UK was a competitive place in which to do business and, as my noble friend Lord Higgins pointed out, we had a pensions system that was world-beating. All of that has been squandered by wanton economic management. We have just emerged from the longest and deepest recession since 1921 and the past 10 years have seen the weakest decade of growth since the Second World War. We were the last country to emerge from the recession and our recovery looks as if it will be one of the weakest. Debt is forecast to rise to 70 per cent of GDP; the small amounts shaved off the forecast yesterday have not changed the overall picture. In the competitiveness league tables, the UK's overall ranking is now down to 13th and, on tax and regulation, as has been pointed out, we come in at a dreadful 84th and 86th. My noble friend Lord Plumb talked about the way in which the farming industry is weighed down by regulation, but that is the story throughout the whole economy. Of course the UK suffered from the global financial crisis, which has tipped economies the world over into recession, but the policies pursued by the Prime Minister made the UK particularly vulnerable.

The Chancellor kept saying yesterday that the Government had made the right decisions when the crisis occurred. Even if that were true, and I shall not get into that, he conveniently ignored the fact that bad economic decisions were made consistently by his predecessor. In the years of plenty, the Prime Minister could not resist the temptation to borrow, in the reckless belief that he could spend today and taxpayers could, and would, pay later. My noble friend Lord MacGregor reminded us that much of that spending was wasteful. We went into the recession with one of the highest structural deficits in the developed world. The Prime Minister was a past master of creative accounting. The golden rules, as we have heard, were routinely abused and many liabilities stayed out of sight, Enron-fashion. Not content with government borrowing for ever increasing public expenditure, consumers were encouraged to borrow, thus creating the myth of healthy economic growth. Personal debt levels rose to above the value of GDP in the UK. I hope that the Minister will be able to answer the penetrating question from my noble friend Lord Marlesford in relation to credit card debt. The Prime Minister's vain boasts about economic prudence, about abolishing boom and bust and about golden rules were just that—boastful and vain.

What this country needs now is a credible plan to reduce the deficit. That is what the Governor of the Bank of England, the IMF, the OECD, the CBI and the European Commission have called for. Without a credible plan, we may well go the way of Greece and Portugal. As my noble friend Lord Hamilton suggested, markets are already pricing in the fact that our credit rating is under pressure. I say to noble Lords opposite that we do not talk the country down—the markets are doing that—but we do talk this Government down, since they are responsible for much of the mess that we are in.

The universal judgment on yesterday's Budget is that it does not represent a credible plan. First, a plan has to be based on credible assumptions. The Government are sticking to growth forecasts beyond 2010 that are 50 per cent higher than the consensus. I hope that the Minister will answer the question asked by my noble friend Lord Northbrook about the effect of using a lower, 2 per cent growth figure in 2011.

Secondly, we have to show that the deficit will be eliminated and debt will be brought down as rapidly as possible. The Government have a structural deficit in their plans until 2016-17, which, at the very least, lacks ambition. Public sector debt increases until 2014-15

[Baroness Noakes]
and, after that, reductions look tiny. After the Pre-Budget Report, the Institute for Fiscal Studies estimated that it would take until around 2030 for debt to reduce to the Government's former prudent limit of 40 per cent of GDP and I doubt that the Budget has improved much on that.

Thirdly, we believe that we must make a start on reducing the deficit as quickly as possible—I was grateful for the support of my noble friend Lord Sheikh on this. It is not enough to say that we will be good but not yet. Starting does not mean cutting savagely and it certainly does not mean making cuts that harm our recovery from the recession. Demonstrating real commitment by making hard decisions today, rather than talking about it, is a part of credibility.

Fourthly, we must be transparent about how the deficit is to be eliminated. The Institute for Fiscal Studies has in the past hour quantified the gap in the Government's own figures at £46 billion annually, or £26 billion if full credit is given for the Government's £20 billion of savings, about which the IFS has considerable doubts. Will this gap be found from expenditure or even more tax increases? The PBR had already taken the contribution from taxes to deficit reduction beyond the 20 per cent point at which evidence suggests it will be harmful. Credibility demands transparency about the sources of deficit reduction.

Fifthly, we need a Comprehensive Spending Review so that departments consider carefully how they will deliver expenditure reductions. The Government's decision, using uncertainty as the most flimsy of excuses, to defer a CSR until the other side of the election was cowardly. Even the Labour-dominated Treasury Select Committee criticised that. A CSR will help to demonstrate that plans to cut expenditure are credible and not just fantasy, like most of the Government's efficiency targets.

Sixthly, we have to reform our public services, which means a lot more than playing at office relocation and having yet another shot at better procurement. It is already a tragedy that under this Government public spending now accounts for more than half of GDP on the IMF's figures. Inefficient and unresponsive public services are part of the problem and not part of the solution. A plan that ducks reform lacks credibility.

Lastly and most importantly, credibility demands a commitment to growth and jobs. The noble Lord, Lord Bilimoria, and the noble Baroness, Lady Valentine, spoke broadly on this theme. We need a Government who are passionate about enterprise and wealth creation and not about state intervention. The Budget made some gestures towards business, but the Government had already defined the future in terms of a 1 per cent hike in national insurance for both employers and employees. This has been universally condemned by British business. It will lead to increased unemployment and reduced growth. I can assure my noble friend Lord Sanderson that my honourable friend George Osborne places the highest value on being able to avoid as much of this as possible.

The Budget is not a credible plan. The fact that financial markets moved downwards yesterday but did not crash merely shows that they are focused on what will happen beyond the election. Markets will be really spooked if they think that there is any chance that the current Government will remain in charge of the economy or, I say to the noble Lord, Lord Newby, if there is any chance of a hung Parliament with the Liberal Democrats holding the balance of power.

All Labour Governments eventually run out of other people's money. It is the destiny of Conservative Governments to come behind the messes that Labour Governments make of public finances. In Norse mythology, Ragnarök is the final doom of the gods. A series of disasters and battles leaves the earth laid bare and most of the gods killed. That is what the past 13 years have been like—battles, destruction and disasters. We take comfort from the fact that the doom of this Government is now near at hand and we hope that it will be final. In the story of Ragnarök, after the final doom, the surviving gods bring renewal, hope and abundance. That is what our country deserves and, if we are allowed to form the next Government, we will strive mightily for it.

2.21 pm

The Financial Services Secretary to the Treasury (Lord Myners): My Lords, I thank everyone for their contributions. In particular, my special thanks go to the noble Lord, Lord Macgregor of Pulham Market, for securing today's debate. I was not aware that the noble Lord, Lord Macgregor, had been known as "Mac the knife". I remember the words of the song. They do not make a great deal of sense, they are somewhat circuitous and they are very repetitive. One can understand why this descriptor might have been used. There is a reference which states:

> "And now MacHeath spends like a sailor
> Could it be our boy's done something rash?".

Surely these were not the words that would have been applied to the noble Lord. Perhaps we should be thinking of someone else in "Mack the knife". Certainly, as I listened to some of the observations from the opposition Benches, particularly those which decried the achievement of our economy and the strength of our people, the name of Sukey Tawdry sprang to mind.

Last year, the global economy contracted for the first time in 60 years, following a succession of severely damaging shocks, including the worldwide financial crisis. All countries have been affected, and the impact has been felt by households and businesses across the world. The economy showed a huge shock and contracted by around 6 per cent during the recession, but latest data have shown that growth returned at the end of 2009. The Government's support for the economy, along with action from the Bank of England such as interest rate cuts, have prevented the recession turning into a severe depression.

The claimant count of unemployment is much less than economists would have predicted, given the severity of the downturn. Unemployment has risen markedly in a number of other countries, compared with our own experience. Financial support and advice have helped 330,000 homeowners stay in their homes and limited the number of repossessions to 46,000 last year—a figure significantly lower than the 75,000 forecast by the Council of Mortgage Lenders. More than

200,000 businesses, employing more than 1.4 million people, have been helped with cash flow by spreading the payment of their tax bills.

This year, the economy is forecast to grow between 1 per cent and 1.25 per cent. However, reflecting the weaker outlook for the euro area, the growth forecast for next year has been revised down a little to 3.5 per cent. The noble Lord, Lord Northbrook, who is normally very flattering in his comments about the Bank of England, expresses some doubt about these numbers. I should point out that these are the Bank of England's own growth forecasts.

We have to be wary. The world economy is still in a period of great uncertainty. It is clear that a strong and lasting recovery depends on continued support, and for this reason the budget actions required to meet the critical challenges ahead—the challenges of securing the recovery and of bringing down debt while still protecting front-line services, and of promoting sustainable growth and creating job opportunities—will be fundamental for our future prosperity.

Government action has played a critical role in helping limit the impact of the recession on families, households and businesses. They have also demonstrated their resilience in weathering the storm. Nevertheless, the global economic recovery is still in its very early stages. Withdrawing support too soon could jeopardise this recovery. That is why we have made the choice to continue support for the economy.

For young people, every 18 to 24 year-old will have access to guaranteed work or training after six months out of work. In the Budget, we extended this guarantee until March 2012. This has been funded as a direct result of unemployment turning out to be much lower than forecast.

For homeowners, we have made the decision to maintain help through support from the mortgage interest scheme until June. For first-time buyers, we announced yesterday a doubling of the stamp duty limit from £125,000 to £250,000 this year. To fund this, we have had to increase the stamp duty on mansions worth more than £1 million.

For business, the Time to Pay scheme, which has helped businesses spread £5 billion worth of tax payments over a timetable that they can afford, will continue. This is much welcomed by people in the business community.

The downturn has led to increased pressure on the public finances. Last year, in the Pre-Budget Report, the Chancellor forecast that borrowing in the 12 months to December would reach £178 billion. However, as a result of supporting the economy, in December, January and February tax receipts have been higher than forecast. This means that this year the borrowing forecast has been revised down by £11 billion to £167 billion, and in the following year borrowing will be even less than that, at £163 billion. As the economy recovers, together with the revenue from tax increases already announced, borrowings will fall progressively to £74 billion in 2014-15. As a share of GDP, borrowing is forecast to be 11.8 per cent in 2009-10, but will subsequently fall to 5.2 per cent in 2013-14, and thereby will have more than halved over the four-year period. This addresses the bulk of the structural deficit. By the end of the forecast period in 2014, borrowing, as a percentage of GDP, will have fallen to 4 per cent.

Our plan to halve the deficit over the next four years is the most ambitious deficit-reduction plan in the G7 countries, and we are firm in the belief that the pace of consolidation is correct. To start consolidating too early, as the noble Baroness suggests, could risk the recovery. To go too fast when there is still such global uncertainty would be foolhardy in the extreme—playing games with the lives of British families, British workers and British small businesses. That is possible to contemplate from a position of privilege and wealth, but is not salient to the lives of most people in our population or those who will be thinking how to vote in the forthcoming general election.

We have already outlined tax measures that will reduce borrowing by £19 billion in 2014, with the biggest burden falling on those who can afford it most. We are determined to continue our successful drive to prevent avoidance and evasion. Measures in this Budget will bring in additional tax receipts worth half a billion pounds each year, while protecting £4 billion in revenues by 2012-13, including tax agreements such as that already signed with Liechtenstein. We are now ready to sign tax information exchange agreements with three additional countries—Dominica, Grenada and Belize.

Lord Trimble: I am sorry to interrupt the noble Lord. I am a bit puzzled about the arrangement with these countries in Latin America. The noble Lord is now referring to it as a tax information agreement; yet earlier today we were told that it was a double-taxation relief treaty. Can he explain exactly what it is?

Lord Myners: I do not recollect saying "double taxation relief treaty".

Baroness Noakes: The noble Lord, Lord Bach, said it.

Lord Myners: I apologise. I was not in the House for Questions.

Tax information exchange agreements are critical to ensuring that residents of this country with bank and other investment arrangements in another territory properly report that information to our tax authorities. That is very separate and different from double taxation agreements.

Lord Marlesford: I note the Minister's and the Chancellor's emphasis on this. It strikes one as astonishing that a very minor achievement, which is aimed apparently at one person only, should be given such prominence in the national Budget.

Lord Myners: I am conscious of time and that many questions need to be answered, including from the noble Lord, Lord Marlesford, but I want to make it absolutely clear to the House that nothing in the tax information agreement is aimed at the noble Lord, Lord Ashcroft, at least as far as I know. Of course, if those on the Tory Front Bench know anything further about his affairs, that may be relevant, but I assure the noble Lord, Lord Marlesford, that this proposal, which after all was volunteered by the Government of Belize when entering into this agreement, is not targeted at the noble Lord, Lord Ashcroft, alone.

Lord Trimble: My Lords—

Lord Myners: I am sorry. The noble Lord, Lord Trimble, did not speak in the debate, and I need to press on and respect the wishes of the House that one should not overrun. If the noble Lord wanted to intervene in this speech, he should have participated in the debate rather than come in at this rather late stage.

As I said, we have already identified significant opportunities for cuts and efficiencies of £20 billion to help us to meet our goals. Long-term sustainable growth will also be crucial to reducing borrowing, and it will be key for the future strength of our economy. The first component of our growth strategy will be to support small businesses to grow and to create jobs, and, as we emerge from the debris of the crisis, a flow of safe and reliable credit will be indispensible. Businesses rely on finance for investment and expansion. In the past 12 months, RBS and Lloyds have provided £79 billion in new loans to small and medium businesses, and for the coming year further agreements are now in place to provide for a total of £94 billion of new business loans, with nearly half going to SMEs. To ensure that the tax system does not discourage investment decisions during the recovery, we deferred the planned increase of corporation tax for smaller companies to April 2011, which will help a further 850,000 businesses.

The Budget also announced a temporary cut in business rates for small businesses to reduce their fixed costs, which will help them to make the most of opportunities as the economy returns to growth. We also made important commitments to invest in infrastructure—a point that was highlighted by contributions from a number of noble Lords, including from the noble Baroness, Lady Valentine. Infrastructure UK, the body that we have set up to advise on our long-term infrastructure needs, published a strategy yesterday that sets out how to deliver the infrastructure that is needed for the transition to a greener, low carbon economy. We will provide up to £1 billion of investment from the sale of infrastructure-related assets, and seek to match this with at least £1 billion of private sector investment to fund the new green investment bank.

The last aspect of our strategy for growth will be to foster a climate of research and innovation. This will mean developing new skills for growth through the £270 million modernisation fund, which will enable universities to identify and deliver efficiencies and to fund 20,000 extra undergraduate places. We also want to remain an attractive place for innovative industries and to support high-tech and high-value British business. Measures such as the patent box, which will provide a reduced rate of corporation tax on income from patents, will help us to achieve this.

Overall, our growth package will cost £2.5 billion, which will be funded partly by switching resources from existing budgets and by revenue from our tax on bankers' bonuses, which turned out to be more than twice as high as forecast. By investing in growth now, our economy will be in better health in years to come and will continue to reap the rewards.

One final area is financial services—a sector that has been the centre of attention for the prominent role that it played in the global crisis. While many feel that it has been both the devil and the victor of strong and stable industry, it is nevertheless vital to the economy. The Government intervened to protect savers and to underpin the banking system. That was the right decision. As the Chancellor said yesterday in the other place, we will sell our shares in RBS and Lloyds, as well as in Northern Rock, in a way that maximises value for the taxpayer and recoups fully and more the money that we have invested. We have prioritised building a more resilient financial system that is properly supervised and regulated.

A competitive and profitable financial services sector will generate sustained wealth and jobs, but we will have to do more to strengthen the global banking system, which is why we are working with G20 countries to introduce new capital and liquidity rules by the end of the year. Yesterday, we proposed an internationally co-ordinated systemic risk tax so that financial sector activities reflect and pay for the systemic risks that they present to society. It will be crucial to get international co-operation, however, as we would risk harming the UK economy and UK employment if we acted alone.

The Budget also announced steps to improve governance, the oversight of remuneration and competition in retail banking, and measures to improve access to banking services for those who have traditionally been excluded from mainstream financial services.

My noble friend Lord Giddens said that he was not tribal, but he made a very thoughtful contribution to the House's deliberation on the debate secured by the noble Lord, Lord MacGregor. He highlighted three challenges: first, the need to address the regulation and supervision of financial markets, which is clearly a high priority for us; secondly, a return to industrial activism, of which my noble friend Lord Mandelson is a clear advocate; and, thirdly, the return to long-term planning and policy, particularly on areas such as infrastructure, to which we have already spoken. My noble friend Lord Davies of Abersoch was sitting with me on the Front Bench while my noble friend Lord Giddens was speaking, and he is very committed to infrastructure development.

The noble Lord, Lord Bilimoria, made an interesting speech from the Cross Benches. I could see that he made it from the Cross Benches; it was less easy to conclude that from listening to what he had to say. It was sad that he was not in the House when the noble Lord, Lord Sheikh, made his speech. Perhaps he would like to look at the noble Lord's speech, because it had some interesting insights both into national economic management and into the management of private businesses. I was sure that people could agree with certain parts of his speech, but I found it more difficult to believe that people could agree with the whole of it, as he seemed to talk first in terms of increasing expenditure on defence, education and a number of other areas but then immediately coupled that with a call for a rapid reduction in public expenditure.

On taxation, let me remind the noble Lord that the UK has the lowest corporation tax rate and the lowest capital gains tax rate in the G8 countries. We have just doubled the entrepreneurs' relief on new business creation, and we have business and tax rates that are below the average of those of the EU's G15 developed economies, so we are competitive on those issues.

However, we must recognise that individuals and companies are mobile, and we must ensure that we remain competitive.

We have today—I suspect that the noble Baroness, Lady Noakes, has not had a chance to read this—published the tax framework for business, which sets out six key principles that will drive our decisions on corporate tax decisions. I suspect, however, that she was rather pleased to have been handed details of the IFS's report during the debate. I heard the shadow Chancellor on the "Today" programme this morning, and I thought he sounded remarkably hesitant and unsure of his ground. It was not a convincing performance at all in the hands of Mr Evan Davis. The shadow Chancellor was waiting for the IFS review rather having the knowledge and self-confidence to reach his own conclusions. Perhaps that is also why the shadow leader of the party contemplated introducing crowdsourcing as a new net-based method of trying to understand the Budget. My noble friend Lord Hunt of Chesterton also spoke about the need for industrial activism.

The noble Lord, Lord Higgins, made, as always, a thoughtful intervention. He raised a number of questions on pensions. I would prefer to write to the noble Lord to give him a full and complete explanation. He referred to lower interest rates and the impact on the savings of those who retire. We must remember that when we had very high interest rates under Conservative Governments, it was because we also had high, uncontrolled inflation. The real rate of interest is important, and for many savers, it is positive, unlike the circumstances that prevailed for at least part of the time that the noble Lord was a Treasury Minister.

Lord Higgins: Perhaps I might write to the Minister about the point he has just made. Will he explain why the latest Bank of England figures show that M4—the measure of broad money lending—decreased by £5.3 billion in February? Does he think that is consistent with the policy of economic growth?

Lord Myners: The Bank of England does not target monetary aggregates. That went rather out of fashion when it failed as a policy instrument in the 1970s and early 1980s. In respect of assessing QE, the Bank of England has said that it has a preferred monetary aggregate: the rate of lending into the private economy of broad money excluding interbank transactions. The noble Lord, Lord Higgins, is shaking his head, which always fills me with alarm because I know how well informed he tends to be. Taking out interbank transactions and transactions within the financial sector may well be the explanation for the phenomenon he described. If it is not, the noble Lord can rely on me to respond to him.

I am aware that I am at the 20-minute point, but there were a couple of interventions, so I shall take advantage of the House and speak to the allotted time. My noble friend Lord Haskel made a powerful speech about the danger of talking down the economy and having a negative impact on business confidence. Those who relish talking down the economy must do so with great care because of the damage that they are doing. My noble friend talked about the great successes that the Government have had in terms of job losses, business failures and repossessions compared with previous Tory recessions.

The noble Lord, Lord Bradshaw, made a focused contribution on privatisation and the role that financial market players' values have played in the crisis. It was a thoughtful and helpful speech.

The noble Lord, Lord Hamilton of Epsom, spoke about the gilt market, among other things. I had to go back and remind myself what gilt yields were when he was a Minister because he warned us that they are about to go up, conceivably to 4 per cent. I am sure that the House will be pleased to hear that the average three-year yield is now 1.88 per cent. The average equivalent figure during the period of the noble Lord's service as a Minister, which I believe was from 1988 to 1993, was 9.5 per cent. We are grateful to the noble Lord for reminding us of how the cost of borrowing can spiral out of control. The memory must be painful to him, but it is clearly not painful to us.

The noble Lord, Lord MacGregor, asked about foreign ownership of gilts. We should be pleased that people want to buy sterling assets. In an open market with professional leadership of the DMO, we should be pleased that sterling continues to be a very attractive currency for international investment.

My noble friend Lord Sugar reminded us of an inconvenient truth for the Opposition: that the recession has been global. There were five contributions from the opposition Benches before there was any acknowledgement that this is a global recession. My noble friend reminded us of the real danger of the Tories choking off recovery.

I shall wind up very shortly. The noble Lord, Lord Marlesford, asked a number of interesting questions. I was alerted to the fact that he was going to ask questions about the credit card default experience. Credit card companies are reporting quite large losses at the moment. I need to check with the FSA about whether I can answer some of the detailed questions he asked, but our major banks are required to comply with international accounting standards and their accounts are regularly reviewed by their auditors, their audit companies and the necessary and relevant regulators. I have no reason to believe that our banks are knowingly and intentionally in some way concealing under-reported liabilities in respect of credit cards.

If I had more time, I might ask the noble Baroness what her party would have done to restrain the growth in credit extended to the private sector. This was surely a matter of free choice. I agree with the noble Lord, Lord Marlesford, that many people appear to be using their credit cards recklessly, and we have introduced measures to limit some of that danger, but we must recognise that people should be free to make their own decisions.

I have already referred to the excellent contribution by the noble Lord, Lord Sheikh. My noble friend Lord Parekh spoke about the vulnerability of ethnic minorities. He made a very helpful speech, and I will make it my job to become even more informed on this subject. It speaks to the financial inclusion agenda that the Government have been acting on. The noble Lord, Lord Plumb, reminded us again that agriculture

[LORD MYNERS]
is an important industry and that we must do everything we can to ensure that British farmers and British produce remain among the best in the world and that we must not burden that industry—or any industry—with unnecessary regulation.

The noble Lord, Lord Northbrook, mentioned Liechtenstein. I queried the figure because it looks large, but I am assured that HMRC offered it with confidence. I am delighted that the noble Lord referred to the increase in ISA limits. Due to the noble Lord, Lord Lee of Trafford, raising the issue in the House some time ago, we are now looking at whether AIM shares will qualify. As always, the noble Lord, Lord Northbrook, gave a namecheck to Michael Saunders, for which I am sure he will continue to be most grateful. I found it rather easier to agree with the views of the noble Lord, Lord Newby, than with the views expressed from the Conservative Front Bench.

The economy has returned to growth, but there is still a risk that we could slip back into recession. It would be reckless, extreme and insensitive to the people of this country if we took premature steps to withdraw vital public support for the economy as we emerge into growth and prosperity in the future.

2.48 pm

Lord MacGregor of Pulham Market: My Lords, we have had a wide-ranging and—I think all noble Lords can agree on this point—timely debate. I am grateful to all noble Lords who spoke. I particularly thank my noble friend Lady Noakes for her response to the debate, with which I agree, and my noble friend Lord Plumb. Time prevented me from commenting on agricultural matters, except the Rural Payments Agency, but coming from a rural area, I agree with his remarks on the dairy sector and on some of the bureaucratic costs inflicted on farmers.

I thank the Minister for his response. If he had not spent so much time just repeating the Chancellor's speech, we might have had a slightly shorter response. I never knew the words to "Mack the Knife". It was merely a phrase used by the media to reflect in their headlines the efforts that I was making to get value for money for the taxpayer. I did not know that the Minister is a pop fan, but I congratulate him on his memory or his research.

Time prevents me making any further comment, and it would be superfluous because I am sure we will return to these matters after the election. I therefore beg leave to withdraw the Motion.

Motion withdrawn.

Older People

Debate

2.49 pm

Moved By ***Baroness Turner of Camden***

To call attention to the Government's measures in recent years to assist older people and to the challenges for the future; and to move for Papers.

Baroness Turner of Camden: My Lords, I am pleased to have the opportunity to open this debate on older people and their rights. I should perhaps begin by declaring an interest: I am myself an older person. Why is the subject so important? As everyone knows, we are all now living a lot longer. Fortunately, because of improved healthcare, we are also much healthier. This should all give much pleasure, but there has been a lot of discussion about problems that can arise.

Of course, much of that has centred around additional costs. Pensions have often been discussed in this House. Until relatively recently we had one of the best pension schemes in the world, but those of the generation benefiting from employer-provided schemes based on final salary provision have been the fortunate ones. Nowadays, if employers provide a pension at all, it is not based on final salaries. Those in the main have been discontinued for new employees, and sometimes for existing employees, and replaced by other less beneficial arrangements. The Government have introduced a new scheme involving compulsory payments, from which it is possible for employees to opt out. The employer has to contribute, and there is a contribution from the Government via the tax system. However, that has occasioned some criticism, as the eventual benefits from it do not appear to be much in excess of what a non-contributor could gain from simply relying on the benefit system. It is not yet in operation, but the intention of the whole scheme is good—to get people to save for retirement. We shall have to see how it works in practice.

So far as the state scheme is concerned, the Government are increasing the basic state pension with effect from April. In addition, pension credits are available on a means-tested basis, but many older people resent means-testing and not all who should claim do so. I always advise people to claim if I think that they are eligible. Those who do so are grateful for the extra support provided. Another concern arises in relation to women pensioners. Despite some recent adjustments in the qualifying conditions, many still feel that women would benefit more from a scheme based on a residential test than from the present one. It looks as though arguments in that connection are likely to continue.

A number of much valued benefits have been made available to older people. In London and other cities, free travel permits are made available to elderly people and the disabled. I benefit from that scheme. Pensioners over the age of 75 no longer have to pay for a TV licence. The Government have introduced the payment of additional grants to enable older people to improve home heating arrangements, so that fewer old people suffer from inadequate heating in their homes during cold weather. From the reports of the recent Budget Statement, I gather that that will also be increased. Many local authorities have excellent schemes to support older people, particularly the increasing numbers who now live on their own. All those excellent schemes should be supported and maintained.

Further issues arise. Many older people want to continue to work. Who is an older person? Someone over 50? Is it right that 65 should be regarded as the age at which it is right that people have to retire? Many older people do not think so. I was interested in the

manifesto recently produced by *Saga Magazine* after consulting its readership. That monthly magazine is devoted to the interests of older people. As a result, it is pressing for an end to the compulsory retirement age and to put in its place a flexible, phased approach to retirement. That is also is the view of the Age and Employment Network—TAEN—which is part of Age Concern. I have often spoken to briefs provided by TAEN in this House, in support of its view that the default retirement age should be discontinued. I understand that the Government intend to review that in 2011.

Of course there are many occupations where early retirement is necessary, possibly for safety reasons, in which event alternative, lighter work should be made available for those who wish for it. One such occupation is the construction industry, which incidentally has a high level of industrial accidents. Obviously an earlier retirement age is appropriate in that kind of work. But many people welcome involvement in a work environment. There is evidence that the social involvement of working with other people leads to better health. Unfortunately, a widespread view discourages the employment of older workers. The research conducted by TAEN reveals that many people made redundant over the age of 50 find it very difficult to get alternative work. After failing to get interviews, many simply lose confidence. One such individual said that,

"age is the new discrimination",

and that all one has to look forward to is "a bleak old age".

That is not the view of the Government, as I understand it. The new Equality Bill includes age as one of the protected characteristics. The Government understand that the changing demographic agenda requires us all to rethink work, training, retirement and pension provision. The employment White Paper sets out proposals for helping the over-50s. These include additional training for jobcentre advisers to support unemployed people over 50. There are arrangements to provide for specialist back-to-work support, widening access to additional training. The over-50s will be added to the list of those eligible for fast-tracking if they are judged to have significant barriers to work. The White Paper also says that the Government will introduce a working tax credit for those working part-time past retirement age, which seems a good idea. Many older people would like the opportunity to work part-time if they could afford to do so. A working tax credit would encourage that, and perhaps encourage employers to provide such employment.

TAEN welcomes a number of other suggestions, which it says make up a positive agenda that must be rolled out effectively and quickly. The Equality and Human Rights Commission has also advocated a radical overhaul of employment policies to benefit older workers. These proposals include abolishing the default retirement age, the extension of the right to request flexible working to all, overhauling employer recruitment practices to prevent discrimination, and improved training and development. It seems that there is an increasing understanding of the need to change our view about ageing. The Saga manifesto refers to the need for ageism to be abolished. It is interesting to note that the Minister of State for Pensions and the Ageing Society, my honourable friend Angela Eagle, has called for the media to tackle what she calls the outdated stereotypes of age. She says:

"We need to see a balanced image of later life which will help tackle ageism in our society and our consultation has shown us that there is real demand for this".

I am sure that this is a call that will have a positive response in this House. We can all do without media stereotyping of what elderly people are supposed to be like.

We should all welcome the opportunity to live longer and to do so in a happier and healthier way, but we need to make the necessary social provision for that to occur. There is a further problem surrounding ageing to which the Government have recently been paying attention. As I said earlier, if people can do work that they enjoy, they are likely to remain healthier for much longer. However, many people will need social care. We have recently been discussing the personal care Bill, which the Government introduced as a first step in what is intended to be a national scheme designed to ensure that elderly and disabled people who need care—both nursing and personal—should receive it at home for as long as possible.

The Bill was designed to provide care at home for free in the case of, first, the most needy people. I regret that the Bill has not, in its original form, received the support of this House. It has been carried but with substantial amendments. Whether we like it or not, the care of an ageing population is going to cost money. It is no longer possible to rely on family members to provide the care required. Children no longer live around the corner. Many of them have accepted the advice of previous Governments—particularly that of the noble Lord, Lord Tebbit—to "get on their bikes", and some have got on their bikes and gone miles away for jobs. Sometimes the jobs have been abroad. As a result, many older people live entirely on their own, although some local authorities do provide a support service for such people.

Care homes are expensive and do not always provide an acceptable level of care. There is a case for a more stringent system of inspection. As already indicated, many older people want to stay in their own home. The idea that they may have to sell their home in order to pay for care home fees is distressing for many elderly people. However, where families care for elderly relatives, a greater level of support for those carers is required, and I believe that the Government are committed to providing that. I was a carer myself several years ago and I know how much I would have welcomed the sort of support that is available through the Personal Care at Home Bill, which we have recently discussed in this House.

What is certain, however, is that all this will cost money. There is a need for consensus between the major parties about the way in which this should be provided. A number of differing propositions have been made, but a long-term plan to which there is general agreement must eventually emerge. The older generation, whose needs must now be met, have themselves been taxpayers for many years and in some instances

[Baroness Turner of Camden]
are part of the generation that helped to win the last Great War. They certainly deserve our support. However, we also have to plan for future generations of pensioners.

Work, pensions, retirement, care—those are the issues to which I have referred and all of them are important to old people, but not ageism, because none of us wants that. The Government have already taken a number of steps to support older people and it seems that further steps are under consideration. I therefore await with interest what the Minister has to say in response to this debate. I beg to move.

3.02 pm

Lord Dholakia: My Lords, I thank the noble Baroness, Lady Turner, for bringing forward this debate. My subscription to *Saga Magazine* was paid some years ago and I feel well qualified to speak on this subject.

There are two factors which cannot be disputed. First, we know about the ageing of our population and we know that a large number of older people need assistance in one form or another We also know more about the black and minority ethnic communities—the BME communities, as I shall refer to them. Nine per cent of England's population are from BME groups and 3 per cent are aged 65 and over. There are differences within ethnic groups but one pattern is clear: there is rapid ageing among this population and so we will see more and more older people from minority ethnic groups in our daily lives. We also know that the UK's ethnic minority groups have a much younger age structure than the white population—a reflection of migration and fertility patterns.

Why is that so? I shall explain. Immigration from the Commonwealth countries started in the late 1940s and early 1950s. Let us not forget that at that time the Tory slogan under Harold Macmillan was, "You've never had it so good", and I am sure that most of us wanted to enjoy some of the benefits. We then saw the migration of people from the peripheral margins of the Empire to the metropolitan centre itself. The first migration figures were published in the White Paper *Immigration from the Commonwealth*, in September 1965. It demonstrated that a substantial number of migrants were economically active and that women were of child-bearing age. We took little note then that a large-scale economic migration in such a short period would result in a substantial increase in older people in 50 years' time. That time is now.

There is "no return back" for most of the BME elders After all, they are British, having contributed much in their younger lives to the economy, and now in old age many are involved in care or caring. We know that like majority elders, BME elders too have a range of experiences, resources and needs. We know that poverty has an ethnic face. Although we live in one of the rich OECD countries, we have to face the facts: 17 per cent of white households live in poverty compared with 43 per cent of Pakistani/Bangladeshi households; the figure is 29 per cent for Indian and Black Caribbean/Black British and 30 per cent for Chinese households. There is almost a doubling of poverty among BME elders, and with increasing poverty comes a greater need for care and support.

Many health and social care organisations are funded by the taxpayer, together with long-established large voluntary age organisations that meet older people's needs. However, many of these organisations have not fully adjusted their services to reflect the multi-ethnic client base. So what do you do if you come from a BME background? If you are fortunate, you may find self-help organisations that BME communities—sometimes elders—have set up across the country to reflect an ethnic minority population base. It is not their desire to be ethnically separate; it is simply that, in the absence of culturally responsive mainstream services, they have had to organise care and support themselves.

Is it true that we know more about BME elders today because they have been a government priority? I am afraid that the picture is rather different, perhaps with the exception of the Department of Health, which has done much to support developments. Last week, on 18 March, I had the pleasure of chairing a conference to celebrate 12 years of a unique organisation called PRIAE—Policy Research Institute on Ageing and Ethnicity. I declare my interest as a trustee and vice-chairman of this body, although my only involvement is voluntary, not financial. It is an international independent organisation that has spearheaded research, information and developments in the ageing of minorities. It has, by itself, generated some £7 million grant income and created more than 50 specialist jobs in the 12 years.

PRIAE's track record is such that when I chaired a session at the European Parliament in Brussels some years ago, many attendees thought that the organisation was government-funded and wanted the same in various parts of Europe. This is because PRIAE is credited for research, learning and service developments in employment, care, housing and citizenship. Why, you may ask, is it the first of its kind? The answer lies in the fact that, until this organisation was established, there was a vacuum in policy, targeted research and engagement of BME elders in developments that concern them, including increasing their capacity to be policy-active. In 1998 when PRIAE began, there was no national study on dementia and BME elders. Now there is, and next week educational resources in this area will be launched with the University of Central Lancashire and the National Mental Health Development Unit, as we know that one in five will have dementia at the age of 80-plus, and much of the care for such people falls on the family.

Similarly, we now have extensive data to design and develop responsive services that BME elders can use and be supported with. These data are on the health, social care, housing, minority organisation providers and family networks of some 26 ethnic groups. This is as a result of Europe's largest research study in the area called MEC—minority elderly care—conducted by PRIAE. I am very proud of this for two reasons: first, no longer can policymakers and providers of services say, "We do not know what to do because there is no research"; and, secondly, this was the first time that a small charitable organisation had been funded by the European Commission in this area in its 26 years of history, and it was a first for a BME organisation It is satisfying to know that all this is

being led from our country, the United Kingdom, for the benefit of many across Europe.

The question is, how much support are the Government providing to this sort of organisation? Due to this research, there is now a credible set of results, perfectly suited to the Government's personalisation agenda. Have the Government informed themselves of this work and used it to make sure that minority elders are integral to the personalisation agenda? If these research results are implemented, it could make a big difference to BME elders' well-being. MEC research shows that minority ethnic elders experience a range of health conditions, services and professional barriers, and remain largely invisible in care policy and practice agendas. Health and social care services are underused due to a range of factors including lack of knowledge, language difficulties, income and inappropriateness of services. When you examine the veneer of much of this policy, there are also considered to be some discriminatory assumptions and complexities within the health system which separate them out from others. However, when they are accessed and used, minority ethnic elders show clearly what their expectations are. Services must be quality-based, and not just culturally appropriate. This is an important finding, since for too long the issue of ageing and minorities has been limited to a focus on cultural and linguistic adjustments.

Health and social care professionals are key in assisting older people. In the research in the 10 countries, such professionals generally accept that minority ethnic elders have different needs, and that services should be culturally responsive. They regard minority ethnic elders' knowledge and cultural factors as affecting access to services, rather than as added issues relating to organisational customs and practices.

Minority and voluntary organisations are increasingly supplying various supporting services such as home care, day care, social support and housing in a few cases, as the research has shown. In this sense, they are acting as primary providers of specialist care, rather than complementing mainstream services. What prevents their growth is finance and infrastructure, and collaboration with the mainstream is often very problematic.

One can cite a number of examples in relation to the expectations of minorities. When you hear comments of this nature from the people for whom PRIAE provides services, particularly those who have lived into their 70s, 80s and 90s, and are not in the same comfortable situation as the vast number of old people in this country, you cannot but be stirred into wanting to create policies that will serve them well in their old age. We must do this urgently.

I welcome the personalisation agenda, and I ask the Government how they intend to personalise BME elder issues so that they are on the same ladder as everyone else. BME elders' housing needs are often lost in the discussion of "they look after their own", but choice must prevail. What has the national strategy on housing in an ageing society achieved regarding funding of specialist BME extra care housing?

In the mean time, with historical neglect and a growing BME elder population with multiple and complex needs, BME age organisations are struggling to maintain their operations. Some have disappeared due to the funding crisis. We are reminded that BME communities are part of British society. BME elders are British, yet we see the dangers of parallel but unequal services developing, with different organisational lifespans and funding. Let me illustrate this with a quote from the founder and director of PRIAE, Professor Naina Patel, from her report produced at the request of the Royal Commission on Long-Term Care of the Elderly. She said:

> "In the late 1990s, the Government's own inspection survey … point to the inadequacies of mainstream providers and the compensatory effect of minority ethnic organisations who continue to act as 'primary providers' in the post-community care era … Given this continuity of mainstream neglect and/or indifference, we can state that this constitutes de facto racism. In other words, the mainstream services by default are structuring the segmentation of care to minority ethnic elders into a long-term solution. Our concern here is not that the location of services is in BME elder care centres. Rather that such location tends to be inadequately supported, neither maintained nor expanded. This makes the development of comprehensive services and an ability to reach all sections of BME elders (disabled, frail for example) problematic".

This was stated about a decade ago. In spite of several welcome capacity-building measures that the Government have introduced, we are here today, a decade later, asking what support BME age organisations have experienced so that they do not remain impoverished. Our central recommendation, consistently made, is that these organisations should be better resourced and supported through mainstream funding, not as an alternative but as a vital mainstream part of services. This is beginning to happen through some government programmes, for which they should take credit, but they interpret "mainstream" a little differently.

Let me add a word of caution. In the interests of mainstreaming, white voluntary organisations are encouraged and financed to support BME organisations. We welcome learning and transfer opportunities, but we must ask, is this what is happening? Are benefits flowing in both directions? BME organisations are rightly concerned that this opportunity may gear white voluntary organisations to be more competent in multicultural care, but leave BME organisations as second best. Such possible unintended outcomes require that the Government implement their mainstream programme with care and concern. How do they intend to use the expertise generated by these organisations? We have seen little evidence to give us hope. I hope that the Minister will be able to deal with some of these issues when he responds.

3.17 pm

Baroness Wilkins: My Lords, I congratulate my noble friend Lady Turner of Camden on securing this debate on a matter that is close to our hearts. Being over the retirement age, I, too, declare an interest. In *Building a society for all ages*, the cross-department strategy paper of July 2009, the Government called for a major culture change, where,

> "people are no longer defined by age and everyone is able to play a full part".

This was one of the many welcome signs that Government policies across the board are increasingly reflecting and coming to grips with the challenge of a rapidly ageing society. However, the very title of this debate

[Baroness Wilkins]
today, in singling out the need to assist older people, points out how far we as a society have yet to go in meeting that aspiration.

In their strategy paper, DWP, DCLG and the Department of Health call for better planning for later life, support for families across generations, encouragement of businesses to adapt to a changing workforce, and for public services and local communities to embrace and be accessible to people of all ages. We are very far from achieving this vision of the ageless citizen and that is why we need special measures.

Nowhere is this more important than in efforts to raise the income levels of older people so that they are included in the mainstream of society. In the pension credit we have seen a measure that has made significant inroads on poverty among the old. DWP figures show that net incomes of pensioner households increased by 25 per cent between 1998-99 and 2007-08 compared to a real earnings growth of 11 per cent. Obviously such an increase from a low baseline is not enough, and there are still a substantial minority of retired people living in poverty. However, it has been a positive step along the way, on which the Government are to be congratulated.

In reflecting on the Government's many measures to assist older people and on the challenges that remain, I should like to focus on housing, which is one of the most urgent policy issues facing the next Government. Housing has a major impact on the health and welfare of older people, who have long been over represented in poor housing—particularly the older old—with private tenants proportionately the worst housed, followed by older owner occupiers. A recent report by the Building Research Establishment and Warwick Law School estimates that poor housing in England is costing the National Health Service in excess of £600 million a year. Given the significant use of health services by older people and their prevalence in poor housing, it is clear that investment in housing has the potential to make major savings in the cost of healthcare, as well as promoting the well-being of older people.

I should like to discuss what government action has done to ameliorate the present housing situation of older people and what it can do about housing that is no longer defined in relation to age, is barrier free and accessible to all ages. Older people have benefited from positive housing measures such as the Decent Homes programme. This £40 billion programme was aimed at transforming the quality of our housing stock, which had been appallingly neglected when this Government came to power. The programme set out to ensure that all social housing would be of a decent standard within 10 years. It has been rolled out through the country—visibly so for anyone walking around their neighbourhood in recent years—and its implementation has been described by the recent Select Committee inquiry into housing standards, *Beyond Decent Homes*, as having involved a significant change to the landscape of the social-housing sector. As the Chartered Institute of Housing said in its evidence to that committee, the programme,

"can be regarded as a major success story".

As 26 per cent of householders over the age of 65 are social-housing tenants, the Decent Homes programme will have made a positive impact on the well-being of older people of which this Government can be very proud.

Like the Forth Bridge, however, a housing stock as old as ours will always need more work. Care & Repair England has drawn attention to the pressing need to move on from these major improvements in the social housing sector to the sector where far greater numbers of older people live—in owner-occupied and private-rented housing. There are 5.3 million owner-occupied non-decent homes compared with 1.1 million social-rented and 0.8 million private-rented. Eighty-six per cent—that is 865,000—of older householders in houses in serious disrepair live in private sector housing. As Care & Repair England says, there are now more low-income home owners than low-income social-rented tenants, but they get little or no housing help. Growing numbers of low-income older home owners are struggling to repair and maintain their properties, and expecting them to do this out of equity release is unrealistic. *Beyond Decent Homes* recommends that the Government should set a target to bring all private sector housing up to a decent standard, and I hope that the next Government will act swiftly on this.

As we all know, properties need maintenance, and as we get older we find it more difficult to do simple jobs around the house, which can lead to a bad effect on our health. In 2008, the Government invested £33 million in what are known as handyperson services, with part of this money going to housing advice services. This was a welcome infusion of funding into a simple but necessary service for older and disabled home owners. Handypersons carry out small essential repairs, including carpentry, plumbing and roofing, as well as adaptations such as ramps, handrails and lever taps. They can also fit new locks, chains and key safes to enable safe access by health and social care professionals. This government funding sent a clear message to service commissioners that such schemes should increasingly be considered as part of the mainstream.

Whether our housing is in good repair is not enough if its design makes it increasingly difficult, or even impossible, to continue to live in it as one grows older. There are significant costs to the health service and the social care budget when housing is no longer suitable for the changed needs of frail older people, who cannot be discharged from hospital or who have to go into residential care because of it. An important means of redressing such problems is the disabled facilities grant, which this Government have increased significantly since its inception; 2008 spending is projected to increase by nearly one third by 2011. The average grant of around £6,000 has made a real and significant difference to older peoples' ability to do the simple but essential things like shower, access a loo or get upstairs.

Central government matched funding has historically provided a ring-fenced grant to all local housing authorities as a contribution towards the cost of DFGs, but I am afraid it still falls far short of being enough to meet demand in many areas. This will provide a major challenge for the next Government if they hope to reduce the cost of social care.

From April 2008 this matched-funding arrangement ended, and local authorities are now free to choose how much they put into local DFG budgets relative to their national funding allocation. Sadly, evidence is starting to emerge of wide local variation in adaptations: while some local authorities are continuing to match the national funding, others are either freezing or reducing their contribution. Long delays in the provision of an adaptation can easily result in major costs for health and social care authorities, such as home care services, residential care or hospital in-patient expenditure, which can be many times the adaptation cost. It makes investment sense to prioritise home adaptations, even if they are funded by transferring resources from the National Health Service. An ageing population in an ageing housing stock needs bold and joined-up measures or we will pay the costs even more expensively in another part of the welfare state.

However, in many cases existing housing cannot be adapted to the needs of old age. We have the historical problem of a housing stock that was not designed to make questions of age an irrelevance in the way that the report, *Building a Society for All Ages*, called for. Barrier-free design, which accommodates all the changes of a lifetime, is perfectly possible and deliverable. It makes absolute sense, and it is not "too expensive", as developers are fond of saying. On the contrary, we cannot afford not to deliver it.

In *Lifetime Homes, Lifetime Neighbourhoods*, the national strategy for an ageing society, this Government recognised that ageing,

"poses one of our greatest housing challenges".

As a refreshing future-proof vision based on inclusiveness, the strategy noted the interdependence of housing, health and care. Public service agreements were put in place to set,

"housing and older people at the heart of local government services".

Besides announcing the measures for repairs and adaptations I have already mentioned, the strategy undertook to ensure, via a mandatory part of the *Code for Sustainable Homes*, that,

"all public housing will be built to Lifetime Homes Standards by 2011",

with an aspiration that all new housing will be built to these standards by 2013. This commitment was one of the highlights of recent government policy, a far-seeing and thoughtful contribution to the construction of a barrier-free society. Sadly, it has been reneged on with the announcement that Government will not make the Lifetime Homes standard a mandatory requirement of level 4 of the *Code for Sustainable Homes*. In 2008-09 only 13.8 per cent of the National Affordable Housing Programme was built to Lifetime Homes standards. This sets a major challenge for the future.

In relation to specialised housing for older people, the recent report by the Housing our Ageing Population Panel for Innovation (HAPPI) represents a welcome legacy from the Lifetime Homes strategy, and sets an inspiring benchmark for what we should be doing. The Homes and Communities Agency, commissioned by the Department of Communities and Local Government in partnership with Department of Health, set up this innovation panel, chaired by the noble Lord, Lord Best, to ask:

"What further reform is needed to ensure that new build specialised housing meets the needs and aspirations of the older people of the future?".

It has documented a range of European good practice and has lifted our sights to what attractive living environments are possible in terms of design. I sincerely hope that this report's strong recommendations will find an active and enduring response at every level of the next Government.

The HAPPI report included some very interesting examples of where older people themselves have, alone or assisted by public policy, developed collaborative communities to sustain themselves through old age. It recommends that the HCA,

"promotes self-help and mutual housing projects for older people, drawing on the successful co-housing models from continental Europe".

Co-housing is the name given to small, intentional neighbourhoods where individuals and families choose to live as a group. They sometimes eat together and share activities, but each household has its own self-contained home.

I have spoken a number of times about co-housing, which represents a clear example of how thinking needs to change if local and central government, housing associations, builders and developers are to meet the challenge of our ageing society and the cost of social care. These intentional neighbourhoods are such an obvious solution to the loneliness and isolation that blight the lives of too many older people in our society. Co-housing, across generations or of older people together, has struggled to get a foothold in this country, yet, in offering a healthy, self-help alternative to isolation, it is surely a model that has much to contribute to modern living, especially for older people.

The Lifetime Homes strategy recommended co-housing as a creative response to lifestyle changes and the expectations of baby-boomers. The Homes and Communities Agency prospectus contains a commitment to fund co-housing schemes. However, the HCA needs to give much more active encouragement if local authorities and housing associations are to respond to the challenge of enabling older people to work together for independence. I should most definitely declare an interest here, as my partner is currently trying, with the Older Women's Co-Housing group—known as OWCH—to gain the support of a north London borough in developing a self-managing and mutually supportive community on a brownfield site purchased for it by the Hanover Housing Group. This initiative, if the local authority can only make the necessary creative leap and think outside the box, will blaze a trail nationally. It will establish older people's co-housing as a model to meet not only older people's wish for continued autonomy and independence in their own homes but also their need for an age-proof environment and for companionship.

Single living in old age is one of the greatest challenges of an ageing future, a challenge which all levels of government need to address and one which I have every hope that this Goverment will meet.

3.32 pm

Lord Giddens: My Lords, I congratulate my noble friend Lady Turner of Camden on initiating this debate. It is a shame that so few noble Lords saw fit to contribute; I guess that there cannot be too many older people in your Lordships' House.

Old age is the subject of many jokes, some of them funny, some quite unfunny—especially as one ages oneself. Old age is when you get out of breath playing chess. Old age is when you are cautioned by the doctor to take things more slowly, rather than by the police. George Burns said when he was 93, "At my age, you don't even go out and buy green bananas".

In truth, however, there has been in the past few decades a large-scale transformation of what old age means. We quite rightly now speak of "older people" rather than "pensioners", which suggests a kind of welfare-dependent category. I do not like the term; I like even less the term "senior citizens". "Older people" is the right term.

I think that it is generally agreed by those who specialise in the field that the ageing society should be seen not as a problem but as an opportunity. It is surely one of the great achievements of industrial civilisation to have prolonged life in such a way as to transform the demographic structure of our societies. When I used to write about these issues a few years ago, I used the term the "youthing society" rather than the "ageing society"—even though it is not especially grammatical—because older people now entertain the same diversity of lifestyles and want the same range of opportunities as do younger people. They should have those opportunities.

The Labour Government can boast of many achievements in improving the lives and, more important, the opportunities of older people. They include the minimum income guarantee, improvements in pension allowances and the winter fuel subsidy. However, the Government's greatest and most significant achievement is in lowering rates of poverty among older people. Nearly 30 per cent of people over 60 living on pensions were in poverty in 1994-95. By 2007-08, that proportion had dropped to 18 per cent. In a recent commentary on this issue, looking back to the preceding Tory era, the journalist Julian Knight wrote:

> "It was a national scandal that in the 1980s and 1990s, under Tory rule, we had pensioners dying because they couldn't afford to heat and feed themselves properly. The plight got so bad one winter that a Danish charity sent over food parcels and blankets to some of our pensioners".

I am pleased to say that the situation is radically different now. In the previous debate, on the economy, I mentioned that the Government have made a big impact in reducing poverty, and the biggest impact has been in reducing poverty among older people.

Of course, further progress is needed. The recession has seriously hit those living off investment income. I would welcome any comments that the Minister would like to make on that. Long-time care of the elderly, as we all know, is a very testing issue, about which intensive debate continues, and, as politicians like to say, there are no easy answers. Perhaps one of the most important issues is that we are still on a collision course between the affordability of pensions and the increased proportion of over-60s in the population. This is visible in all countries. The only way around it is to get and keep more over-60s in work and to recast that in opportunity terms as far as possible.

I will make three points about this, one of which continues the point made by my noble friend Baroness Turner. First, older people should have the right to work under exactly the same conditions as anyone else, determined only by competence. There should be, therefore, no compulsory age of retirement. I echo what my noble friend said about the default retirement age. It is not right, in my view, that employers in the UK can still force retirement at age 65. The struggle against that continues, led by Age Concern and other organisations. The Government have promised to review it, but I think that it should be scrapped. By the way, it was scrapped a long time ago in American universities, where there is no federal age of retirement. That has not had a disastrous impact on those universities. There are plenty of people of a certain age who are marvellous teachers and marvellous researchers; they should have the right to work in universities in this country, too.

If you abolish a formal age of retirement, does that inhibit the job chances of the young? No, it does not. You can see that if you look across other industrialised countries. In fact, the opposite is the case. Those countries that have a low functional or formal age of retirement, such as Spain, Italy or Greece, have by far the highest levels of youth unemployment. Therefore, that premise does not follow and it is not an objection to abolishing a formal age of retirement. I repeat: people should have the right to work at any age as long as they want to do so and demonstrate the capacity to do so in a competent way.

Secondly, we know that, in getting more people into work and dealing with the looming pensions crisis, an active labour market policy makes a big difference. We have examples of this from a range of countries. As usual, one or two of the Scandinavian countries seem to be in the forefront. In Finland, for example, only 37 per cent of over-55s—let alone over-60s or over-65s—were in work in 1997. This has now been upped to 57 per cent, at least by 2007, the year of the recession. That was achieved by bringing in a flexible retirement age between 63 and 68 and allowing people to go on beyond that age as they wish. It was based on providing a bonus for those who stay in work. It is worth mentioning that those affected who are now in work beyond what was the standard functional legal retirement age include a substantial proportion of disabled people and women. These are important categories of individuals who should have not just the right but the capability to work. An active government policy can surely help with that.

Thirdly, and finally, we should promote a balanced idea of retirement and work. Retirement was a concept introduced by the Bismarckian welfare state and became seen as a sort of right and defining principle of the good life. However, it is not necessarily a defining principle of the good life, as many people discover when they retire. There is no doubt that retirement can bring many benefits and generate many freedoms, especially if one retires from an onerous physical job,

for example. But it also creates many problems, which are well known. They can include aimlessness, a feeling of lack of worth and a loss of sense of value to the wider society. If you have a rigid notion of retirement, you tend to produce ghettos for old age, separating off older people from younger people.

In conclusion, this is something that we should fight strongly to avoid. There should be social justice between the generations. There should be an effective contract between the generations. Older people who work are more often in contact with younger people. It makes sense to promote intergenerational social justice as an important aspect of social justice and inequality. Just to show that I am not party political, some of these interesting ideas, problems and issues around the relationship between the generations are discussed in David Willetts's book, which is a very interesting contribution to this overall subject.

3.42 pm

Lord Haskel: My Lords, I congratulate my long-standing and noble friend Lady Turner on moving this Motion about ageing. Like other noble Lords, I am both qualified and experienced to speak in this debate. She is right to raise this matter. In this country, 8.2 million people are aged over 65 and, on average, men expect to live until 82 while women have a life expectancy of 85. Thanks to the advantages of medical science, not only can we live longer but we can enjoy more active and healthier lives—the kind of lives that my noble friend Lord Giddens described.

Without doubt, ageing will move up the political agenda. I was very interested that the noble Lord, Lord Dholakia, spoke about minorities looking after their older people. Of course, one of the largest and finest old people's homes in this country is Nightingale House, which is of course run by the Jewish community.

As some noble Lords know, I visit Florida. Because many Americans retire there, it is possible to have a glimpse of how life might be organised with an ageing population. The average age of Palm Beach County is 67. It is a population with a disposable income, so many activities and events—concerts, theatres, ballet, recitals and talks—start at three o'clock in the afternoon so that people can go home in daylight. There is ample accommodation designed for older people in various states of health. Because they are less mobile and there is very little public transport, transport is provided to shopping and medical centres, banks and other places. Indeed, there is co-housing, about which the noble Baroness, Lady Wilkins, spoke. The community has adapted to people's needs, so that there is no stigma and no inconvenience to others attached to being elderly and frail. Probably the most popular adaptation is the "early bird". No, that is not some easily digested chicken; it is an early meal. Virtually every restaurant offers meals between 4.30 and 6 pm at a very modest price, so all the elderly people eat out. Rumour has it that, when they sit down, they look at each other, they sigh and they say things like, "Goodness gracious", "Dear me" and "My goodness". When there is a pause, somebody says, "Well, now we've discussed the children, let's get on with eating".

One of the reasons why I know about this is that my sister retired there and she suffers from dementia—the noble Lord, Lord Dholakia, spoke about this. After 50 years of living in New York, she went to Florida, where she can live easily and well with dementia, although that is because she has private insurance. For those without private insurance, life is very different and very difficult. I hope that the new healthcare law in America will change that. Without insurance, people in America who require social care depend entirely on friends, family or charity. Even with insurance, a big hurdle is the argument with the insurance company over whether you are covered. That is why we should value what we have here—not only the care, but also the pensions, the credits, the winter fuel allowances, the free travel, the free television and all the other things that my noble friend Lady Turner told us about.

I know that the social care Bill has become a bit of a political minefield and, yes, there is uncertainty between local councils, primary care trusts and social care organisations. However, we do have care in the community. If somebody thinks that their spouse or parent is becoming frail or is in the early stages of difficulties with memory or reasoning, they can get help.

Of course things can be improved, but the Government seem to be taking ageing seriously. When preparing for this debate, I noted the report issued by the Public Accounts Committee on 16 March about the five-year dementia strategy. Yes, it spoke of unacceptable regional variations, but it also spoke of strong leadership. However, it also referred to the inappropriate and excessive prescribing of antipsychotic drugs. That is because of staff issues in care homes and it is a worry. Will the Minister tell us how the Government are going to tackle this?

What should the policy be towards ageing? Government policies should be directed towards what I call "successful ageing". Help the Aged and Age Concern have their views and I am sure that they have carried out extensive qualitative and quantitative research. However, may I give your Lordships my guide to successful ageing? It is my guide to accepting that you have reached a later stage of life—my qualifications for speaking in this debate. The key is to move away from stress-centred activities—largely economic—and carry out human-centred activities. Deal with people, but on your own terms.

I try to do five things, ironically inspired by the New Economics Foundation. First, be active. I cycle a lot and, yes, I now have a small electric motor on my bike to help me up those steep hills. Secondly, I try to connect with people every day—friends, colleagues and family. Your Lordships' House is invaluable for this. It is also invaluable to my third task, which is to make an effort to take note of and learn new things, unusual things and ideas, not to be left behind. I try to keep mentally active by trying something new or rediscovering something old. Finally, I try to look outwards—look outwards by giving. I try to give the benefit of my experience or I help a person, an organisation or a charity with encouragement or with money. Of course I keep an eye on my pension and on my diet, but by now there is not much I can do about all of that. This is what works for me and I would think works for most of us. It seems to me that, if

[LORD HASKEL]
government policies are directed towards successful ageing, by facilitating the activities that I have described, those policies will be right.

3.50 pm

Baroness Thomas of Winchester: My Lords, I thank the noble Baroness, Lady Turner, for introducing this debate—the last party debate of this Parliament, I believe. We all owe her a debt of gratitude for her work over many years, seeking to raise matters in this House to make the lives not just of older people but of working people of all ages as good as possible. She is an example to us all.

This has been a short but interesting debate. There has perhaps been a slight hint of electioneering, but not as much as I thought there might be. By concentrating on measures that have been taken to assist older people and the challenges that these pose for the future, the noble Baroness has focused on a key issue. I am tempted to use the word "battleground", but that would send a rather undignified message.

Politicians who are determined to deny any good policies to their political rivals in government do themselves no favours. I am happy to acknowledge that this Government have certainly made life better for many older people in several respects, although other opportunities have been missed. The phrase "older people" sounds a bit vague, although it sounds better than "pensioners". It is difficult to know at what age this stage starts.

My noble friend Lord Dholakia made a powerful contribution about the needs of what we now call the BME community. As he said, many of those who originally came to this country after the war now fall into the age range that we are talking about. I hope that the Government heed what he says about support for organisations and BME elders who are trying to address the needs of this older cohort.

The noble Baroness, Lady Wilkins, concentrated on housing, which, we should remember, is always the issue that people write most to their MPs about. It is often hived off into specialised ghetto subjects, but it should be in the mainstream. She has brought an important element into this debate.

I shall be referring mostly to pensioners in my comments, and shall start with pensioners themselves before turning to the retirement age. I shall also touch on long-term care for the elderly, winter fuel payments and bus passes.

There is no question but that pension credit, which started only in 2003, has given many poor pensioners more money in their pockets. A more cynical way of looking at this is that pension credits are a more complicated way of giving pensioners back what would be rightfully theirs if pensions had kept with the cost of living. It is reckoned that as many as 1.7 million pensioners do not claim pension credits, although they would be eligible to do so. This was mentioned particularly by the noble Baroness, Lady Turner. Whether that is through ignorance or because they are unwilling to go through the means-testing process is unclear.

Age UK reckons that 18 per cent of pensioners live below the Government's poverty line. In other words, they have less than 60 per cent of median income—after housing costs. The Minister will understand that I had to get those three little words in. The situation is worse in isolated rural areas, where take-up is significantly lower. One reason might be the lack of social housing in many rural areas, so that pensioners are not in touch with the benefits system.

There is also the fact that many pensioners living in rural areas are often fiercely independent and may not want to fill in complicated forms for means testing. Whatever the problem, this lack of take-up, whether in town or country, must be urgently addressed as the basic state pension is not generous—something I shall come back to in a moment. It also has implications for cold weather payments because those receiving pension credit qualify automatically.

Another worrying fact about pension credit is that in 2008-09, 36 per cent of all pension credit cases were incorrect. That is over 900,000 cases: 581,000 were overpaid and 401,000 were underpaid, due to a combination of fraud, official error and customer error. Does the Minister agree that these figures are unacceptable?

I must mention here the scheme for women who are approaching retirement to buy back extra years of national insurance payments that they missed after giving up work to raise families. This was a welcome addition to the last Pensions Act after a long campaign spearheaded by the noble Baroness, Lady Hollis. However, that small step for some women does not do anything for those who retired just before this measure was introduced, those who have fewer than 20 years of national insurance contributions, or those who cannot afford any "buy-back". Nor does it do anything for those single pensioners with no other source of income who have to rely on pension credit after means-testing.

Pensions have fallen so far behind wages because, of course, of the breaking of the link with earnings by the Conservative Government back in the 1980s, which has not yet been restored. I know that both the Government and the official Opposition have said that they will restore the link with earnings, but it is not at all clear when this will be. My party is pledged to restore immediately the link between the basic state pension and earnings, using increases in average earnings, prices or 2.5 per cent—whichever is higher—to determine the increase in the state pension. We would also scrap the rules that compel people to buy an annuity for personal pensions when they reach the age of 75. In the spirit of the debate, I should also mention the Government's welcome announcement in last year's Budget that grandparents of working age who are looking after their grandchildren for more than 20 hours a week will qualify for national insurance credits towards the basic state pension from next year.

Our tax plans will give older people who pay income tax more money in their pockets. We would make sure that no one pays tax on the first £10,000 of their income, including pensioners who pay tax. Paying tax on modest pensions is something that many pensioners resent.

On the retirement age, I note that the Chancellor of the Exchequer said in his Budget speech yesterday that the Government were going to "look at" the national

default retirement age of 65; the noble Baroness, Lady Turner, mentioned this, and the noble Lord, Lord Giddens, spoke about it a great deal. It is not, of course, a new announcement. They have already said that they were going to review it. I was going to ask the Minister whether that review has taken place, but it has obviously not yet done so.

My party would scrap the default retirement age, with workers and employers having to agree that, for an employee to continue working after the age of 65, it is to their mutual advantage. A recent survey to assess the impact of the current rules on older workers found that around 100,000 people were forced to retire at or after 65 last year. and that employers of four in 10 employees over 60 use forced retirement. The number of people forced to retire last year is far higher than even the highest estimate at the time when the default retirement age was introduced. It seems that older workers are being forced out of the workforce during the recession as a cheap alternative to redundancy, some in their late 50s. These forced retirees find it almost impossible to re-enter the workplace at this age, and are left dependent on the state. The majority of workers over 50, both women and men, in fact want to continue working beyond state pension age, which is something that the noble Lord, Lord Giddens, also mentioned.

Some firms, such as B&Q, have made a virtue of their willingness to keep on older employees. This is welcome and we hope it can be extended, with older workers being offered part-time and flexible working. The announcement about working tax credit for older workers is welcome. It has long been a puzzle to me why the Government can legislate for increasing the pension age in the future on the one hand, while not doing anything about the national default retirement age on the other. It is a thoroughly inconsistent position to take.

Turning now to social care, this House has been grappling with the Personal Care at Home Bill, so the policy for long-term care of the elderly is in the forefront of our minds at the moment. The Government's Green Paper on the subject, published recently, set out options. They were consulting on those options when they suddenly decided to pre-empt matters with the Personal Care at Home Bill, which was heavily amended last week in this House. We believe that the only way forward is for a cross-party commission, like the Turner commission on pensions, to take place and report within the year to arrive at a consensus on this vitally important subject. The uncertainty surrounding the future of long-term care of the elderly must surely be resolved as a matter of great urgency.

While on the subject of long-term care for the elderly, there is a growing view that the status of carers needs to be strengthened and put on a much higher footing. There should be a more structured career path, with recognised qualifications for carers, so that Britain is ready for whatever plans are put in place for the future.

The winter fuel payment was brought in for pensioners by the Labour Government in 1997. It is now payable to all those aged over 60, with more for those aged over 80. My party has just announced that we would raise the age at which older people receive the winter fuel payment to 65 immediately to fund extending those payments to disabled people on disability living allowance, who have higher fuel costs in view of their impaired mobility. However, the Government cannot be responsible for the weather. The very cold weather that we have experienced has left many pensioners heavily out of pocket, even with the winter fuel payment, because of higher fuel prices. The Government have tried to urge fuel companies to be more socially responsible in their charging policies, but to no avail. We would mandate energy companies to reverse the charging regime so that the first units of energy consumed are at the lowest price. This will reward those who use less energy and encourage investment in energy efficiency. We would also tackle the problem of who is eligible for a social tariff by making energy companies introduce mandatory social tariffs that are lower than their other prices to protect vulnerable people on means-tested benefit from higher fuel costs.

Many pensioners found that the best of keeping warm this winter was to travel on buses. The free bus pass scheme for off-peak travel for pensioners and disabled people has been one of the Government's most popular initiatives, although some local councils in major tourist destinations have found that the scheme is proving almost too popular and local council tax payers are having to subsidise it. However, I hope an incoming Government will not have second thoughts and will keep the scheme going.

There are other matters on each side of the Government's balance sheet. It is a good thing that older people are eligible for more health checks than before, so that they can keep fit and healthy for longer. The noble Lord, Lord Haskel, spoke about this. Here, I urge the Government to pay more attention to recognising the need for psychiatric services for older people. Depression can hit people at any age and should not be ignored just because a person is retired. If health checks are a good thing, a bad thing is that many of the adult education classes that older people enjoyed in the afternoons or early evenings are no longer available, as I believe they are in Florida. Engaging the brain is perhaps the best way of keeping healthy, as most of us here find. The closure of many post offices, which older people rely on, in both urban and rural areas is unwelcome. I hope that the recent announcement on the extension of banking services offered through the Post Office might stem the flood of closures.

Talking of closures, I turn, in ending, not from the sublime to the ridiculous but from financial practicality to an everyday practicality. We need more public conveniences in towns all over the country. I know the lack of public loos cannot be laid explicitly at the Government's door, but they could spearhead a campaign to ensure that there are enough of them.

I thank the noble Baroness for this debate and look forward to the Minister's reply.

4.04 pm

Lord Freud: My Lords, despite all the sound and fury on measures for older people, the sad fact is that on the central measure of pensioner poverty used by this Government—not the same measure used by the

[LORD FREUD]
noble Lord, Lord Giddens, earlier—there has been no reduction in numbers at all. Let me provide the latest figures from the *Households Below Average Income* report, which takes us up to 2007-08. That was before any impact from the financial crisis this Government have plunged us into. These figures show that the number of pensioners on below 60 per cent of median income was 2.5 million. That is exactly the same figure as in 1997-98. In percentage terms the figures are better by a smidgen, and I define a smidgen as being down from 25 per cent to 23 per cent. I am using the before-housing figure and the relative, not absolute, performance figure in line with the figures that the Government cleaved to in the Child Poverty Bill which we have just finished debating.

Some one in five pensioners lives in poverty. We have some of the poorest pensioners in Europe, with only pensioners in Bulgaria, Latvia, Cyprus, and Estonia more likely to fall into poverty. The income of the poorest 20 per cent of households has been falling for the past three years and is now £7 a week lower in real terms that in 2004-05. At the same time, fuel poverty has quadrupled among pensioners. The official figures for 2007 show 1.5 million households in England containing someone over 60 in fuel poverty. Using the Government's own projections for how fuel poverty has increased since 2007, it is estimated that there are as many as 2.4 million such households today—almost one pensioner household in every three. Fuel poverty is such an important issue because it is so closely linked to cold-weather deaths. In the winter just gone there were no fewer than 36,700 deaths in England and Wales. That is an increase of 49 per cent on the previous winter. Of course, it was an unusually severe winter. Nevertheless, that figure is simply not acceptable. These figures are for those who still have their own home. It is estimated that around 48,000 elderly people currently in residential care have had to sell their home to pay care fees.

The overarching concern on pensioner poverty is that this disappointing performance took place in a booming economy at a time when the number of pensioners rose by a modest amount from 10 million to a little over 11 million. We are now facing a much more difficult economic period and the number of pensioners is scheduled to rise to nearly 15 million by 2030, according to DWP forecasts. Before I go into some of the specific problem areas, I would like to take this opportunity to nail some of the misinformation about Conservative plans for older people. I have been genuinely shocked to learn about some of the things that desperate Labour candidates have been saying and publishing about our plans in this area. Jon Trickett, MP for Hemsworth, has claimed that pensioners would lose their winter fuel allowance or free TV licence under the Conservatives. Phyllis Starkey in Milton Keynes South West has claimed that pensioners would lose free bus fares under a Conservative Government. Let me state unequivocally that the Conservatives would not cut the winter fuel allowance, would not cut free bus travel, would not cut the free television licence, and would not cut pensions or pension credit. These statements by Labour are quite simply lies. I am amazed that the Prime Minister has not done more to set the record straight and keep his candidates in line. I would appreciate a statement today from the Minister to that effect.

Let me turn to the Government's track record. Here I shall concentrate on outcomes, not inputs. One of the central problems of Labour's period in government is that it has confused energetic initiative-itis with performance. It has poured money into many programmes, but this is nothing to be proud of if the outcomes are inadequate. While the Minister may boast of this programme and that spending, I will concentrate on the underlying results. Some of them are pretty unpleasant.

Our hospitals are dangerous places. The older people are, the more vulnerable they are to catching infections while in them. It has been reported that a quarter of health trusts failed to meet standards over hospital infections while five were warned over blood-spattered walls and mouldy instruments. What are the Government doing to clean up Britain's wards since their previous programmes obviously are not working?

There is too much malnutrition. A recent survey by the British Association for Parenteral and Enteral Nutrition found that 90,000 of the nation's malnourished people resided in hospital, and, even more concerning, 150,000 resided in care homes. Can the Minister update the House on the progress of the nutrition action plan of 2007 to end malnutrition in hospitals?

Provision for dementia has been falling, despite the increasing numbers. There are now 821,000 dementia sufferers in the country. The number of care homes able to care for sufferers has fallen by 9 per cent since 2004 and the number of places has reduced by nearly 6 per cent. Can the Minister give an indication of when the programme of memory clinics, outlined in the dementia strategy, will be fully rolled out? Upwards of 120,000 people are being inappropriately treated with anti-psychotic drugs designed for those with schizophrenia, according to the All-Party Parliamentary Group on Dementia. What action will the Government take to stop this serious misuse of pharmaceuticals in dementia care? Can the Minister also tell the House what the Government are doing to ensure that the Care Quality Commission's regulation is working in the best interests of care home residents?

There has been no granting of freedom to people to look after themselves and make their own decisions. When will the Government end the effective obligation to buy an annuity at the age of 75? Labour plays fast and loose with disability living allowance and attendance allowance. Does the Minister agree that the current speculation over the fate of attendance allowance, disability living allowance and other disability benefits in the Green Paper is causing great anxiety among those who rely on this money to get by? We the Conservatives will protect disability living allowance for the over-65s and attendance allowance for disabled pensioners to give them the chance to have independent lives with the freedom to tailor their care to their needs.

The Government have turned one of the best private pension systems in the world into one of the worst. I will not dwell on the sad sequence of events that has brought us to this pass—initiated by the £100 billion tax raid on dividends. Up to £5 billion of means-tested

benefits that should rightly go to older people in Great Britain are unclaimed each year. Many pensioners simply cannot understand the Government's complex system. What are the Government doing to solve this unacceptable situation? To coin a phrase, we cannot on like this.

Lord Giddens: The noble Lord produces a doom-laden account, but does he accept the idea that ageing is an opportunity, that having an ageing society is an achievement and that we must support opportunities and have a newer and much more positive view of what ageing means? If so, what is Tory policy on those issues?

Lord Freud: I join the noble Lord, Lord Giddens, in congratulating David Willetts on his book The Pinch, which goes through many of these issues in great detail. The most interesting facts in that book are that, despite the ageing of the population and the assumption that that means that people are more ill, in practice the period for which people are unhealthy has been contracting even as people have been getting older. I quote the facts, which he quoted, to the noble Lord. I welcome many of those trends, but they are general trends right across the western world, so one can hardly congratulate a particular Government on them.

4.16 pm

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, I congratulate my noble friend on securing this debate and on her steadfast support for securing justice for older people in particular. She ranged comprehensively over issues associated with work, pensions, retirement and care. The noble Baroness, Lady Thomas, said that she detected only a slight hint of electioneering—I think that that was before the previous contribution—and we have learnt one or two acronyms, such as OWCH and HAPPI, this afternoon, which I will come on to.

Tackling pensioner poverty and improving financial security for older people was a key priority for this Government on coming to office, and remains a key priority today. The Government's strategy since 1997 has been to target support at those who need it most through measures such as pension credit. It is an approach that has delivered significant progress; 900,000 fewer pensioners are now living in relative poverty than in 1998-99 after housing costs, and pensioners today are less likely to live in relative poverty than the population as a whole. As my noble friend and others have mentioned, the Government have introduced winter fuel payments, free off-peak bus travel, free TV licences for those over 75, free eye tests and free swimming. All these things make a real difference to the lives of millions of older people in this country every day.

This Government have also recognised the importance of providing additional support to pensioners when they needed it most. During the recent downturn, this included: increasing winter fuel and cold weather payments; a £60 payment alongside the Christmas bonus; and, from April last year, an above-indexation increase in the pension credit guarantee and a 5 per cent increase in the basic state pension.

The Government have continued to provide additional support. From October last year, ISA limits for those over 50 were increased to £10,200. From November, the capital disregard in pension credit, as well as housing benefit and council tax benefit, was increased from £6,000 to £10,000. This means that 88 per cent of pension credit recipients will have all their capital ignored when their entitlement to means-tested benefits is calculated.

This year, pensioners will again receive an additional payment alongside the winter fuel payment, making their winter fuel payment worth £400 for the over-80s and £250 for those aged 60 to 79, and those on pension credit will benefit from increased cold-weather payments, which will increase £8.50 to £25. From April this year, pensioners will benefit from above-indexation increases in the basic state pension and the pension credit guarantee. The Chancellor has also confirmed that the additional payment on top of the winter fuel payment will be retained next year.

Today, we also have a pension protection regime which ensures that people can have confidence to save for their future. Thanks to the safety net provided by the Pension Protection Fund and the Financial Assistance Scheme, people need no longer lose their pension when their employer becomes insolvent. As my noble friend Lord Giddens said, we have made much progress, but, like my noble friend, the Government recognise that there is more to do. However, significant progress has been made over the past decade in tackling pensioner poverty.

Let me remind noble Lords that in 1997, the poorest pensioners, who lived on income support, lived on £69 a week, which is £98 in today's prices. Today, pension credit means that no one aged 60 or over needs to live on less than £130 a week or £198.45 for couples. This represents an increase in income of almost a third in real terms, and many of those on pension credit will be entitled to receive additional support through housing benefit and council tax benefit.

The noble Lord, Lord Freud, referred to our comparative position in Europe on pensions. I remind him that it is misleading to focus on the state pension alone because the recent OECD report shows that replacement rate for the average earner taking account of private pension income, an important source of income for UK pensioners, rises to 70 per cent, which is well above the OECD average. He also referred to issues around fuel poverty. I remind noble Lords that in the winter of 1997-98, less than £60 million per year was spent on helping pensioners to meet their fuel bills. We now spend £2.7 billion each year on winter fuel payments. This year, the Government will run an energy rebate scheme that will provide up to 250,000 of the poorest pensioner households with an £80 rebate on their electricity bills in 2010. I believe the Government have a good record on tackling fuel poverty.

Noble Lords will be aware that we are living through an enormous demographic change with UK life expectancy continuing to grow. In 2007, for the first time in history, there were more pensioners than children in the UK. Of course people living longer lives is a cause for celebration. It is a testament to improvements in healthcare and occupational safety and in delivering

[Lord McKenzie of Luton]
the modern welfare state. Nevertheless, it will reshape our society, and we must adapt to make the most of it.

The Government are putting in place the foundations which will help us rise to this challenge. Our response was published in *Building a Society for All Ages*, our strategy for an ageing society, and is two-fold. It is to help those people in later life and to help people prepare more effectively for their later life. That will not by itself ward off the spectres of long-term sickness and isolation, which is why we have taken measures across the whole of the Government to help people prepare for their longer lives. To ensure that people can find the information that they need, we have introduced "Planning Your Future—Get Set for Retirement" as part of DirectGov. That brings together information about areas such as money, health, careers and home, to help people in mid-life plan ahead for a better later life. It will provide a link to key services such as the NHS mid-life check, which supports people to live healthier lives.

However, we know that preparing for an ageing society is not just about the people who will get old tomorrow. It is also about people who are older today. I have already shared with noble Lords our achievements in combating pensioner poverty, and in supporting pensioners during the recession. A number of noble Lords touched on the default retirement age. Across government, I believe that by 1 April every department should have made it clear that it will disregard the current default retirement age. Beyond that, we also expect businesses to play a role—to recognise ageing in their employment policies. That is why we have brought forward the review of the default retirement age to 2010, and last year called for evidence on retirement ages to be submitted by the beginning of February this year. We are assessing that evidence, along with major research we have commissioned, and are developing options for the future of the default retirement age. Those will include raising the age, removing it, or reforming the legislative framework to strengthen the position of the employee. The evidence examined to date, along with the views of stakeholders, suggests that a default retirement age of 65 is not the best way forward so we will not include that as an option in the consultation.

The issue is not just about older people as employees, however. It is also about older people as a growing proportion of consumers. That is why we are working with institutions such as the Royal College of Art, to support inclusive design.

In terms of extending working lives, we are committed to increasing employment opportunities for older people. My noble friend Lady Turner was particularly focused on that. We need to do it to meet their needs, and to maintain a productive economy and a sustainable pension and benefit system in the light of an ageing population. I remind noble Lords that the number of people in employment aged 50 to state pension age has gone up from 65 per cent in 1997 to 71.3 per cent in 2009, with almost 1.4 million people now working past state pension age. The Chancellor announced in the Budget that, from April 2011, those over 60 will be able to access working tax credits if they work 16 hours or more a week, rather than the 30 hours that is the current arrangement; noble Lords were pleased about that, which pleased me.

While doing all that, we recognise that age discrimination is one of the most prevalent forms of discrimination, and it is right that the Government legislate to make it illegal to discriminate on the basis of age in the provision of goods and services. Age discrimination is no more acceptable than any other form of discrimination. It is a success that people are living longer, but it is important that their later life is healthy. That is why the Department of Health launched in 2009 the prevention package for older people. That will help to promote independence by focusing on what can keep people well and alive.

We also know that local services are very important for older people. That is why our Good Place to Grow Older programme will help local authorities to improve their services in a way adapted to the needs of their local community, and embed what we have already learnt. That also means including older people in the design and delivery of services, because older people know best what works for them.

My noble friend Lord Haskel talked about the importance of physical activity towards people staying healthy. He looks a sprightly older person himself, if I may say so, and seems to have his life very much together from what we heard. He is right about the benefits of being active. Older people can extend the number of years that they remain free from disease and help to maintain their independence and quality of life. However, there is some way to go: only 20 per cent of men and 17 per cent of women aged between 65 and 74 meet the Chief Medical Officer's recommendation for physical activity. We are committed to helping to increase these levels of activity for the entire population, including older people. We have invested £140 million over three years to allow those under the age of 16 and those over 60 to swim for free.

The ageing population means that more older people are living in their own homes, and this number will continue to rise. The right homes and neighbourhoods can prevent people needing care and can support people to live more independently at home, rather than requiring residential or hospital care. That is why, as we heard from my noble friend Lady Wilkins, we published *Lifetime Homes, Lifetime Neighbourhoods*. This has seen the introduction of services providing support to people so that they can live independently in their own homes.

Nevertheless, with an ageing population, more older and disabled people will need care and support and, without radical reform, we know that the current social care system will be unsustainable in the future. We are fully committed to building cross-party consensus to develop a new funding and delivery system for care and support. This will help us to ensure that all older and disabled people are able to live independently, with dignity and with the maximum quality of life.

As we have heard, we have also introduced reforms to improve the way that we support older people with care needs. As noble Lords are aware, we are working to put in place legislation that will provide personal care in the home free of charge to 280,000 people with

the highest needs and provide re-ablement support to another 130,000. In our Green Paper, *Shaping the Future of Care Together*, we set out our vision to build a national care service that is fair, simple and affordable for all adults in England.

Therefore, we are committed to reforming the care and support system. We have undertaken a consultation and will feed that into the White Paper. People should expect prevention services, a national assessment of care and support needs, a joined-up service, information and advice, personalised care and support, and fair funding for a national care service.

My noble friend Lady Turner referred to the role of women and how they are dealt with under the state pension system. As I have outlined, the Government are taking forward radical reform of the pension system which will narrow the pension gender gap, deliver fair outcomes to women and carers, and significantly improve women's state pension coverage.

The noble Lord, Lord Dholakia, made a very interesting and pertinent contribution. I should like to spend more time reading the record of his speech, but I recognise much of what he described from my own experience in Luton, which has a very diverse community. The ageing population is a challenge for all society, and individuals, families, businesses and government, as well as communities, will be required to address it. However, we recognise the challenges that BME communities face, and it is important that we bear these in mind in the delivery of our public services. During our consultation on our recent ageing society strategy, we held specific events to ensure that the voices of BME communities were heard, although we recognise that that has not always been the case.

A number of noble Lords, including my noble friend Lady Turner and the noble Baroness, Lady Thomas, talked about benefit take-up. We are committed to ensuring that pensioners receive the support to which they are entitled, and that is why we have already simplified the claim process. Since November 2008, it has been possible to make claims for housing benefit and council tax benefit alongside pension credit in a single phone call. We are rolling out a targeted regional marketing campaign across selected regions which is designed to engage with the local pensioner population using channels of communication and organisations that they are likely to be familiar with—for example, Mecca Bingo, voluntary organisations and so on. We are conducting around 13,000 home visits a week for vulnerable customers to ensure that they are receiving all the benefits and services to which they are entitled. We are planning to run a pilot this year to look at ways of making better use of the data that we hold on individuals from both our own administrative records and those of HMRC to see whether we can find an approach that improves take-up of pension credit in particular.

My noble friend Lady Wilkins made a very powerful contribution concerning housing, stressing how important it is to older people. I very much agree with her. *Lifetime Homes, Lifetime Neighbourhoods* sets out our national strategy. The measures include, as she said, the expansion of the Handyperson service, whose success was celebrated yesterday with the first national conference; maintaining independence by adapting homes as people grow older; and £460 million allocated over three years to enable more people to adapt their homes by, for example, installing stairlifts, walk-in showers and wider doors.

The DCLG is funding FirstStop, a new advice and information service for older people, their families and their carers. Specifically in relation to our commitment to lifetime homes, the Government remain committed to ensuring that the new housing responds appropriately to the needs of older and disabled people, but this must be done in a proportionate way that balances those needs with the need to increase housing supply overall. My noble friend referred to the Housing our Ageing Population Panel for Innovation, and we agree with many of the findings of the HAPPI panel, but in the current economic climate we have to ensure that the measures we take forward are proportionate and deliver best value for money.

The noble Lord, Lord Freud, raised issues around the use of anti-psychotic drugs and dementia, as did my noble friend Lord Haskel. The review of anti-psychotics which the Government commissioned has highlighted the need to improve the quality of care-home care. We have appointed Professor Alistair Burns as the new national clinical director for dementia, and he will be responsible for driving these changes, reducing the use of anti-psychotic drugs for people with dementia, thus improving the quality of life for people with dementia in care homes.

The noble Baroness, Lady Thomas, referred to grandparents and to the work that is going on there. To complement our Budget 2009 pledge to introduce in 2011 national insurance credits for grandparents providing childcare, the Government have also announced, in the Green Paper *Support for all: the families and relationships,* a new service designed specifically for grandparents, more support for children's centres, and a commitment to improve the information available about legal and other options after parents separate.

The noble Lord, Lord Freud, posed several questions, and he supported the abolition of annuitisation at the age of 75, as did the noble Baroness, Lady Thomas. I am glad to say that we are simply apart on that issue, but I remind noble Lords that only about 5 per cent of people currently annuitise after the age of 70. This is something which, if at all, would only be of benefit to a small fraction of the population, and those with bigger pension pots.

The noble Lord made reference to what he termed the Chancellor's tax raid. I thought that we had put that one to bed and dealt with it a number of years ago. It seems to just keep cropping up. It is to do, as the noble Lord is probably aware, with the restructuring of the corporation tax system. The abolition of payable tax credits removed a distortion in the tax system that had encouraged companies to pay out their profits as dividends, rather than retain them for reinvestment in the business. The key drivers of the changing difficulties for defined benefit provision, as I think everyone now recognises, are what is happening with longevity and demographics, and with perhaps more realistic expectations of stock market returns. Those two factors did more than anything else, including, if I may say so, some of the pension holidays that were driven by legislation that we inherited, which did not help.

[LORD MCKENZIE OF LUTON]

The noble Lord raised issues around malnutrition strategy. I will write to him on that. In terms of dementia funding, we are investing record sums, rising to £173 million a year over the next three years, in psychological therapies: £33 million in 2008-09, £103 million last year and £173 million for the year we are just about to enter. Within that programme we have asked PCTs to look at the particular needs of older people who develop anxiety and depression alongside a long-term condition, and at the demands of caring for a loved one in failing health.

The clock is moving on. I have tried to deal with as many points as I can. I will look at the record and write further if that is appropriate. The Government are making and will continue to make important changes to help people prepare for later life and be financially secure, independent, healthy and active. However, as I have already mentioned, this is not a job which can be done by government alone. It has to be done by individuals, businesses, public services and communities. If we are to build a society for all ages, all of society must help us to build it. I thank my noble friend for organising this debate.

4.40 pm

Baroness Turner of Camden: My Lords, I thank everyone who has participated in this fantastic debate. I have been amazed at the degree of expertise and knowledge displayed by so many contributors—in particular, the noble Lord, Lord Dholakia, who made a remarkable reference to minorities and issues that I had not even thought about. I thank him for that. I will make one exception, however. One of my colleagues described the contribution of the noble Lord, Lord Freud, as somewhat doom-laden; I, too, think that it was doom-laden.

I am grateful for the way in which the Minister dealt with most of the issues. In particular, he referred to the position that the Government are now in with their strategy for an ageing society. It is a strategy in which we all have to participate. It is a matter not only for government but for everyone; we all have to revise our attitudes towards the employment, work and general lifestyles of older people. I agree wholeheartedly with the Minister when he says that age discrimination is no more acceptable than any other form of discrimination. That is exactly my view. I look forward to reading the debate, which will be well worth study for the future. In the mean time, I beg leave to withdraw the Motion.

Motion withdrawn.

Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2010

Motion to Approve

4.42 pm

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

That the draft regulations laid before the House on 3 February be approved.

Relevant Document: 9th Report from the Joint Committee on Statutory Instruments.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, as your Lordships are aware, the Financial Assistance Scheme is a result of the Government's ongoing commitment to help those hit by the collapse of their occupational pension schemes. FAS is an important lifeline to those who have worked hard and saved for their retirement only to lose their pension when the employer hits hard times. It provides financial help to members of qualifying pension schemes who face significant losses because their scheme was underfunded when it began to wind up.

As noble Lords may be aware, FAS was first introduced in 2004. Since that time, we have continually expanded and broadened the help that it provides. The extensions to FAS announced in December 2007 were the outcome of recommendations made in the Financial Assistance Scheme review of assets—a review undertaken by Andrew Young of the Government Actuary's Department—which examined options to generate the best value from assets remaining in FAS-qualifying schemes. Young recommended that the remaining scheme assets be transferred to government.

Implementing this recommendation fundamentally changes the structure of the FAS and the way in which it operates. With these regulations, the FAS moves from a scheme that provides only top-ups to reduced scheme pensions purchased as annuities into a system that, in some cases, is responsible for the payment of the whole pension.

Since the 2007 announcement, we have increased the proportion of expected pension covered by FAS from 80 to 90 per cent. We will increase in line with inflation those payments derived from post-1997 service, subject to a 2.5 per cent a year limit. We have also increased the cap on payments and allowed for this cap to be protected against inflation. We have provided early access to FAS payments for those who are unable to work due to ill health and we have made special provision for people who are in severe ill health. We have extended payments to survivors to include certain partners and dependent children. Finally, we have also extended the FAS to include certain schemes that have wound up underfunded where the employer is still solvent.

As at 28 February, FAS is paying assistance to more than 14,000 people and has paid £87 million in assistance. Around a further 136,000 people will be helped in years to come as they reach retirement age. In addition, these regulations will allow around 20,000 individuals whose shares of scheme assets would be worth more than the 90 per cent assistance to be paid through FAS. Last year, we also conferred management of FAS on the board of the Pension Protection Fund, a body that has, since 2005, developed considerable expertise in winding up pensions.

The draft regulations before the House today complete the implementation of the Young review's recommendation that the assets remaining in FAS-qualifying pension schemes should be transferred to government to part fund the increased assistance promise. There are four key aspects to the draft regulations that I will focus on in this debate.

First, as part of the process to transfer the remaining estimated £1.7 billion of assets of relevant schemes to government, the draft regulations provide for assets to be valued before transfer. This valuation will also establish the share of assets relating to each relevant beneficiary so that members receive appropriate payments from FAS. Noble Lords will note that details of how this valuation should be conducted are not set out in the regulations. This actuarial guidance will be published separately, as is usual for such material. Draft guidance was published for consultation on 28 January. The consultation was primarily aimed at pension industry professionals and others with an interest in defined benefit occupational pension schemes. This consultation has now closed and we intend to publish final guidance as soon as possible after the draft regulations come into force.

The second key area to be introduced by the draft regulations relates to the way in which assistance payments will be calculated for members whose schemes will be transferring assets to government. These calculations are, I admit, very complex. Noble Lords will note that the regulations before them are significantly larger than those published for consultation. They have been expanded in response to consultation comments that the draft regulations might not capture all the sets of circumstances in which beneficiaries might find themselves when they move to FAS. In addition, it has been necessary to replicate the reconciliation provisions in each of the payment schedules to ensure that individuals receive the correct amount from their scheme and FAS, whatever their circumstances on transfer.

Where members are already receiving a pension from their scheme above standard assistance levels, we have sought to ensure that, wherever possible, payments will not go down once the scheme transfers full responsibility to FAS. Where members with high asset shares are not yet receiving payments from their scheme, assistance will be in line with standard FAS rules, but to the full value of their asset share. We considered paying all these members in line with normal assistance rules to provide a consistent approach to calculating all FAS payments. However, this would have meant that some members already receiving a pension from their scheme might have seen their payments reduce when FAS took over—this may have been where the scheme was paying a flat-rate pension but FAS would be providing a lower payment with some indexation. Stakeholders made strong representations to us that this was not acceptable. Therefore, the regulations provide for payments to those members already in receipt of a pension from their scheme to be made in line with scheme rules so that, wherever possible, payments will not reduce when FAS takes over.

Where members are not entitled to payments from their scheme when these regulations come into force, their FAS entitlement will be structured in line with the normal assistance rules. Furthermore, where the member is not receiving a scheme pension before their scheme's assets transfer to government, the draft regulations will enable a qualifying member to commute part of their assistance for a lump sum. The amount that can be taken as a lump sum will be broadly in line with tax rules, though ultimately restricted to the amount of the member's share of scheme assets.

The third key change relates to the reconciliation of FAS payments. The draft regulations amend existing provisions to enable the FAS manager to take into account all pension payments made from the start of wind-up and to make corresponding adjustments to FAS payments where necessary. This will ensure that all beneficiaries receive the correct amount from their scheme and from FAS from the start of wind-up onwards.

Fourthly, modifications have also been made to the FAS information, review and appeal provisions to accommodate the changes to assistance that I summarised earlier. To reduce the administrative burden on trustees and insurers, the FAS manager will now be allowed to waive any information required where they consider it appropriate. In addition, the draft regulations allow HMRC to share certain information with the FAS manager and its commercial provider, where that information is both relevant and necessary to FAS work.

Finally, we have made changes to statutory deadlines for the provision of information and to deadlines relating to applications for reviews of decisions. These changes take account of our experience to date in delivering FAS.

The draft regulations before your Lordships are the last legislative step in the delivery of the considerable extensions to FAS announced in December 2007. They will allow the transfer of an estimated £1.7 billion of remaining assets and expand the number of people who will be paid by FAS by some 20,000. The draft regulations represent an important part of the commitment that the Government have made to protecting members of pension schemes. They are compatible with the European Convention on Human Rights. I commend them to the House.

Lord Freud: My Lords, I thank the Minister for introducing the draft regulations. As he noted, they are extremely long and complicated, and contain some very impressive formulae for valuations in every conceivable circumstance. I am glad, therefore, not only that there is a comprehensive Explanatory Memorandum but that the Joint Committee on Statutory Instruments has reported on the regulations and that they were debated yesterday in another place.

One point has been highlighted by this scrutiny: it is clear that FAS is to end up in a very different place from where it started. Some of the developments that we have observed during the past year were anticipated, as the Minister pointed out. When the primary legislation establishing the scheme was passed, it was clear that there would be some level of operational flexibility in order to respond to the challenges that the liquidised schemes were likely to throw up. However, as the Joint Committee's report makes clear, we are now looking at a final scheme that is right on the acceptable edge of that flexibility.

The Government have gone to some pains to demonstrate that the regulations are empowered by the original Act, and I accept their concern that any more delay to the provisions might harm the pensioners whom the scheme was always intended to help. Since the end result of the regulations is the implementation

[LORD FREUD]
of the Young review, hopefully ensuring not only that pensioners receive their entitlement but that assets are maximised to offset taxpayer liability, I will not stand in the Government's way. However, I thank the Joint Committee for raising the matter. So much statutory legislation passes through this House—indeed, we seem to have considered a never-ending flood of statutory instruments in recent days—that it is very hard to perform the necessary checks and scrutiny that they deserve. The Joint Committee on Statutory Instruments and our own Committee on the Merits of Statutory Instruments do a sterling job of handling all these orders, and they were quite right to raise the matter.

The Minister in another place yesterday suggested that the regulations were the final piece of the jigsaw—the Minister here made the same point just now—and that, once they had been implemented and any minor changes made, it would be time for a consolidation of all the relevant legislation. Can the Minister expand a little on when he expects such consolidation to be possible? Pension regulation is always complicated. The matter is made much worse when it is scattered across multiple Acts and statutory instruments.

How will the regulations impact on the government account book? It appears that the total pension liability of affected pensioners is in the region of £3.5 billion, and that an estimated £1.7 billion of assets remain in the schemes to be used to offset this cost. How will these remaining assets be accounted for by the Government? Public sector net debt conveniently does not include future liabilities—something for which this Government must be rather grateful, given their inability to bring public sector pensions under control. Will these assets therefore be counted against the mountain of debt that this Government have built up, while the liability is to be consigned to the accounting equivalent of a black hole?

Finally, I note that, after several years of debate, the Government have finally accepted the last of the strong recommendations made by these Benches for the FAS to be rolled up into the PPF. On 6 June 2007, my noble friend Lord Skelmersdale, who was then the opposition spokesman for this department, won a vote on a large group of amendments to the Pensions Act 2007. The Government rejected those amendments when the Bill went to another place. There was a vigorous process of ping-pong, but we were unable to keep those changes in the Act.

The amendments not only guaranteed pensioners under the FAS 90 per cent of their liability—rather than the considerably smaller proportion the Government were offering—but also suggested the obvious good sense of rolling the FAS into the PPF and putting it under the management of the PPF board.

The Government accepted the 90 per cent figure a few years ago, and I am very pleased that the second of the recommendations in those amendments has now been accepted.

Baroness Thomas of Winchester: My Lords, I, too, thank the Minister for explaining this extremely complex order. I, too, note that the regulations are the last in a long list of changes and amendments that have been made to the Financial Assistance Scheme since it was established by the Pensions Act 2004. Their purpose, as I understand it, is to bring in the rest of the legislation that makes the FAS more generous in its payouts than was originally intended. As the Minister said, the main provision is for the transfer of defined benefit assets to the Secretary of State from about 450 qualifying schemes that have not yet completed wind-up, using the same kind of provisions that are used to transfer assets in PPF qualifying schemes to the PPF board.

We welcome these changes, which boost the level of support that people will receive under the FAS and bring it into line with PPF levels. We also welcome the Government's commitment, following their consultation on these regulations, to ensure that the FAS scheme manager provides details of members' asset shares, together with a forecast of assistance and lump sum entitlement to individuals shortly after their scheme assets transfer to government, with forecasts of assistance annually thereafter. It is important that scheme members finding themselves in this position are given an idea of the levels of assistance they are likely to receive to help them plan for their retirement.

One of the main concerns of the Pensions Action Group members and other FAS recipients is the level of compensation that they are likely to receive. The then Minister, Peter Hain, said in a statement in another place in December 2007:

> ""All scheme members will be guaranteed 90 per cent. of their accrued pension at the date of commencement of wind-up, revalued to their retirement date".—[*Official Report*, Commons, 17/12/07; col. 100WS.]

That is a point that the noble Lord, Lord Freud, just mentioned.

In addition, Mike O'Brien, as Pensions Minister during the Pensions Bill in 2007-08, said that,

> "we guaranteed to provide a higher level of assistance, which was broadly comparable to the compensation paid by the Pension Protection Fund".—[*Official Report*, Commons, Pensions Bill Committee, 19/2/08; col. 508.]

However, it is clear that most people affected do not get anything like 90 per cent; so should the Government's language not reflect this in order to avoid raising people's hopes?

The impact assessment says that,

> "costs that a trustee incurs in providing information are likely to be recovered by the trustee from the pension scheme assets prior to their transfer to government",

which means that,

> "members' asset shares may be reduced, however in many cases this will be offset for the member by an increase in FAS assistance (to a maximum of 90% level, subject to the FAS cap)".

Concerns were raised in the consultation that in such small schemes the costs of preparing the assets for a transfer may erode funds to such an extent that there would be no additional value to be gained by transferring the assets. The impact assessment says that the Government do not hold detailed information on the numbers that might be affected. Will the Government monitor this issue, specifically to ensure that some people do not end up with smaller payouts under the new system?

I have just two more areas of concern. The first is about tax-free lump-sum payments, which will be limited

to those who have accrued scheme benefits in their own right and have an asset share allocated to them that was "higher than nil". It is available only if they were not being paid a pension already before the scheme assets were transferred to government and would be offered only when assistance first started to be paid. This lump sum would be a maximum of 25 per cent of the capital value of the pension and lump sum received, in line with the general tax rules for taking a tax-free lump sum from a private pension pot on retirement and converting the rest into an annuity. HMRC is to bring forward regulations to provide tax relief along these lines. However, this sum would be limited to the amount of the individual's asset share. Most people responding to this question in the consultation thought that the FAS should allow for a lump sum to be taken at 25 per cent of the payment due, regardless of the individual's asset share. The general feeling was that it was unfair to treat individuals differently based on the level of funding in their scheme. The Government decided to make no changes in this area, in spite of the strong feeling of the consultees. Will the Minister say why? Have estimates been made of how much of the cost would be brought forward if this were to be implemented? After all, the tax-free lump sum on retirement is very popular, particularly to pay off mortgages.

Finally, will the Minister elaborate on the report from the Joint Committee on Statutory Instruments on these regulations? The committee was unpersuaded by the department's assertion that these arrangements fall clearly within the options set out by the Minister during the debates. I should be very grateful for a reply on that point.

5 pm

Lord McKenzie of Luton: My Lords, I am grateful to both noble Lords who have spoken in support of these proposals. The noble Lord, Lord Freud, referred to the work done by the JCSI and the Merits Committee. I support what he says, although sometimes it is a little painful to receive their reports if you are dealing with matters that are the subject of their scrutiny. But it is a valuable and important process and part of our proceedings.

The noble Lord asked about consolidation. We would not have wanted to consolidate these regulations until we had actually ceased to make all the changes. In a sense, the changes took place at various stages, because we wanted to proceed as quickly as we could as the policy developed to ensure that those changes that were most beneficial were dealt with first. That is why the sequence has taken place as it is. Now we have completed implementing the 2007 announcements, we will look to consolidate in the near future.

The noble Lord asked about the impact of what we are doing on government finances. We expect some schemes to be transferred soon, after the regulations come into force, in cases where full actuarial valuations are not required. However, we do not expect substantive assets to start transferring until early autumn. This is because in order to ensure accuracy the full valuation process will take some time—perhaps six months. We expect a good proportion of scheme assets to be transferred to government within two years. Completing the transfer of all schemes is expected to take around four years. Assets transferred will reduce government borrowing because they are transferred into the Consolidated Fund. The payments that are then made in successive years become a cost charged in those years. Those are the broad consequences of these proposals.

The noble Baroness, Lady Thomas, reverted to the issue around what 90 per cent means. There has been a misunderstanding about this, but I believe the Government have been clear throughout. The Government have guaranteed that FAS will provide 90 per cent of a member's expected pension, subject to a cap. The expected pension is the member's accrued pension as at the date wind-up starts, revalued at a standard rate to the member's retirement date.

In some cases, this will not be the same as 90 per cent of what members would have expected at retirement. First, had the scheme not wound up, further contributions may have been due to the scheme before the member reached retirement. Secondly, the FAS applies its own revaluation rates from the date of wind-up to the member's normal retirement age and these rates may be lower than those which would have been applied by the pension scheme, so differences could arise. In addition, the statutory indexation provided by FAS may not be as generous as that which would have been provided by the scheme. We have never said that it would replicate precisely 90 per cent subject to the cap of what members would have got had the scheme continued and remained in operation until their retirement.

The noble Baroness made reference to small payouts. The regulations are designed to ensure that no one gets less from FAS than they would have got from their scheme if it had wound up conventionally. Obviously, if there are examples of that which noble Lords come across, we would be happy to review that.

The noble Baroness talked about lump sums. Let me be clear that any FAS scheme member with a share of scheme assets who is not receiving a scheme pension when the scheme assets transfer to government, will be able to take a lump sum upon retirement. The lump sum available will be broadly consistent with the normal tax rules, as the noble Baroness suggested, on a pension commencement lump sum. However, the amount will be restricted by the member's asset share as it would be where a scheme in wind-up is underfunded. The FAS will not offer the opportunity to commute any payments to members who retire before their scheme transfers assets; where funding levels and legislation allow, their scheme should already have offered them the opportunity to commute part of their scheme pension when they reach retirement age.

As far as paying lump sums to everyone is concerned, the FAS will pay lump sums only where the assets of the pension scheme are sufficient. We have considered the arguments for allowing all FAS beneficiaries to access a lump sum in return for lower assistance payments. However, while in the long term this would be cost neutral, in the short term it would bring costs forward, and therefore there is an important consideration for the Government in that, which is why we have not gone down that route.

[Lord McKenzie of Luton]

The noble Baroness made reference to the 450 schemes that are likely to transfer assets to government. I think that is the figure identified by the Young review and is the most up-to-date figure that we have. It might be helpful for noble Lords to have an update on scheme data. As at the end of January this year, 925 schemes are qualifying pension schemes for FAS purposes, 314 of them have wound up completely, 611 are in winding-up and another 192 are pursuing FAS qualifications. I think that is something like 1,100—perhaps a few less—which is broadly consistent with some of the earlier estimates that were made.

The noble Baroness made reference to the question of valuations on lump sums. The cost of FAS valuations will be broadly in line with the cost that schemes will incur if they were winding up normally, and we intend to provide lump sums in line with those that would have been available from an annuity.

The noble Baroness and the noble Lord, Lord Freud, made reference to unusual use of powers. The issue was put on the record in another place but I am happy to repeat it here. Perhaps it is appropriate that I do. It is a little complicated, but here goes:

"Section 286(1) of the Pensions Act 2004 confers wide power on the Secretary of State to make regulations to provide a financial assistance scheme. Section 286(3)(j) provides the power to apply parts 1 and 2 of the 2004 Act with modifications to the FAS. Section 161 in part 2, along with schedule 6, includes provisions in relation to transfer of assets to the board of the PPF. The draft regulations modify section 161 and schedule 6 for the purpose of the FAS to allow transfer of scheme assets to the Secretary of State".

It continues:

"The JCSI set out in its report that that may be an unusual or unexpected use of the power, because section 286(3)(c) confers an express power for regulations to provide for the transfer of property rights and liabilities to the scheme manager".

As noble Lords are all aware, the FAS scheme manager is now the PPF, not the Secretary of State.

"The report suggests that to fall within the powers in the primary legislation, assets should be transferred to the scheme itself. However, unlike the PPF there is no scheme fund in which assets are held and then used to pay assistance … Instead, the FAS sets out who qualifies for assistance and how payments should be calculated. Funding for those payments is provided by the Secretary of State, directly out of the DWP budget. It is therefore appropriate that any funds brought in should be transferred to the Secretary of State and not the scheme manager. In practice, the funds will be transferred to the consolidated fund that the Government hold",

as I outlined a moment ago.

"We took the view that the list in section 286(3) of the 2004 Act illustrates and amplifies how the power in section 286(1) could be used and it is not intended to be restrictive. When the clause was debated"—

in relation to the 2004 Act—

"it was not clear how the FAS would be delivered".

The noble Lord, Lord Freud, made that point; it has evolved over a number of years.

"It was made clear then that there were a number of alternatives that would need to be considered. The clause was, therefore, widely drafted … and subject to an affirmative resolution … to allow additional scrutiny by Parliament when proper consideration had been given to … the matter ... Transfer of the assets to Government was one possibility, as was making the PPF the scheme manager. The provisions made in these draft regulations … sit squarely within that and we consider that they clearly fall within the provisions of the 2004 Act".—[*Official Report*, Commons, 24/3/10; col. 18.]

We therefore consider that the use of the modification power in this way could not be considered to be unusual or unexpected.

The noble Lord, Lord Freud, reminded us of a bit of the history of this with the debates that we had regarding the final destination of FAS. He is right that it was hotly contested; I was on the receiving end of some of that. However, I think we have ended up in a good place, and on that basis I am grateful for noble Lords' support for the regulations.

Motion agreed.

Damages-Based Agreements Regulations 2010

Motion to Approve

5.13 pm

Moved By ***Lord Bach***

That the draft regulations laid before the House on 16 March be approved.

Relevant Documents: 11th Report from the Joint Committee on Statutory Instruments and 14th Report from the Merits Committee.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): With the leave of the House, I shall speak also to the draft Conditional Fee Agreements (Amendment) Order 2010.

The Damages-Based Agreements Regulations 2010 prescribe the regulatory requirements for these agreements in employment matters. The Conditional Fee Agreements (Amendment) Order 2010 seeks to reduce the success fee in some "publication proceedings" to 10 per cent of the base costs. Both of these seek to make changes in limited circumstances to protect the public interest. I will deal with the two instruments separately.

The Damages-Based Agreements Regulations are made under Section 58AA of the Courts and Legal Services Act 1990 and prescribe certain requirements for damages-based agreements relating to employment matters. Section 58AA was inserted by Section 154 of the Coroners and Justice Act 2009.

A damages-based agreement is a type of contingency or "no win, no fee" agreement, under which a representative agrees to act for a client in return for a percentage of any damages recovered by the client. If damages are not awarded, the representative is not paid. These agreements are of course different from conditional fee agreements, or CFAs. CFAs are typically used in court proceedings, and allow for an uplift or success fee on top of the representative's normal fee.

I emphasise that damages-based agreements are not permitted in court proceedings or litigation and that the regulations will not change this. They are, however, commonly used by solicitors and claims managers in proceedings before the employment tribunal. The Courts and Legal Services Act 1990, as amended, controls the use of damages-based agreements to claims that are capable of being heard by the employment

tribunal. As I say, these agreements are commonly used in employment tribunal cases. We are concerned that many claimants do not understand these fee arrangements, which sometimes include unfair terms. The Government therefore believe that it was necessary to regulate damages-based agreements in employment tribunals to ensure that claimants are protected from unfair agreements. Noble Lords will recall that Section 154 of the Coroners and Justice Act 2009 gave the Lord Chancellor the power to regulate these agreements. This is the first set of regulations made under that power.

The regulations specify for the first time certain requirements with which the agreements must comply in order to be enforceable damages-based agreements. The key emphasis is on the provision of clear and transparent information for the client before the agreement is signed. The regulations require that a—

Lord Scott of Foscote: I hope that the Minister will forgive me. Can he clarify one point? He said that these regulations were for use in employment tribunals. What happens if there is an appeal? Appeals could go to the Court of Appeal or now the Supreme Court.

Lord Bach: Perhaps I can answer the noble and learned Lord a little later.

The regulations require that a representative, usually a solicitor or a claims manager, must, first, inform the client about alternative means of resolving the case or financing the proceedings, such as legal expenses insurance or though trade union membership. Importantly, the representative must inform the client about the services offered by ACAS before the agreement is signed. Secondly, the representative must give an estimate of all costs and expenses for which the claimant may be liable. Thirdly, the representative must also explain to the claimant why he or she thinks that the percentage fee they are charging is reasonable.

The regulations also prescribe that the payment to the representative cannot be more than 35 per cent of the claimant's damages, including VAT. This will protect claimants from unscrupulous representatives who may seek to take an unjustified proportion of their damages in fees. The legislation requires us to prescribe a cap. We originally consulted on a 25 per cent cap, excluding VAT. However, we listened to concerns expressed by those responding to the consultation and increased the cap to 35 per cent. This is inclusive of VAT, but excludes expenses such as counsels' fees. Although the cap is the prescribed maximum, there is a risk that the cap could become the norm, a risk that we have seen realised in CFAs where, in some cases, 100 per cent has become the norm; I will turn to that later. The higher the cap, therefore, the greater the risk of detriment to individuals who use damages-based agreements. We therefore believe that 35 per cent sets a fair level in respect of damages-based agreements in employment tribunals.

Finally, the regulations set out some conditions to be complied with if the agreement is terminated. I should first make it clear that the provisions relating to termination are without prejudice to any right of either party under the general law of contract to terminate the agreement. I am aware that there have been some concerns about the conditions relating to termination; for example, the Law Society considers that the provision does not go far enough in protecting representatives. The Bar Council, on the other hand, considers that there should be no restrictions on the client's right to terminate at all. What we have attempted to do in these regulations is to take the middle ground between the two opposing views.

DBAs are different from ordinary retention agreements between lawyers and clients. The client is agreeing to pay a percentage of their damages if the claim is successful. Therefore, it is only right that the representative should be entitled to that percentage if the claim is successful.

DBAs are founded on the premise that if the representative upholds their end of the bargain and the claim is successful, he or she is entitled to receive the agreed percentage of the damages. I reiterate the point I made earlier: these provisions are without prejudice to any right of either party under the general law of contract to terminate the agreement.

We are grateful for the consideration given to these regulations by the Merits Committee. We have carefully considered the points raised in the committee's report, published on 18 March. My right honourable friend the Lord Chancellor and I discussed the committee's concerns at a meeting with the chairman, the noble Lord, Lord Rosser, and the noble and learned Lord, Lord Scott of Foscote, who is a distinguished member of the committee. We have taken on board their concerns in revising Regulation 6(5). I strongly believe that these regulations are necessary and proportionate in achieving their objective, which is to put in place specific statutory protection for claimants using these agreements in employment tribunals. As I have said, we have tried to balance carefully the views raised in consultation and believe that the regulations represent the best way forward.

The House will know very well that on 14 January Sir Rupert Jackson delivered his wide-ranging report, *Review of Civil Litigation Costs*. Among 109 formal recommendations, he recommends that contingency fees are permitted in civil litigation with appropriate regulation. However, I emphasise that fresh primary legislation would be required, should the Government decide to implement that recommendation. The Government are actively considering Sir Rupert's recommendations, and will set out the way forward in due course. I assure the House that any proposals on extending the use of contingency fees to litigation would be subject to full public consultation and legislative scrutiny by Parliament.

Before leaving this regulation, I will respond to the noble and learned Lord as best I can. DBAs, as I understand it and am advised, cannot be used on appeal in either employment appeal tribunals or the Court of Appeal. I understand that legal aid is available for representation on appeal.

I turn now, briefly, to the Conditional Fee Agreements Order 2010, which is made under Section 58(4) of the Courts and Legal Services Act 1990. The order amends the Conditional Fee Agreements Order 2000 to set a new maximum success fee percentage of 10 per cent

[LORD BACH]

for CFAs relating to some publication proceedings. Publication proceedings for the purposes of this order are within the meaning of Rule 44.12B of the Civil Procedure Rules 1998. The definition covers defamation, malicious falsehood or breach of confidence involving publication to the public at large. For ease, I shall refer to them as defamation proceedings.

As noble Lords know, conditional fee agreements, or CFAs, allow lawyers to take on a case on a no-win no-fee basis. If the case is lost the lawyer does not get paid. However, if the case is successful the lawyer can charge his normal base costs as well as an additional uplift or success fee. The success fee is currently recoverable in full from the losing side. The Conditional Fee Agreements Order 2000 prescribes the maximum success fee that lawyers can charge at 100 per cent in all categories of case. That 100 per cent maximum was intended to allow lawyers to cover the costs of those cases which were lost with a success fee from those which were won. However, the Government have been concerned about high legal costs in defamation cases. These high legal costs are exacerbated by 100 per cent success fees, which may have a harmful effect on freedom of expression. This affects the media, in particular those with limited budgets, such as the local media and publishers, but also scientific and academic debate. Specific concerns have been expressed to the Government by members of the scientific community and others that the current law on libel, including the high costs involved, is having a harmful effect on freedom of expression in the context of scientific and academic debate. Noble Lords will be aware of the announcement of the reform of the law of libel by my right honourable friend the Lord Chancellor on Tuesday this week. This change should be seen in that broader context.

Previous attempts to control success fees in defamation cases have proved unsuccessful, even though there is widespread and urgent concern about their impact. In January this year the Government therefore consulted on a specific proposal to reduce the success fees to 10 per cent in defamation cases. Some of the respondents to the consultation who disagreed with our specific proposal accepted that 100 per cent recoverable success fees should not continue.

Lord Martin of Springburn: Where did the figure of 10 per cent come from? Did the Lord Chancellor not consider 30 per cent or 25 per cent? Where was this 10 per cent plucked from?

Lord Bach: I will answer the noble Lord in the course of what I have to say in the next few minutes. I am grateful for his question.

Lord Woolf: While the Minister has been interrupted, I want to raise another matter which would assist me. I regret to say I do not know the answer to this, but I was under the impression that the success fee was capable of being taxed down if the taxing master thought it was excessive. Is my impression right or wrong? Because that would seem to be a solution if it is correct.

Lord Bach: If the noble and learned Lord does not know the answer to his question, I certainly do not. I will take some advice on that and come back to him.

I have mentioned the Jackson report published earlier this year. It is a remarkable and substantial report. I think we can all agree on that. He recommends complete abolition of the recoverability of success fees and after-the-event insurance in all cases where CFAs are used. As I said earlier, we are actively considering the report and will set out the way forward in due course. The Culture, Media and Sport Committee in its recent report, *Press Standards, Privacy and Libel*, suggests that the recoverability of success fees be limited to 10 per cent in defamation cases. The Government will respond to the Committee's report shortly.

Lord Scott of Foscote: I hope the Minister will forgive me for interrupting again. My understanding is that that recommendation did not limit the success fee; it simply suggested that that was the maximum that could be recovered from the other side. Any balance that was agreed, assuming taxation on the costs would allow it, would come from the opposing party. That is my understanding of what the committee said.

Lord Bach: Again, if the noble and learned Lord will forgive me, I will find out and come back with an answer to his point.

There is a substantial body of opinion that 100 per cent recoverable success fees should not continue in defamation cases. Reducing the maximum success fee to 10 per cent through this order is an interim measure so that the specific concerns around high costs in defamation cases can be addressed urgently while the Government consider other options for longer-term reform. Of course, I am aware of the concerns raised by the Merits Committee.

Defamation-related proceedings form a discrete category of case where special considerations apply. They are relatively few in number and of relatively high cost compared with other types of civil proceedings. We regret that, despite several consultations by the department, an investigation by a parliamentary committee, and widespread public debate on this subject over the past five years, comprehensive data were not forthcoming. It is true that certain respondents provided some data against the 10 per cent proposal, but we believe that was partial and did not undermine the case for reform. Based on the available evidence, including that presented during the consultation on this order, it was judged that a maximum success fee of 10 per cent is appropriate. We believe it provides an effective interim solution to an urgent problem.

Regarding the questions that I have been asked—as to the 10 per cent, our consultation paper referred to the data presented to Sir Rupert. The 10 per cent proposal was made against the background of the sample used in the Jackson review. The sample was of 154 cases, none of which was won by the defendant. Although CFAs can be and are used by defendants, this rarely happens. The evidence suggests that few defendants win cases, and that increases the risks for defendant lawyers when taking on a defendant CFA.

On the question of the noble and learned Lord, Lord Woolf, success fees certainly can be taxed down on assessment, but the process of doing that is costly and extremely time-consuming. The noble and learned Lord, Lord Scott, asked—

5.30 pm

Lord Thomas of Gresford: My Lords—

Lord Bach: Perhaps I may first answer the question of the noble and learned Lord, Lord Scott, and then of course I will take an intervention.

Why cannot we implement the recommendation of the Culture, Media and Sport Committee's recommendation on limiting recoverability of success fees to 10 per cent? The committee's report acknowledges that significant problems with costs in libel cases need to be addressed. The committee agrees that 100 per cent success fees under CFAs are unjustified in defamation cases. It recommends capping recoverability of success fees, which would require changes to the civil procedure rule. These changes would require more time. The Conditional Fee Agreements (Amendment) Order provides an interim solution to deal with the high cost in defamation cases while we consider the Jackson recommendations and the committee's proposals, both of which deal with the issue of recoverability.

If the noble Lord, Lord Thomas, will forgive me, I shall try to answer any question that he has later.

The noble Lord, Lord Martin of Springburn, has tabled an amendment to the Motion expressing regret that the Conditional Fee Agreements (Amendment) Order 2010 has been laid,

"without allowing sufficient time for consultation with all of the professional and legal bodies concerned and in the light of the benefits of no win, no fee arrangements for those on modest and low incomes".

I of course look forward to hearing the noble Lord speak to his amendment. I mention two points at this stage. First, we have consulted, as we are required to by statute, with the senior judiciary, the Law Society, the Bar Council and others. We have consulted them on the policy as well as on the detail of the order. We have taken careful consideration of the responses received. More than half of those were from lawyers, their representatives and the judiciary. In addition, there have been previous consultations on this issue—the Jackson review and the investigation by the Select Committee that I have referred to.

The second point to make at this stage is that we are of course mindful of the benefits of conditional fee agreements for access to justice, but we have to consider the disbenefits, too. CFAs will remain available for defamation cases; thereby, lawyers will still be able to use them in deserving cases. We are considering the way forward for the longer term in the light of the Jackson report.

That is all that I would like to say at this stage. I beg to move.

Lord Martin of Springburn: My Lords, I am speaking to the amendment which is still to be moved. I thank the Table Office for its help. Also, the Government Whips Office has been very helpful and kind to me as a new Member here in the Lords.

I stress that I have not lobbied any Member of this House prior to this debate. I put down my Motion of regret because I feel very strongly indeed about the 10 per cent. If there had been a reduction to 50 per cent, I would not have lodged a regret Motion; 50 per cent would be more realistic and I would not be complaining.

As the Minister said, the success fee compensates for the cases that are lost. We should not allow the situation to remain at 10 per cent. I note that the Minister has said that this is an interim measure and that there will be consultation, and I hope that that consultation is with companies such as Carter-Ruck and Simons Muirhead & Burton—the people who are at the front line of this service. Without a no-win no-fee facility, only the exceptionally rich can afford to risk losing six-figure sums in going to court. That would be wrong. That would be unjust. The Minister is quite right to say that the defendant can also have a no-win no-fee arrangement, but the fact is that fewer people do that than the other way around.

Whether a person in public life is a politician or an entertainer, the target story does not commence at eight in the morning when they open a newspaper and see that there is a case that they should take to court. It is usually at about 10 o'clock on a Friday night or even later, when a Sunday newspaper wants to carry a story and does not contact the individual until very late at night when it is difficult for them to seek advice. To the credit of the no-win no-fee lawyers, when advice is needed they rise to the occasion by making themselves available out of hours and on a 24-hour basis.

I have an interest to declare in that, when I took out an action, I asked a no-win no-fee lawyer to take it up on my behalf. It was 10 o'clock on a Friday night, which made it so difficult. I was the Speaker of the House of Commons, all the officials were away and I was at my home in Glasgow when I got word that these people were going to say something that was very libellous against me. As I say, to the credit of the company that I approached, I was able to get a partner on a mobile phone who was taking his son to a football game on a Saturday afternoon, and then he was on the case.

I do not want to dwell on the problem that I had, but these are the problems that people will have. Many noble Lords will know the types of stories that appeared in the various newspapers that attacked me in the nine years I was Speaker. The newspapers could not even get right the district in Glasgow that I came from. I have not set foot in the Gorbals for about 30 years, but to them I was Gorbals Mick because to them that was the poorest area of Glasgow, so "Let's tag him with that". They could not even get right the geography of the city of Glasgow, or they would have known that Springburn is a far cry from the Gorbals. In the nine years of bile that was poured on to me, this was the only case in which I ever took any action. For every case that is taken on a no-win no-fee basis, there are dozens in which the individuals let it go, and I include myself in that category.

One of the beauties of being at Glasgow airport is that you get to meet some showbiz personalities. They have spoken about this and said to me, "Michael, I

[Lord Martin of Springburn]

could take them to court"—in their case, they sometimes have the resources—but they say, "Am I going to spend my life sitting in a courtroom when I have a profession to follow?".

When the media are feeling sorry for themselves, let them remember that for every case that goes as far as them being presented with a success fee, many have been let go. No one should kid themselves: small local radio stations or local newspapers do not give anyone any trouble. We can all list the national papers that specialise in this type of attack on individuals. If they want to save funds and do not want to have to pay a success fee, they should get the facts right. When I went to the *Times*, I was not looking for funds from anyone, I was looking for an apology. It took seven weeks of toing and froing, e-mails and meetings, of saying "We will not give you an apology, but we will give you an interview" before the *Times* finally agreed to a very small apology and to pay the costs.

If the journalists had come to me beforehand, they could have saved themselves costs and saved me the embarrassment of what they had to print. In terms of responsible journalism, I would welcome an order from the Lord Chancellor stating that the Government will get legislation through that insists on responsible journalism. Journalists and their editors should decline to get involved in the tactic known as doorstepping. That is where there are two journalists, one of whom goes to the back door while the other goes to the front door, who batter the letterbox and put their finger on the doorbell. The people inside the house are terrified. They think there is an emergency. There are legally qualified Peers in their places. I think that if a neighbour behaved in that way, it would be considered a breach of the peace. This is a tactic that journalists get involved in if you are not prepared to give them a quote. They send people to your door to do that.

What right has anyone to do this? If I am the target, why should other members of my family be terrified in their own home? They are not in public life, they are not in politics, they are not party members, some of them are children, yet they were subjected to this terror. If that was happening in eastern Europe, the same newspapers would be attacking it.

The same goes for photographers. They park a photographer outside your house because you will not give them a quote. Why is it that when people are in public life or in the media, there are dozens of photographs of them? Why do they park a photographer outside your house for no other reason than to intimidate you and make you feel like a prisoner in your own home because you will not do what they tell you. That is the type of thing that they should refrain from. If they are concerned about money, photographers do not sit outside the house for nothing. Some of them are freelance and very expensive, so why do they do it? Then they come to tell the Lord Chancellor that they are losing money through these no-win no-fee lawyers. They may be losing money in that way but they are prepared to spend money in this way to intimidate people.

We are now getting to the stage where journalists are not even interested in coming to the subject of their stories to get a quote. Only a few weeks ago, there was talk here on the Floor of the House about the Press Complaints Commission. I went to a no-win no-fee lawyer only once; I hope that I never have to again. I went to the Press Complaints Commission once as well, and got a satisfactory conclusion. When I was a Member of this House, the *Telegraph* published three articles in January stating that I had done something secretly in the House of Commons when I was the Speaker. If the journalists had come to me, I would have been able to show them *Hansard* to show that the matter that they were talking about was promoted not by me, but by the Leader of the House and the chairman of the Standards and Privileges Committee, and was supported by the Liberal Democrats, who went on record as saying that they welcomed it. The articles blamed me. I put on record my thanks to the Press Complaints Commission. When I raised the matter, I asked that the articles be taken off the online system. I did not ask for an apology—I did not want one; I just wanted the libellous articles taken offline. Lo and behold, they were taken offline and I was given an apology.

5.45 pm

The media complain that they are hurt by no-win no-fee, but when a complaint is put to the Press Complaints Commission there is a clear implication that there is no desire to get any funds, legal fees or anything. We are talking about a private individual going to the Press Complaints Commission and saying, "Can you deal with this?". In my case, the issue was resolved. My point is that, every time that the Press Complaints Commission takes something up, there is no 10 per cent involved—no success fee. Very rarely is anyone interested in funds, so the media do not do badly. As I say, there is the tip of the iceberg—the case that goes to a lawyer—but many cases do not go at all. The cases that go to the Press Complaints Commission cost the media organisation absolutely nothing.

The Minister mentioned that the 10 per cent was an interim measure. It would be good if he could assure me that the no-win no-fee companies got consultation with him after the election—that he is prepared to meet them in a delegation. The Law Society has been in touch with me and stated that it supports my amendment. The service is an excellent one. I digress when I say that the no-win no-fee facility has been marvellous for the men and women in my previous constituency now suffering the effects of asbestosis and pneumoconiosis. I know that it is a different subject, but they are at the lowest ebb because of an illness that took something like 30 years to get through the system. Their family—their wife and children—are worried. They go to a lawyer and he says, "I'm working this out so that it won't cost you anything".

It is the same if people's characters are attacked. As I said, for people in public life, such as myself, the response is, "If you don't like the heat, you shouldn't be in the kitchen". However, many men and women are not involved in entertainment or public life, but somewhere along the line someone says something about them and they feel that they should get justice. This system would give them justice. I would greatly appreciate it if the Minister could give an assurance that meetings will take place with experts in this field.

Lord Henley: My Lords, I know that the Minister was hoping for a relatively brief debate. We originally scheduled this business for the Moses Room but, because of various concerns, it was, quite rightly, shifted to the Chamber. He will probably understand that the debate is not going to be as brief as he originally hoped, but I shall try to keep my own remarks short and try to be helpful by saying that we have no intention of opposing the regulations and order. However, we want to ask a number of questions, the first and principal one being: why now and why the rush? In an earlier debate, my noble friend Lord Freud commented to the Minister that we seem to have seen a great rush of regulations coming before this House in these weeks running up to a general election. One has to be somewhat suspicious about the Government's motives when we see that and particularly when we see these two statutory instruments.

The Minister, like all Members of the House, will know of the vast number of concerns that have been expressed about these instruments. We have all been lobbied by the Bar Council and the Law Society. I imagine that many noble Lords have received briefing from individual members of the Bar, from other individuals and from individual law firms, and late on a Thursday afternoon we are seeing a slightly more crowded Chamber than we are used to. I am sure that the Minister has not faced quite so many noble and learned Lords at this time on a Thursday afternoon in recent years. We have also had the comments of the Merits Committee.

The real question that we want to put to the noble Lord is: in the light of the Jackson report, which has been referred to, why do the Government want to deal with these particular items? It is not even as though they are picking one bit out of Jackson, because this was not recommended in that report. Why do they want to deal with them at this stage and so quickly?

The noble Lord himself referred to the Merits of Statutory Instruments Committee. He said that he and his right honourable friend the Secretary of State and Lord Chancellor had had a meeting with the chairman of that committee, the noble Lord, Lord Rosser, and the noble and learned Lord, Lord Scott of Foscote. He said that they had discussed these matters with them. He was then rather coy about the result of those discussions, but perhaps he will let us know what it was when he comes to reply. We are told in the 14th report of that committee that the regulations and the order are both drawn to the special attention of the House on the grounds that they may imperfectly achieve their policy objectives. I do not think that I need to quote the further conclusions, but in paragraphs 8 and 10 in relation to the regulations and paragraph 17 in relation to the order further comments were made by the committee about these instruments. Although the noble Lord will have to wait some time before he does this, because I think that there will be many other comments, I should be very grateful for a response on that.

I turn, almost at random, to one of the groups that lobbied us. The Bar Council sent me quite a detailed letter about what was going on. It stresses that the Jackson report was part of the consultation and that the Government rather ignored its recommendations in the case of the order, in that they reduced the amount of consultation to a matter of just a few weeks, again in complete contradiction of the code of practice on consultation, which recommends something somewhat longer. Again, I quote from one of the Secretary of State's comments in response to the consultation. He said that,

"it is vital to the maintenance of press standards that access to justice for those who have been defamed is preserved".

As the Bar Council makes clear, that is a quotation from the Commons Select Committee on Culture, Media and Sport, published on 24 February this year, which the noble Lord referred to.

The committee disagreed with the ministry's proposal that the maximum level of success be capped at 10 per cent regardless of whether it is recovered from the losing party or from the client. It saw no reason why any balance should not be agreed between solicitor and client. That is not an option that the ministry appears to have considered. I put to the Minister a point made by the noble Lord, Lord Martin of Springburn: where does this figure of 10 per cent come from? It might be, and I do not know, that 10 per cent is the right figure. It might be that 100 per cent was the wrong figure. As the noble Lord, Lord Martin, put it: is there another figure that we should consider? Is the haste with which we are dealing with these matters somewhat unnecessary? Would it not have been better to have had a longer period of consultation and to have dealt with these matters in the proper manner? I do not want to take up too much time of the House, because the Minister—

Lord Carlile of Berriew: I am grateful to the noble Lord, but some of us have listened to his speech with mounting confusion, given the importance of the Conservative Party in this and our desire to know its future intentions. The shadow Attorney-General is highly respected in defamation proceedings, so will the noble Lord tell us whether the Conservative Party is in favour of the reduction to 10 per cent, whether it is against the reduction or whether it simply has not been able to make up its mind?

Lord Henley: As I said, and I think I made it perfectly clear, we were not going to oppose this order. We are saying that we do not know whether 10 per cent is the right or the wrong figure. If the noble Lord had waited for the next paragraph of what I was going to say, I would have addressed the crucial question of what happens post 6 May. As the noble Lord is aware, on 6 May there is quite likely to be an election. We have been discussing this for some time. If we win that election, I can give an assurance that the one thing that we will do is conduct a full and comprehensive review of all aspects of the Jackson report, after which we will consult properly on it and come forward with the right proposals. I know that the noble Lord's party has a different policy in relation to orders in this House. We will not be opposing this order in this House. It would not be right to do so. However, we will look at all these matters and then come forward with conclusions.

[LORD HENLEY]

Our questions are really about why the Government are doing this now. What is the concern and why is there this mad rush? The noble Lord, Lord Carlile, ought to be suspicious of a Government who are rushing just one part—not even a recommendation of the Jackson report—through at this stage with such undue haste. I hope that that answers the noble Lord and I hope that he will be satisfied that I cannot give him the answer that he requires at this moment. He really needs to repeat the question that I am putting to the Minister: why are the Government doing this at this stage and with such speed? Some of us have every right to be suspicious. I hope that the Minister will be able to address some of those questions when he responds, but I think that he will find that there will be many other questions put to him in the course of this debate.

6 pm

Lord Thomas of Gresford: My Lords, unlike the noble Lord, Lord Martin, the profession I follow means that I have spent much of my life sitting in a court. I declare an interest in that I am working on a matter subject to a conditional fee agreement, but not in the field of libel.

The Liberal Democrats have been, and are, at the forefront of the campaign for a reform of the law and procedures relating to defamation. The crippling costs associated with libel cases in the United Kingdom—which are said in one study to be 140 times higher than in some mainland European countries—are a prime example of where reform is needed.

How has this come about? We on these Benches have always expressed grave reservations about conditional fee agreements in principle. The assessment of the risks is in the hands of the solicitor concerned—he determines the uplift—and, as we have heard from the Minister, 100 per cent was supposed to be the limit but has become the norm, particularly in libel cases. In July 1998, I initiated a debate in this House on the order that was then introduced and pointed out that the limit on the uplift, the success fee, had grown from an initial 5 per cent, to 20 per cent and then to 100 per cent. The Lord Chancellor, the noble and learned Lord, Lord Irvine, was not then prepared to introduce a cap to that uplift which could in some way be tied to the damages that were recovered. At that time, we thought that was a sensible way of going forward.

On the Access to Justice Bill, in which both I and my noble friend Lord Goodhart were involved from these Benches, I said:

"I do not believe that it is a healthy state of affairs; nor do I believe that the legal profession should be treated as a business that should carry the risks of litigation because of the obvious conflicts of interest".—[*Official Report*, 21/1/99; col. 788.]

Those conflicts are bound to arise when the lawyer does not get paid unless he is successful. Since then, large firms with bulk cases have been able to carry the risk but, in order to get those bulk cases, a wholly new industry has emerged—that of claims farmers, who obtain instructions without ever meeting a client and sell them on to firms of solicitors who are prepared to do things in bulk. Costs have escalated and distorted what the Government hoped would be a route to increasing access to justice, although at that time in 1998 we thought it was a potential for harm.

One of the consequences has been an undoubted chilling on press freedom. The evidence given to the Culture, Media and Sports Committee on 5 May last by the editor of *Private Eye* is worth quoting. He looked at it from the point of view of a defendant and said:

"If someone comes and says, 'We are suing you, and not only that, we have a CFA, which means that we can just make it up. It will be any figure that comes into our head, double it, double it again, and you pay all of it', that makes you think twice about running a piece".

Similarly, evidence given to that committee on behalf of regional newspapers pointed out that regional newspapers cannot risk defamation actions at all.

The solution that the Government have hit upon is utterly unthinking. It is not the recommendation of the Culture, Media and Sport Select Committee. As has been asked, where did the 10 per cent come from? It makes it impossible for the ordinary citizen to protect his reputation or defend himself against unmeritorious claims. That uplift—the cap of 10 per cent—really takes us back to the old days, when legal aid was not available in defamation cases and the libel courts were the playground of the rich or the extremely poor, who had nothing to lose by bringing actions of that sort.

As the noble Lord, Lord Henley, has mentioned, we have received many submissions from various people. I refer to a letter sent from Dominic Crossley of Collyer Bristow, solicitors for claimants in libel cases, in which he says:

"It is my view as a practitioner in this field (although not one that relies heavily upon CFA's) that the proposal to reduce uplift on costs from 100% to 10% will have a detrimental effect upon access to justice in media cases and only the wealthy will be able to sue for libel. The proposal is being rushed through without proper consultation or the possibility of alternatives to 10% or 100% being properly considered. Personally I think a simple alternative is very easily achievable".

On the other side of the coin, Mr David Price of David Price Solicitors & Advocates gave written evidence to the Culture, Media and Sport Select Committee in which he said:

"I hope that any reforms to CFA will not hinder representation to defendants … it is commercially very risky to do defendant work. If your reforms"—

he means the Government's reforms—

"make it both risky and unremunerative the result is likely that we will have to stop acting for defendants which will mean that many will have no access to justice (no doubt legal aid is out of the question) and in some cases will go bankrupt even though what they have said is true/comment or privileged, just because they cannot afford to fight".

He made this further point:

"Most of our defendant clients are not the very poor. They are ordinary people who find themselves dragged into a defamation claim over something that they have said or written, which may well be substantially true or privileged. They may have some equity in their home but in practical terms cannot justify the huge expense of funding the defence of a High Court defamation or privacy claim".

So both claimants and defendants are hit by this artificial reduction of the success fee down to 10 per cent. It means that people will not have access to justice, again, as in the old days, unless they also have access to very large funds.

Why have the Government picked up the one tiny part of reform that actually benefits most of the big media corporations? Why have they done that, and at this time? Freedom of speech we will defend, but freedom of speech can sometimes be lazy journalism, as what we have heard from the noble Lord, Lord Martin, indicates: telephones ring late at night on a Friday to prevent any injunction from the courts or advice being obtained, and sometimes those telephones do not ring at all. Lazy journalism is defended by the media as free speech. That is not right.

Why were there four weeks' consultation only, and not the three months that normal government procedures require? Why was there a refusal to give time to the Law Society and the Bar Council to make further representations and give stronger views to the Government? Why was there no consideration of alternatives? These failures, this rush, were reflected in the response of the Merits of Statutory Instruments Committee, which said in paragraph 17 of its report:

> "We regret that insufficient time has been allowed to produce a solution based on more robust evidence or on which there is broad agreement, and that might seem more likely to achieve the policy objective without the potential side effects discussed in the correspondence".

Why has this been done? We are entitled to a response from the Government.

As I have said, Liberal Democrats want wholesale reform. We want, for example, to prevent large companies suing private individuals for libel unless damage is proved, together with malice or recklessness. We want a single-publication rule, as opposed to the multi-publication rule that exists, based on a 19th-century case involving the Duke of Brunswick and a 17 year-old paper that his agent saw. We want to protect free speech by providing a statutory defence for responsible journalism, together with a widening of the defence of fair comment, and we do not want libel tourism to continue. The Lord Chancellor promised on 23 March active consideration of some of these issues. I would be glad to hear that position reiterated today by the Minister.

We are very much in sympathy with the amendment moved by the noble Lord, Lord Martin. We on these Benches have found in the past few weeks that regret amendments carry very little weight, but if we were to have put down a fatal amendment, we would be going back to the status quo, which is worse than this very small step that the Government are taking to deal with these abuses.

A 35 per cent cap is proposed for the damages-based agreement. Will that be the cap when the Government are involved? Is it right that the Government should put a cap on damages-based agreements in employment cases, when they are so very often the subject of the case? Your Lordships will realise that we on these Benches think that this proposal is ill timed and ill considered, and that the Government should withdraw it and not put it to the vote tonight.

6.15 pm

Lord Woolf: My Lords, I declare an interest which causes in me a sense of déjà-vu. I was responsible for the *Access to Justice* report which led to the rules which now govern civil procedure in this jurisdiction. At the same time as that report was being implemented, the then Government decided to reduce legal aid. As a consequence, they had to find some alternative method of giving access to the courts, because it was clear that, without legal aid of the sort that had hitherto been available, access would be greatly reduced, which would have made a mockery of the purpose of the report which the Government were implementing and for which I was responsible. That report bore the title, *Access to Justice*, and its object was to assist people to litigate in the courts. It was clear that they had greater rights as individual citizens than they had hitherto, but that those rights were probably of less value than they should be if the citizen was not in a position to exercise them in the courts. Conditional fee agreements were therefore introduced.

However, then it was found that conditional fee agreements by themselves were not working, because the terms on which they were being used were too big a deterrent for the citizen to take advantage of them. Consequently, the insurance industry was mobilised to provide a product which would link up with the conditional fee agreement and protect the citizen in a way which would otherwise not have been the case; but even that action was not sufficient.

Therefore the decision was taken to make the party who lost the proceedings, in the case of a citizen who had a conditional fee arrangement, pay the uplift of the conditional fee agreement and, in addition, the insurance premiums. That changed the balance between the parties in a way which was unsatisfactory, although that was not appreciated at the time, because it gave the claimant a position which was out of balance in regard to the position of the defendant. That applied to litigation generally.

I do not believe for one moment that the Government wanted to get to the position where the situation between the claimant and the defendant was out of balance in the way that I have indicated. However, the pressure of circumstances caused the Government of the day to make recommendations, which were subsequently reduced into law, which had unintended consequences.

That brings me to these two sets of regulations. On the information which is available to me, it is clear that not enough research or consultation has taken place to see the consequences of what is proposed. Furthermore, it seems to me that there is a very real danger that, although the Government are supportive of the admirable report prepared by Lord Justice Jackson, the Government will undermine his report rather in the same way as my report was undermined. Although the general opinion a decade later is that the recommendations I made have benefited civil procedure, it is undoubtedly the fact that one of their objects has not been achieved: the control of costs. The process, as has already been indicated in this debate, is now far too expensive. Nevertheless, the Jackson report indicates that there are ways of combating that. In particular, what is

[LORD WOOLF]
required is management of cases so that the costs that are now being incurred are not incurred. That is the proposition to which we should be paying attention.

Although it may be said this is a provisional action which is being taken, I would urge the Government, based on my experience, not to go down the road that they are proposing to go down at this stage until the matter has been considered properly. I would suggest very respectfully to them that they are putting the cart before the horse in introducing these two measures before they come to their conclusions on the Jackson report. That is the way to reform properly; to reform in a way in which the results can be constructive.

From the Jackson report, I shall give an example on defamation. It is a weighty report, but it is one of considerable value. On page 406, at paragraph 3(1.1) to (3.3), the report refers to the defamation cost management pilot, which is to find ways in which to have a consensus between both sides of the profession and others involved in this area as to how defamation proceedings can be conducted without incurring costs on the scale on which they are now being incurred. It refers to the pilots taking place in defamation proceedings in London and Manchester for a 12-month period commencing October 2009. It concludes by saying:

"At the time of writing no feedback is available from the defamation pilot. However, it is anticipated that data from the pilot will become available during 2010. I am told by a defamation solicitor, who happens to be experienced in costs budgeting, that it takes him about an hour to prepare an estimate of costs".

It then goes on to deal with that aspect, and I do not need to trouble the House with that. However, I refer to it as a sort of possibility that would change the position with regard to costs.

I am certainly not happy with the position with regard to costs in defamation proceedings at the moment, but I question whether the dangers of reducing the uplift form 100 per cent to a maximum of 10 per cent could not have very damaging effects on the other party to litigation in addition to the media, which has an interest that needs protecting by the courts. I am very grateful for the Motion to amend, which I would support because, in advancing that Motion, the noble Lord made it clear that the personal consequences of not being able to bring proceedings, which could be the result of a 10 per cent cap, can be very serious indeed to the citizen—more serious, if I may say so, than the harm that would be caused to the press. We want not to rush into amendments of a sort now proposed but to carry out the research properly that needs to be done before we seek to change the law in this way.

We have heard from the Opposition that, if there is a change of government, they will look at the position afresh. Are these regulations going to be brought into effect for the period that will elapse between a possible change of government and today? That is surely not the way that we should go about reform. There is a need for a change of culture. One thing that is clear is that change in the legal profession and system is always achieved most successfully when there is co-operation between those involved. From what I am aware, it is clear that the main players in the legal profession are happy to enter into negotiations to find a way through. It may be that these regulations have acted as a catalyst; if that be so, they have served their purpose. Perhaps the right thing to do now is to explore further the possibility of finding a more satisfactory conclusion or a less risky one than is now proposed.

I have focused primarily, so far, on the conditional fees, but I would also say that great caution needs to be exercised with regard to the other regulations as well. They are introducing into our system contingency fees, which of course Members of the House are aware have very different features from conditional fee agreements. I am particularly nervous about those being introduced into the employment field, because in the employment field, very properly, the right to representation before tribunals is wider than that of the legal profession itself. That means that there will be others who can recover up to one-third of the amount of damages which are awarded in an employment case, depriving the citizen of the damages he is entitled to as the consequence of the regulations in regard to the conduct of proceedings.

Lord Scott of Foscote: My Lords, like my noble and learned friend Lord Woolf, I start by declaring some interests. I was so-called Head of Civil Justice. I say "so-called" because the noble and learned Lord, Lord Woolf, was really the Head of Civil Justice at the time of the implementation of his reforms and I attended many meetings with him with the officials of the Government of the day, discussing the issues of costs. As my noble and learned friend Lord Woolf has said, the success of his reforms was always going to be to some extent conditional on appropriate arrangements being made for costs in the civil justice system. I am also a Member of the Merits Committee, which has made a report on these two particular instruments, and as your Lordships have heard, I accompanied the Chairman of the Merits Committee, the noble Lord, Lord Rosser, to the meeting with the Minister and the Secretary of State to which reference has been made.

In order to deal with the question raised by the noble Lord, Lord Thomas of Gresford, the reason I was at that meeting was because I had taken some drafting points on the termination provisions in the damages-based agreement. It had seemed to me that they had not properly covered the questions of what remedies there would be for ordinary breaches of contract. An amendment had been made and the instrument was relaid because of it, but the view I took was that it did not go far enough and the main function of the meeting, I think, was to discuss further amendments to the rule which were then made, so it took the form in which it now stands.

I do not recall anything at that meeting which really impinged on the issues that arise in connection with the conditional fee agreement order that is now before the House. The reason for that was that the Secretary of State made it quite clear that what we were discussing were drafting issues on, in particular—

Lord Bassam of Brighton: My Lords, I am not wishing to stifle debate, but can I politely draw attention to the time? The House usually rises at 7 pm. I realise that this is an issue of great interest, but can I ask noble Lords to try to be as brief as possible in making their sharp comments?

Lord Henley: My Lords, this could have been tabled so we could have had more time. It was obviously something that was going to generate a lot of discussion, which is why it was moved from the Moses Room where it was originally going to be held— particularly after the comments made. I think it is quite wrong for the Government Chief Whip to start trying to stifle debate at this stage.

Lord Bassam of Brighton: I am not trying to stifle debate, but we have got an hour and three-quarter slot for this and it would be good if we could finish by 7 pm.

Lord Henley: May I assist the House? We do not have an hour and three-quarter slot. We have as long as this House feels it is necessary to take on these orders.

Lord Scott of Foscote: My Lords, having heard the noble Lords, I will continue but I will endeavour to be as brief as I possibly can—

Lord Bassam of Brighton: Thank you.

6.30 pm

Lord Scott of Foscote: I will say no more about the meeting I had with the Minister. I think I have given the gist of it.

Both these instruments raise different, discrete points, but they have one important factor in common: they both raise questions about access to justice. Access to justice in the civil justice system is critical. Of what use is a justice system if it is not available to the citizens whose rights are to be protected or who are to be defended against allegations that they have broken other people's rights? That is all that the instruments have in common, but it justifies dealing with them together. For my part, though, having made those remarks about access to justice, I shall take them separately.

The damages-based agreement, as your Lordships have been told, is the first statutory recognition given to contingency fee agreements where the fees of the lawyers appearing for the claimants come out of the damages that are recovered in the action as a percentage. The successful claimant therefore bears the cost of his successful litigation; the costs are not thrown on to the other side. If the case fails, it is a no-win, no-fee arrangement, but the reward for the lawyers of the successful claimant comes out of the damages that the claimant succeeds, with their assistance, in having recovered. That is a quite different approach from that of conditional fee agreements, where the burden of the fees that are recovered by the lawyers for the successful party falls on to the shoulders of, and have to be found by, the unsuccessful defendants.

The damages-based agreement, as the noble and learned Lord, Lord Woolf, has already said, introduces a means of funding the very narrow type of action—namely, damages actions in front of an employment tribunal—in a way that standing authority holds to be contrary to public policy. Public policy can change, but it is a strong step to take to introduce this by means of a statutory instrument. I am not suggesting that it is ultra vires; authority for it was given in the amendment introduced late in the day in the Coroners and Justice Act 2009. I am not in a position to say how much debate there was about that introduction but the amendment was made very late, and this is the first attempt to use it. It deserves to have considerable attention paid to it.

I would call this an interesting experiment to see whether an alternative means of funding civil claims can be found by the contingency fee route. The discussions that I had with the Minister about the termination provisions were the only points that I raised about the instruments, and I apologise to him for now raising others that had not occurred to me at the time when I met him. I hope that he will forgive me, but there are difficulties that arise in connection with appeals.

As I understand from what the Minister said earlier, if there are to be appeals, and there may well be, the funding of the appeal, as far as the successful claimant before the tribunal is concerned, will have to be found by some means other than the agreement itself. It has been suggested that a conditional fee agreement could be obtained for the purpose of the appeals. That makes two different systems of funding the litigation at different stages: the contingency fee, with the fee coming out of the damages and calculated with reference to the amount of the damages for the initial hearing, and the conditional fee agreement route for the appeals.

The calculation of the fee to be paid to the successful lawyers for the trial before the tribunal is expressed in terms of the amount that is actually recovered by the claimant. The amount that the claimant recovers may have to take into account any cost to him of the appeals that he may find himself responding to. If he has lost, of course, he will not have recovered any damages. However, if he appeals and succeeds in getting damages from an appeal court, how does the damages-based agreement then operate? He will have obtained damages not from the tribunal but on appeal. If he succeeds in front of the tribunal and the damages are reduced by the appeal court and he is ordered to pay some costs, what then? Does that also reduce the 100 per cent on which the percentage recovery for the lawyer is to be calculated?

These questions need to be examined with some care. The regulations themselves say nothing about them. It would be left to those who have to construe the instrument as it stands, unless some amendment is made, to determine the correct answers. There is also the possibility, if damages were reduced and costs were awarded against the respondent, of the court ordering a set-off of the costs against the damages, and the question of the solicitor's lien against damages recovered in an action. All of these matters bear upon how the machinery for calculation and payment of the contingent fee, based upon a percentage of the amount recovered by the client, will work.

Two final points of technical detail have not been covered. Is there any reason why, just as the success fee of conditional fee agreements can be subjected to the scrutiny of a taxing master and taxed down if the amount is thought to be excessive, the percentage agreed in a damages-based agreement cannot similarly be subjected to that scrutiny? It seems logical that there should be the same process of checking the

[LORD SCOTT OF FOSCOTE]
justification for the percentage being charged, whether in a conditional fee agreement success fee or a damages-based agreement percentage of damages.

Finally, has any thought been given to how VAT is charged in a case where the fee comes out of the damages? I had not given it any thought until today. Is VAT to be charged and added to the amount accounted for by the lawyer, or is it to be assessed in some other manner? These are technical questions which I leave with the Minister.

I turn to the much more difficult question of the Conditional Fee Agreements Order. Your Lordships have heard of inadequate consultation; so there was. Your Lordships have heard questions raised about where the 10 per cent as the maximum success fee—it is important to note that it is the maximum—comes from. It appears, from the papers that we have seen, to be arbitrary. The Government's consultation paper, issued on 19 January this year, accepted that,

"to enable claimant lawyers to balance risk: to cover the costs of cases that failed with an uplift or success fee on those that won",

there was to be a balance.

The justification for the 100 per cent uplift was that cases that arrived at trial could be taken to be 50/50—as likely to win as lose. Otherwise why was the other side fighting it? Consequently, the lawyer who litigated under conditional fee agreements would lose as many as he won, and should therefore get twice his normal fee to compensate him for getting nothing on those that he lost. That is the justification for the 100 per cent uplift. If that mathematics is carried through, the 10 per cent uplift—the maximum uplift that is proposed under the order—would require the lawyers who worked on that basis to succeed in nine out every 10 cases that they took. That record of success would be remarkable for any practising barrister. There are some in the House today. I wonder whether they have ever got near to achieving such a thing as nine successful cases out of 10. Anything less and their books will not balance at the end of the practising year. I spent a little time doing the maths. Assuming the lawyers concerned take 10 cases a year that fall within the requisite publication category, they would need somewhere between a 40 and 50 per cent uplift to make a profit if their success rate was between 60 and 70 per cent. That is a pretty high success rate and it would require a 40 or 50 per cent uplift.

Ten per cent is, with respect, a ridiculous rate. It would deny access to justice to a whole range of people who will not be able to afford to litigate. It would be a denial of the whole purpose of the civil justice system, which is to discourage self-help. It would also be apt to promote a deserved disrespect for the law. The noble Lord, Lord Martin, has tabled a Motion of Regret, which I would support. I say also—echoing others—that this is an instrument which ought to be withdrawn and rethought with proper evidence and full consultation.

Lord Pannick: My Lords, my admiration for the noble and learned Lord, Lord Woolf, and his magisterial work in promoting access to justice over the years has been uplifted by at least 100 per cent for every year that I have had the privilege of knowing him. However, I much regret that on this occasion I cannot agree with the conclusion that he has arrived at and the views expressed by other noble Lords and noble and learned Lords in relation to this matter. I will briefly—I emphasise "briefly"—explain why I cannot support the amendment in the name of the noble Lord, Lord Martin.

I must declare an interest. I represent Mirror Group Newspapers in the European Court of Human Rights. It has a claim that raises the issue of whether the very large sum in costs, including a substantial uplift, that it was required to pay the model Naomi Campbell, after a case involving an infringement of her privacy rights, is a breach of its freedom of expression. That is a pending case.

I suggest to noble Lords that the Government are seeking to address a substantial unfairness in the legal system. Where the claimant has a conditional fee agreement and after-the-event insurance, he or she is at no risk as to costs. By contrast, the defendant is at risk of paying inflated costs. In many such cases, therefore, the defendant is under unreasonable pressure to settle the case to the advantage of the claimant. It is true that this is a problem generally, across the legal system. It has been addressed by Sir Rupert Jackson and I understand that the Government are still considering it.

However, a particular and urgent problem needs to be addressed in the context of libel and breach of confidence law. It is an urgent problem because the consequence of the cost regime today is that it is deterring defendants from exercising their freedom of expression. That is a fundamental right for them and a fundamental condition of a free society in which those who are governed are given information about those who govern us, information that people in power, let us be blunt about it, and influential people would much prefer to keep confidential, even if—indeed, often especially if—it touches on matters of public interest. The Government—and I associate myself with them—place a higher value on freedom of expression than does the noble Lord, Lord Martin of Springburn.

6.45 pm

The inevitable consequence of these success fees today is that newspapers and magazines shy away from publishing information about the rich and powerful to the detriment of the rest of us. The 100 per cent success fee is a deterrent, whether the journalism is lazy or dedicated. The justification for the success fee of up to 100 per cent, as has been explained, was that it would enable otherwise impecunious claimants to bring proceedings to vindicate their reputation on a conditional fee basis and to compensate lawyers, as the noble and learned Lord, Lord Scott of Foscote, has explained, for the unsuccessful cases in which they act on such a basis. It is a swings and roundabouts approach.

This rationale, in my experience, has been undermined by two factors that have not yet been mentioned. First, a very large number of the claims in which these success fees are secured have been brought by claimants who were perfectly capable of paying their lawyers a proper professional fee. There is no restriction on these success fees to the impecunious.

The second problem is that not all but many lawyers operating in the field of libel and confidence choose very carefully the cases in which they act on a conditional fee basis. They tend to act—and who can blame them?—in the cases that they perceive to be winnable, including cases from claimants who are not wealthy. The lawyers are not concerned about that; they are concerned with whether these cases are winnable. That is the answer to the point made by the noble and learned Lord, Lord Scott of Foscote, that the lawyers would have to win nine out of 10 cases. Yes, but they select very carefully the cases in which they are prepared to act on a conditional fee basis. The very fact that there is a potential 100 per cent uplift helps to ensure that the cases are successful because in a large proportion of these cases the defendants, knowing that there is a great risk of having to pay such high costs, are prepared to offer settlements to claimants at a level higher than the case would otherwise deserve.

I accept that there needs to be further reform of CFAs in the light of the Jackson report and that careful consideration needs to be given. For my part, I do not see that as a reason for objecting to this specific and positive stance in the context of libel.

Lord Woolf: Would the noble Lord, whose knowledge about these matters I respect greatly, be good enough to indicate whether he can say with total confidence that the careful selection of cases, which already takes place when the lawyers have been getting a 100 per cent uplift, will mean that, if the same care is taken in selecting cases where the uplift is only 10 per cent, the number of claimants who have a reasonable prospect of success from getting legal representation will not be substantially reduced?

Lord Pannick: I strongly suspect that it will make no difference at all, because the lawyers are understandably anxious to do the work and they will continue to do the work by and large in those cases where they think that they have good prospects of success on a conditional fee basis. If the case is interesting, they may, as many lawyers do, be prepared to do it on a no-fee basis, as the noble and learned Lord knows.

The other point that has been made with considerable force is: why 10 per cent? Why not 20 per cent or 50 per cent? As I understand it, the 10 per cent reflects a judgment that only a small uplift is appropriate in the context of freedom of expression, for all the reasons that I have given. I, for my part, am comforted by the Government's assurance at paragraph 12 of the Explanatory Memorandum to the conditional fee agreements order, which has been repeated by the Minister, that the order will be reviewed after 12 months in the light of experience. For those reasons, with regret, I cannot support the amendment tabled by the noble Lord, Lord Martin. I support the Government.

Lord Goodhart: Why does the noble Lord not accept that the real problem here is defective libel law, which makes it much too easy for claimants to get an unjustified verdict in their favour, rather than making it possible for people with limited means to bring action against someone who may have libelled them?

Lord Pannick: I strongly support all the points that the noble Lord, Lord Thomas of Gresford, made about the current deficiencies in the substance and procedure of the law of libel. I very much hope that those matters will be reformed, but the harsh reality is that they are not going to be reformed in the short term; we will have to wait at least months for that to occur. In the mean time, there is an urgent and serious problem about freedom of expression that, for the reasons that I sought to give, needs to be addressed—and it needs to be addressed in the context of the instruments that we are discussing.

Lord Marlesford: My Lords, I am not of course seeking to address your Lordships' House on the merits of these issues, on which I would be wholly ignorant. I was fortunate enough to be a member of the old Statutory Instruments Committee in the days when it merely considered vires. It is one of the advantages of the big changes that have been made that your Lordships' House can now consider merits. That is a big advance.

It has been a great privilege for all of us in this House to hear the noble and learned Lords and other noble Lords who have spoken with such knowledge on the amendment and on the two orders. It is particularly useful also that we have been able to hear the noble Lord, Lord Martin of Springburn, because his point was extremely important. One's overall conclusion on listening to these matters is that they are as difficult as they are clearly important.

Why are the Government so fidgety, to put it mildly, about the time that we are taking to discuss these important issues? The Government Chief Whip is so fidgety that he has had to leave the Chamber. The noble Lord, Lord Thomas of Gresford, put it quite clearly; it is pretty appalling to consider such orders in three weeks when the normal procedure is to have three months to consider them. What possible reason is there to do so? Given how complicated these issues are and the fact that these great experts do not yet fully agree on the correct solution, how wise it is of my noble friend Lord Henley to have made it clear that the Conservative Party has not yet made up its mind what the right solution is.

Finally, we have in this country government by Parliament, not fiat by the Government. That is a very important difference. The Government have a choice; either they give Parliament proper time to consider the measures that are put before it, or they do not put the measures before it at all. Actually, there is no great political constraint. After all, if the Government have so much legislation that they wish to get through, depending as they must on proper parliamentary scrutiny, the Prime Minister still has the option of a 3 June election. That may be the option that he will wish to take.

Lord Bach: My Lords, I thank everyone who has spoken in this debate. I defend my noble friend the Chief Whip. All he was doing was reminding the House that we normally rise at around 7 pm on a Thursday. I do not think he was doing anything more than that. Indeed, I think that what he said has had some, perhaps rather minor, effect on the length of this debate. However, let us let us move on to the

[LORD BACH]

issues. I will try to be as quick as I possibly can, while trying to do justice to the comments and the questions that have been raised.

We do not believe that these two proposals undermine the Jackson report or our consideration of it for longer-term reform. We are some way off—this could be true of the party opposite if it comes to power—from deciding which of the Jackson recommendations to support, which not to support and whether the report should be taken as a whole, as Sir Rupert himself believes it should. That will take any Government some time to decide. Decisions will be reached, and then time will have to be found for primary legislation. Not waiting for Godot, but waiting for Jackson really is not, I am afraid, an option in some of these cases. Why is it not an option? Frankly, in the case of both these orders, there is an urgency to do something about the problems with the current situation.

With the greatest respect, it is quite wrong to say that the DBAs were introduced by the legislation that we passed last year. They existed already and were being used in employment tribunals. The problem with them was that claimants were being badly treated in some cases, I am afraid to say, by lawyers or by claim managers who took them to the cleaners because there was no regulation on the arrangements reached. That is why Parliament passed the relevant section of the Coroners and Justice Act last year. I had the pleasure of talking to the noble and learned Lord, Lord Woolf, and other noble and learned Lords who were concerned about the phrasing of the Bill, as it was then, and I hope that we satisfied them to some extent.

This is not the precursor of contingency fees. Sir Rupert Jackson is in favour of broader contingency fees, but that is a different issue that will have to be decided by the Government and legislated on if the Government decide to support it. This deals with a specific problem in employment tribunals. By passing that Bill, making it an Act, and putting these first regulations in place, we hope to regularise the position and make it impossible for claimants to be badly treated by lawyers in these cases.

7 pm

Lord Thomas of Gresford: Paragraph 3.11 of the impact assessment states:

> "The introduction of a maximum cap may result in some claimants with particularly complex claims being unable to find a representative to act for them under a DBA, as the restriction on their fee means the representative is unwilling to take their case on given the risks involved. This suggests that in some cases, access to justice may be restricted, which represents a cost to claimants".

What does the Minister say about that criticism in his own impact assessment?

Lord Bach: In every instance there are advantages and disadvantages. The fact remains that this was an unregulated market. For example, do we think that a figure of more than 35 per cent is an appropriate percentage of someone's damages? There has been quite a lot of consultation on these regulations, and the figure that we have come to is 35 per cent. I am prepared to suggest that that is an appropriate figure, taking a broad view, in this field. We have to do something. We cannot let the present position continue.

As far as the CFA is concerned, the truth is that, as has been said this evening, the 100 per cent success fee has meant that it has been impossible for defendants, not always the richest and largest, to be able to defend a case of defamation against them, whether they are justified or not. The quotation from the editor of *Private Eye* that the noble Lord, Lord Thomas, used is pretty good as far as that is concerned. How can a magazine like that defend itself when it should defend itself against untrue allegations? If the press, the media, scientists or academics cannot defend themselves in cases of this kind because of the costs—and everyone agrees that the costs are ridiculously high at present—that is a considerable injustice.

The noble Lord, Lord Thomas of Gresford, made the case for reform of libel law in the system that we adopt. Everyone agrees that the libel law system needs to be changed. My right honourable friend the Lord Chancellor has this week announced that that will happen. If the party opposite wins the election, we hope that it too will look at the libel law. However, that will take a little time, and in the mean time we have to make some decisions to make sure that the present position does not continue.

I am most grateful to the noble Lord, Lord Martin of Springburn, for the way in which he put his amendment. I hope I can give him some satisfaction. If the order that we are debating, which has not yet been formally moved, passes, we will review it after 12 months. We will, of course, be prepared to meet lawyers who act in this field. I can do better than he wants: it does not have to be after the general election, it can be before it, if that is what he would like. No doubt, if there is a change of Government, it can be after the general election too. Meeting those lawyers is not a problem.

Lord Martin of Springburn: The Minister said that we are getting pretty close to the wire. We have an Easter Recess coming up, and I was trying to be helpful in saying after the election, but if he can do better than that, that is excellent.

Lord Bach: For the noble Lord, of course I can do better than that. Although there may well be an election fairly soon—I do not know—Ministers continue to be Ministers until the results are known, as I understand it. There is therefore time for us to meet, if that is what he would like. He may think that that would be better after the election; no doubt he can discuss that with those to whom he has been talking. I can give him those promises; I hope that they help. I know how strongly he feels about the issue; he graphically explained why. I have to say that the Government—any Government would say the same—have to be incredibly careful about curtailing press freedom in any way. I might well share some of

his views about how some of the press conduct themselves, but I have to resist—we all do—the temptation sometimes to say, "Gosh, I wish they weren't allowed to do this or that". Saying that is extremely serious for any Government; we are wary of laws to curtail any press freedom at all.

I say to the House—that is the proper way of doing it, but I hope that the noble Lord takes note—that of course I am prepared to make the concessions to his argument of review after 12 months and consultation. The CFA order is an interim order; it is not the solution to the problem of libel law in this country, but it is the best thing to do at this stage. Why the hurry? First, there is a crisis in both these fields. Secondly, there is an upcoming general election and we feel that we would have to try to deal with a crisis straight away rather than wait, as we would have to otherwise once purdah began. Let me be blunt about that—those are the reasons why these matters come before the House today.

I could answer many questions, but I invite the noble Lord not to move his amendment. I hope that what I have had to say in my brief response is sufficient to persuade the House to accept the statutory instruments, if it comes to voting on whether they go through. They are yet to be discussed in another place and there is urgency about this. We think that they are the right statutory instruments and I hope that the House will support them.

Motion agreed.

Conditional Fee Agreements (Amendment) Order 2010

Motion to Approve

Moved By ***Lord Bach***

That the draft order laid before the House on 16 March be approved.

Relevant documents: 11th Report from the Joint Committee on Statutory Instruments and 14th Report from the Merits Committee.

Amendment to the Motion

Tabled by ***Lord Martin of Springburn***

At end to insert "but this House regrets that Her Majesty's Government have laid the draft Order before Parliament without allowing sufficient time for consultation with all of the professional and legal bodies concerned and in light of the benefits of no win, no fee arrangements for those on modest and low incomes".

Lord Martin of Springburn: My Lords, in view of the assurances of meetings that the Minister has given, I am prepared not to move the amendment.

Amendment to the Motion not moved.

Motion agreed.

House adjourned at 7.09 pm.

Grand Committee

Thursday, 25 March 2010.

2 pm

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

European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2010

Considered in Grand Committee

2.01 pm

Moved by ***Baroness Royall of Blaisdon***

That the Grand Committee do report to the House that it has considered the European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2010.

Relevant document: 9th Report from the Joint Committee on Statutory Instruments.

Baroness Royall of Blaisdon: My Lords, the three instruments I am moving this afternoon all deal with electoral matters in Northern Ireland.

I turn first to the draft Representation of the People (Timing of the Canvass) (Northern Ireland) Order. This order removes the requirement for a canvass to be held in 2010, and has been brought forward following a recommendation to the Secretary of State from the Chief Electoral Officer for Northern Ireland.

It may assist noble Lords if I provide some background to the order. Noble Lords will be aware that there is a system of individual registration in Northern Ireland. Electors must provide a signature, date of birth and national insurance number when registering. The chief electoral officer may also require proof of a resident's entitlement to be registered, including, for example, proof of nationality or residency. These measures are vital to protect against electoral fraud and to restore confidence in Northern Ireland's electoral process. They have also helped to ensure that the electoral register remains as accurate as possible.

However, requiring electors to provide such information annually through the canvass was becoming a burden on both electoral administrators and electors. The Northern Ireland (Miscellaneous Provisions) Act 2006 amended the Representation of the People Act 1983 to remove the requirement for an annual canvass to be conducted in Northern Ireland. Alternative methods would instead be used by the chief electoral officer to maintain the accuracy of the register; for example, using information received from specified public authorities to verify a person's entitlement to be registered.

That provision did not entirely remove the requirement for a canvass to be held in Northern Ireland. Section 10ZA of the 1983 Act, inserted by the miscellaneous provisions Act, provides for a canvass to be held in 2010 and every 10th year thereafter. The requirement for a canvass to be held in 2010 was included as a safeguard because it was not clear at that stage how effective the alternative registration methods would be. For that reason, the requirement to conduct this canvass may be removed by order, but such an order can be made only if the chief electoral officer recommends against a 2010 canvass on the basis that it is not needed for the purpose of meeting his registration objectives.

I can inform noble Lords that the chief electoral officer has written to the Secretary of State recommending against a 2010 canvass. The order before us this afternoon would give effect to this recommendation. I reassure noble Lords that the removal of the requirement for a 2010 canvass does not mean that there will not be a canvass until 2020. Indeed, the law states that a canvass must take place in 2016 if one has not been held in an intervening year.

Furthermore, a canvass may be held in any intervening year if the chief electoral officer recommends that a canvass is necessary in order to meet his registration objectives, and if the Secretary of State is satisfied that the public interest requires a canvass to be held for that purpose.

I now turn to the remaining instruments before us today, which would amend the way in which vacant European parliamentary and district council seats in Northern Ireland are filled. The draft Electoral Law Act (Northern Ireland) 1962 (Amendment) Order amends the process by which casual vacancies on district councils in Northern Ireland are filled. Under the current procedure, if a seat becomes vacant, a replacement may be co-opted without the need for a by-election. However, any proposed co-option will fail if any of the remaining councillors object to it. If the co-option fails, a by-election must be held to fill the vacancy.

Noble Lords will be aware that elections to district councils in Northern Ireland are held under the single transferable vote form of proportional representation—or PR-STV. By-elections in PR-STV systems are undesirable because they may distort the careful party and community balance existing at the time of the election. Co-option has worked well in many councils over the years, but there has been increasing concern that the current requirement for unanimous agreement provides scope for individual members to object and force a by-election against the wishes of the vast majority of the council. Noble Lords may be aware of the proposed move from 26 to 11 district councils in Northern Ireland. These 11 councils will be much larger than the existing councils with around 40 to 60 members each, and unanimous agreement to a co-option will be even more difficult in these circumstances.

The Government undertook full public consultation on a proposal to allow the party to which the vacating member belonged at the time of the election to nominate a replacement. It was further proposed that independent members should be replaced by reference to a list of substitutes submitted by them to the chief electoral officer prior to vacating a seat. There was overwhelming

[Baroness Royall of Blaisdon]
support for this from respondents to the consultation, and the order before us therefore amends Section 11 of the Electoral Law Act (Northern Ireland) 1962 to give effect to these proposals.

The draft European Parliamentary Elections (Northern Ireland) (Amendment) Regulations seek to make similar amendments to the method of filling vacant seats at the European Parliament. Current regulations provide that any vacancies arising during term must be filled by by-election. I have already expressed my view that by-elections are undesirable in a PR-STV system due to the potential to distort the party balance in existence at the time of the election. With only three members in the European Parliament from Northern Ireland, it is even more important to ensure that party balance is maintained. Consultation in 2008 demonstrated widespread support for vacant European parliamentary seats to be filled by replacement by party nomination or substitution. However, amendment was required to the European Parliamentary Elections Act 2002 to allow for regulations to be made that would permit this, and noble Lords may recall that such amendment was made by virtue of Section 26 of the Political Parties and Elections Act 2009. These European regulations therefore contain similar provisions to the district councils order to allow for replacement by party nomination or substitution, with some minor technical differences to take account of the different procedures for being returned to the European Parliament.

Noble Lords will also be aware that it is possible for candidates to stand in the name of two or more parties at an election. These instruments make provision to cater for such circumstances, so that if such a vacancy arises, the nominating officers of both or all of the parties concerned will be required to provide a joint nomination.

These statutory instruments have the support of various interested groups in Northern Ireland, including the political parties, district councils and MEPs. I believe that there are strong reasons to remove the requirement to hold a canvass in 2010, and I hope that noble Lords will be reassured that a canvass must take place in 2016 or in an intervening year if the chief electoral officer recommends this. There is also very strong support for reform of the method of filling vacancies in district council and European parliamentary seats in Northern Ireland for the reasons I have outlined. This will ensure consistency with the method of filling vacancies in the Northern Ireland Assembly, which has worked well since its introduction last year. Noble Lords will also be interested to know that many respondents to the consultation on district council vacancies emphasised that these amendments would encourage those councillors holding other elected offices to give up their council seat, safe in the knowledge that it will be retained by their party.

I know that noble Lords have been concerned about the issue of "multiple mandates" for some time. I remain of the view that this issue would be best resolved by agreement between the parties themselves in Northern Ireland. However, the Government stand ready to help facilitate and encourage any such agreement, and I believe that the legislation before us will do just that. Once again, I am grateful to noble Lords for permitting me to speak to all three instruments together this afternoon. I beg to move.

Lord Glentoran: I thank the Leader of the House for once again laying out and explaining these statutory instruments so clearly. I have absolutely no objection to the canvass because it is a very sensible thing to do; and 2016 seems a sensible backstop, so I support that too. However, I consider the other two instruments to be undemocratic and a sort of gerrymandering with the electoral process. I hear what the noble Baroness has said about what the Government are trying to do, and there is indeed some logic behind it, but that logic is in many ways forced on us by a totally inefficient means of running the whole Northern Ireland process. We have the d'Hondt system and a whole lot of other means and different forms which might be considered strange—I shall not go as far as saying gerrymandering—and where nobody can ever reach agreement on anything.

I entirely agree with the noble Baroness about large councils—particularly once we have 11 local authorities, if we ever do, as opposed to 26—never reaching a unanimous agreement on who the replacement should be. If we accept that it will not happen, then it seems absolutely logical that it should be the electorate who decide. If the council cannot decide, then put it out to the voters—that is the right way to go. The second best way is where there is a list system and the electors and community know at least who will replace a person should they, for example, die or become ill. If we leave it as the Government wish—where, if I understand it correctly, the party concerned can go out into the street and say, "Hey, Johnny, I want you to come and join us on the council"—that will not ring the bells of democracy. My party in the other place voted against these orders, and if we were voting today, I would also be bound to do so.

Baroness Harris of Richmond: My Lords, I, too, thank the noble Baroness the Leader of the House for introducing these orders so clearly. I can tell the Committee at the outset that we support the orders. On the first order, which amends the way in which vacant European parliamentary seats in Northern Ireland are filled, my party, simply put, supports the single transferable vote system as being the best and fairest system of election to any Parliament, and we fully support its use in Northern Ireland European elections.

However, the Government's proposed system of nomination also has the problem of, at best, not providing for sufficient public scrutiny. We wonder whether they have given consideration to the importance of democratic transparency. For instance, do they feel it is important for those who are nominated to fill vacancies to be known to the electorate at the time of the original election and to be subject to scrutiny? That may well answer the concern which the noble Lord, Lord Glentoran, has mooted. As for independents who might stand, we are pleased to see that the order of preference will be indicated in the substitutes list, as otherwise it would be impossible to know how to choose between substitutes.

The draft Electoral Law Act (Northern Ireland) 1962 (Amendment) Order amends the way in which vacancies in district council seats in Northern Ireland

arising during a term-time are filled. We welcome this order as well. It makes sensible consequential amendments to the 1962 Act in relation to council elections in Northern Ireland. We agree with the analysis that it is unrealistic to retain co-option following the reduction in the number of district councils to 11 with the subsequent increase in the number of members of each council. Given that vacancies in the Assembly and the European Parliament are to be filled by substitution, and that STV is used as the electoral system for all those elections, it makes sense that council elections in Northern Ireland are filled in the same way. We are also pleased to see that the order will replicate the system for filling council vacancies where a person has stood in the name of two or more parties, which has been provided for European vacancies of this sort. The order ensures that there is cohesion across the three types of election in Northern Ireland where STV is used as the electoral system.

Finally, on the Representation of the People (Timing of the Canvass) (Northern Ireland) Order, the Northern Ireland (Miscellaneous Provisions) Act 2006 abolished the annual canvass in Northern Ireland and replaced it with a canvass every 10 years. One could be held in 2010, as the noble Baroness the Leader of the House has reminded us, but if the chief electoral officer requested that no canvass take place for a particular reason—in this case, I assume that he was satisfied that the register was very effective—then a canvass could be held in subsequent years, and in 2016 at the latest, which would be 10 years after the previous canvass in Northern Ireland, which was in 2006.

With the continuous registration process having started in 2007, there is now a much more robust and accurate electoral register. In fact, I understand that there are currently 1,170,336 people on the register, which is approximately 90 per cent of the voting age population. From these Benches I congratulate all those who have been involved in this very successful process.

The chief electoral officer's annual report for 2008-09 sets out a number of innovative and impressive initiatives to increase electoral registration in Northern Ireland, including the schools initiative, which is aimed at registering young people who are still at school. Will the noble Baroness the Leader of the House also inform the Committee what steps or new initiatives are being taken in advance of the general election this year to ensure that a comprehensive register is available on 1 April?

2.15 pm

Lord Bew: My Lords, I, too, thank the noble Baroness the Leader of the House for introducing these three instruments. Like the noble Lord, Lord Glentoran, I have no difficulty at all with the proposals for the canvass, which seem to me eminently sensible. With respect to the proposals on co-option in the European Parliament, I am also very willing to accept the argument advanced by the noble Baroness because—technically, at least—there is a possibility that a by-election might be called following the tragic or unfortunate death of the nationalist or republican Member for Northern Ireland in the European Parliament. There could be a consequence thereby that if a by-election were to be held under normal Westminster rules, if you like, the nationalist community would be deprived of representation in the European Parliament for at least until the next election. That concern is sufficiently serious for us to have to accept the proposals that the noble Baroness has put forward today, even though the noble Lord, Lord Glentoran, is right that from a certain point of view in democratic principle and practice it is an ambiguous move. However, I think that the balance of argument here favours the course which the noble Baroness has proposed.

I am less sure about the proposals for co-option in local councils. I would at least like to air the difficulty as it exists. Noble Lords may not be aware of quite how dramatic this process can be in Northern Ireland. When we previously talked about this on 4 February 2009, I drew attention to the fact that between 2006 and 2009 in one ward, Dunmurry, in the Lisburn City Council area, there had been five co-options in three years, which meant that the majority of those on that council from that area were as unelected as Members of your Lordships' House. There is a pretty heavy irony in the fact that we read in the newspapers that the Government are about to advance proposals for your Lordships' House to be a completely elected House while at the same time they are bringing forward proposals this afternoon which tacitly accept that a significant number of local councils will be filled in the real world by a process of co-option. That makes the mysterious arrival of Members of your Lordships' House look remarkably clear cut and well defined. I draw attention to the fact that there is an irony in government policy. There is certainly a contrast between the proposals for the future of this House and what the Government are prepared to accept for councils in Northern Ireland.

There is an uneasy feeling that co-option arises partly because of the difficulties caused for the larger parties by certain events. For example, the result of the previous significant council by-election in Dromore produced a shock for the leading unionist party. It was a well-noted shock which continues to reverberate in some ways through the political process.

I am also not quite sure why it was not desirable recently in the case of Castlereagh council following the resignation of the MP, Mrs Iris Robinson, from her position at Westminster and all her other elected offices. In view of all the issues raised—issues which touch on the working of Castlereagh council as well—I am not quite sure that it would be healthy in a democracy for the electorate immediately to register their views on these matters. So there is a greater problem with the proposals which the noble Baroness is advancing for local councils. She is basically right in her defence of corruption as regards European elections. When I raised this point before, she was kind enough to say in reply that she accepted that this was not an ideal situation.

I know that there is little to be done about it today. I also know that in the circumstances which exist in Northern Ireland at present, and for many reasons of practicality, we have to proceed with the orders as they stand. However, I ask the Government to think and reflect on the contrast between their commitment to democracy at all levels, including the election of this

[LORD BEW]
House, and on their apparently less fervent commitment to democracy at all levels and in local council elections in Northern Ireland.

Baroness Royall of Blaisdon: My Lords, I am grateful for what I think I would call the broad support for these statutory instruments. I also note the varying views about democracy. All noble Lords have supported the way in which the statutory instruments propose filling vacancies for European parliamentary elections, but more concern has been expressed about filling local council seats. I understand that concern. The noble Lord, Lord Bew, drew a parallel between my Government's view on the need for an elected second Chamber and our proposals for Northern Ireland. I note the disparity. However, I think we would all recognise that in Northern Ireland we are seeking to maintain the political and cross-community balance. That is very difficult, and it would be extremely difficult to maintain the balance while having by-elections under an STV system. That is why we are where we are.

The noble Lord, Lord Glentoran, drew our attention to a list system, and I can see its attractions. In this case, however, it would be better to go down the line that we are proposing. If candidates were to publish their proposed replacement at the time of their election, which is essentially a list system, the electorate would justly expect that individual to replace the member. We also believe that it might not always be possible to do so because the proposed replacement might be unwilling or unable to fill the seat when the vacancy arose. The electorate could then feel that they had been misled.

I would suggest that when electors vote for the representatives of political parties, they usually do so because they support the party's position on certain matters in line with the party's manifesto. They are therefore essentially voting for the party and not for the person. The proposals before us respect the fact that the electorate vote for the party rather than the person. I would also point out that the PR-STV system has been well established in Northern Ireland since the 1970s. If we were to have a closed party list system, the public would not know who would replace the candidate then, either, so that would perhaps not be the best solution.

The noble Baroness, Lady Harris, raised issues in relation to the canvass. I celebrate with her the fact that there appears to be a robust electoral register in Northern Ireland. I add my congratulations to all those involved. I was interested to hear of the schools initiative. That is something that we as a Government, and perhaps other political parties, should consider adopting in the rest of the United Kingdom.

The chief electoral officer sets out in his business plan his strategy for improving registration levels. These include mini-canvasses and events to target registration of under-represented groups. Recent legislative amendments to allow the transfer of information will assist the process. He is being very proactive in trying to ensure that more people register before the forthcoming elections. That is a very useful thing, because we want to maximise democratic participation in Northern Ireland, as in the rest of the United Kingdom.

I hope that I have answered all questions to the satisfaction of noble Lords, and that they will approve the regulations in due course. The important thing is that there has been wide consultation in Northern Ireland; the statutory instruments have the support of the various interested groups there, including the political parties, district councils and MEPs; and therefore they appear to have the support of the people of Northern Ireland.

Another strong point made by the noble Baroness, Lady Harris, was consistency in the method of filling vacancies in the Northern Ireland Assembly. If one has the same method for the Northern Ireland Assembly as for the European parliamentary elections, it is very consistent to have the same method used for council elections. I hope that noble Lords will support these statutory instruments.

Lord Glentoran: I will make just one comment. The noble Baroness and I have debated Northern Ireland matters across the Floor for quite some time. As Leader of the House, she has a huge workload, and I thank her—because this might be the last time we face each other across the table—for all the interest, time and effort that she has put into promoting good things in Northern Ireland.

Baroness Harris of Richmond: Perhaps I can echo, from these Benches, what the noble Lord, Lord Glentoran, said. We have been delighted with the work that the Leader of the House has done on Northern Ireland, to bring us to what we hope is a final conclusion. It has been a pleasure to work with her.

Lord Bew: I will say briefly that my Cross-Bench colleagues will entirely agree with what has been said. Those of us who are interested in Northern Ireland affairs are much in the noble Baroness's debt and very grateful for the role that she has played.

Baroness Royall of Blaisdon: My Lords, I will end by saying that it has been, is, and, I trust, will be a pleasure to work with noble Lords on Northern Ireland issues. In this House we have worked on a cross-party basis throughout, which has enabled us to reach the point where we are now, when we can celebrate the fact that in the past week we devolved policing and justice to Northern Ireland, and that now we are about to adopt these regulations. I beg to move.

Motion agreed.

Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010

Considered in Grand Committee

2.29 pm

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

That the Grand Committee do report to the House that it has considered the Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010.

Relevant document: 9th Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Representation of the People (Timing of the Canvass) (Northern Ireland) Order 2010

Considered in Grand Committee

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

That the Grand Committee do report to the House that it has considered the Representation of the People (Timing of the Canvass) (Northern Ireland) Order 2010.

Relevant document: 8th Report from the Joint Committee on Statutory Instruments.

Motion agreed.

National Assembly for Wales (Legislative Competence) (Housing) (Fire Safety) Order 2010

Considered in Grand Committee

2.30 pm

Moved By Lord Davies of Oldham:

That the Grand Committee do report to the House that it has considered the National Assembly for Wales (Legislative Competence) (Housing) (Fire Safety) Order 2010.

Relevant document: 9th Report from the Joint Committee on Statutory Instruments.

Lord Davies of Oldham: My Lords, this legislative competence order has already been approved by the other place and by the National Assembly for Wales. It has been brought forward by Ann Jones, the Assembly Member for the Vale of Clwyd. It is the second LCO to come before this House to have been brought forward by a Back-Bench Member of the National Assembly, and is supported by the Welsh Assembly Government.

The Government strongly support the ability of Assembly Members to propose LCOs. It demonstrates the flexibility and versatility of the system for conferring legislative competence on the National Assembly and allows individual Assembly Members to participate directly in enhancing that competence.

The order has benefited from pre-legislative scrutiny by the Constitution Committee of this House, the Welsh Affairs Committee in the other place and a committee of the National Assembly for Wales. The Government are grateful to the committees for the work they have undertaken, and I shall return to the minor changes that have been made following scrutiny in a moment.

I turn to the content of the draft LCO. The order inserts a single matter into Field 11, the housing field, in part of Schedule 5 to the Government of Wales Act 2006. It would enable the National Assembly to legislate in relation to the provision of automatic fire suppression systems, such as fire sprinklers, in new residential premises. The LCO also sets out that "new residential premises" means premises constructed for, or converted to, residential use. However, an Assembly measure could not require retrospective fitting of fire sprinklers in existing residential premises.

This is a narrowly defined order with a clear purpose. Ann Jones has said from the outset that the purpose of the LCO is to allow the Assembly to legislate to reduce the possibility of death and injury from fires in newbuild houses in Wales. She has argued that a requirement to fit such systems in all new residential premises would be a preventive measure so that people could get out of their homes safely in the event of a fire occurring. It would also reduce the risk to firefighters who are called to deal with domestic fires.

Noble Lords will be aware that Parliament has already agreed that the Welsh Ministers should assume responsibility for building regulations from the end of 2011. Provision to require the installation of fire sprinklers could be made under those regulations. It is therefore important to be clear that the issue in relation to this draft LCO is whether or not the Assembly, rather than the Welsh Ministers, should decide on the installation of fire sprinklers in new homes in Wales—not the merits or otherwise of fire sprinklers themselves. I firmly believe that the Assembly should be able to decide this significant issue, and so give that decision more democratic legitimacy and accountability.

I would like to reassure those who may have concerns about the possible effects of this LCO on the Welsh housebuilding industry in these difficult economic times. No one—not this Government, not the Assembly Government and certainly not Ann Jones herself—would want to place unnecessary, arbitrary burdens on Welsh housebuilders. Indeed, Ms Jones has written to the Parliamentary Under-Secretary of State for Wales acknowledging that there are concerns in some quarters, and committing to working with the CBI and the wider business community to ensure that any subsequent legislation is workable. I have made available copies of Ann Jones's letter for noble Lords to read.

The process of making Assembly measures has built-in safeguards to ensure that laws are made sensibly. Any proposed measure brought forward as a result of this LCO would be subject to extensive consultation and rigorous impact assessment taking full account of all the issues and concerns—including the potential additional costs to housebuilding, issues about water pressure and ongoing maintenance. Only minor and technical changes only have been made to the LCO following pre-legislative scrutiny. One such change amended the name of the order to incorporate the words "fire safety". This is in line with the views of the Welsh Affairs Committee, which commented that the name of the LCO should accurately "reflect and communicate" its contents.

Other minor technical drafting changes have been made purely to improve drafting. In particular, the opening words of Matter 11.1 now refer to the,

"provision of automatic fire suppression systems",

rather than to,

"provision for and in connection with a requirement"

that such systems be installed. This slightly broader wording does not limit the Assembly to requiring that automatic fire suppression systems are provided, but remains consistent with the objectives identified by Ann Jones.

If this draft LCO is approved, an Assembly measure resulting from this competence could be brought forward

[Lord Davies of Oldham]
by Ann Jones herself or the Assembly Government. The legislative competence that this LCO confers is clear and specific. Accordingly, I commend the order to the Committee and beg to move.

Lord Glentoran: I thank the Minister for outlining the purpose of this order and I can assure him that around 30 seconds ago I received a copy of the letter from Ann Jones, which I have had time to skip through and understand.

As the Explanatory Memorandum makes clear, the purpose of the order is to give the Welsh Assembly legislative competence to pass a measure relating to the provision of automatic fire-suppression systems in new residential premises. In most cases, this would amount to the provision of water sprinklers, but these could be replaced by other systems as technology evolves. This is the second so-called Back-Bench legislative competence order to fall to be considered by the Committee, and the proposal is remarkable for the length of time it has taken to arrive at this point.

The Assembly Member in question, Ann Jones, won the ballot of Assembly Members as long ago as June 2007. It is extraordinary, therefore, that such a long time should have elapsed before the LCO was made. It perhaps begs the question of whether the LCO procedure is entirely appropriate in the case of Back-Bench proposals, which usually have a single and often narrow measure in mind. The Minister may wish to contemplate whether a more streamlined procedure could be adopted for such proposals, and I suspect that all in your Lordships' House would agree with that. Dealing with things that are four or five years old in this way is ridiculous.

I have some observations which I should be grateful if the Minister would consider. First, what soundings have been taken in the Welsh construction industry, which is presently suffering as a result of the economic downturn? The same can be said of the rest of our construction industry. The Explanatory Memorandum indicates at paragraph 7.22 that the cost of installing such systems is estimated to be around 1 to 2 per cent of the total cost of construction. Those who are swift mathematicians will realise that that could be a significant sum. It will be difficult in the current climate for builders to add such costs to the selling price, and therefore they will probably be obliged to absorb the additional costs themselves, or perhaps offer these systems as an extra to the potential purchaser. What is the attitude of builders to this proposal? What have the Minister and his party discovered in their consultation?

As the Explanatory Memorandum makes clear, the current legislative framework for fire safety in new residential premises is provided by the building regulations. If I remember rightly, building regulations have just been devolved to the Welsh Assembly and, at the time, I wondered whether it had the competence and the resources to manage that load. Having been in the construction industry for 30 years, I know a little about building regulations.

Last November, an order was made transferring functions relating to building regulations to the Welsh Ministers. That is due to be effected next year. Given that such functions have been transferred to the Welsh Ministers, is it possible that the provisions of the proposed order have been overtaken by events and are now unnecessary? Subject to the above, I have no further observations to make.

I do not speak against the order, but it will have a significant impact on the construction and housebuilding industry in Wales—something, as I said, that I have been part of for most of my life, although not in Wales. The cost of putting sprinkler systems and automatic fire prevention into low-cost and medium-cost housing is bound to knock the profitability of the industry. The housebuilding industry, and the building industry generally, is a vital part of the Welsh economy, both from the point of view of money flow and of employment. I am not very happy about this LCO, but I support it.

Lord Livsey of Talgarth: I understand that, as I was unable to be here at the start, I have lost the right to speak to this Motion.

Lord Davies of Oldham: I am sorry about that loss, although, in responding to the noble Lord, Lord Glentoran, I may respond to issues which the noble Lord might well have raised on the order.

On the question of the length of time, I accept the point made by the noble Lord, Lord Glentoran, about the order, but I am not prepared to accept the generalisation. A number of LCOs have come through—some more rapidly than this one—and I agree that it would reflect badly on the system as a whole if they all took as long as this proposal. The explanation is fairly straightforward. It is somewhat more complex than many of the other orders, in part because of the relationship between devolved powers and the overall building regulations standards for England and Wales. I entirely accept the thrust of his point, which is that if we are to be satisfied with the LCO procedure, it must be a little snappier than it has been in this case. I do not think that this case is representative of the general process. Therefore, I am sure that we shall not have to entertain that criticism in the future.

On the question of costs, we are all mindful of the fact that the construction industry is facing obvious difficulties in times of economic recession. We all know of the limitations on the availability of finance for housebuilding, and of the limitations on demand. I emphasise that the most extensive efforts have been made to ensure that this order is a product of very thorough consultation with the House Builders Federation, which was engaged in the early stages of scrutiny by the Assembly committee. The CBI also has made a contribution to this.

2.45 pm

I will add another obvious point, which I know the noble Lord, Lord Glentoran, will appreciate. It is important that we are reassured about the necessary consultation, but there are further stages to go. The Assembly has to operate the competence and I have not the slightest doubt that it will be extremely thorough in its discussions before this goes ahead. It will be against the background to which the noble Lord was right to draw our attention. Anything that imposes additional costs presents an issue: 1 per cent to 2 per cent is not insignificant.

However, if one looks at the building industry and the issues with regard to demand, other, much greater factors relate to the level of housebuilding at the present time. This is a marginal additional cost, on which it will be for the Welsh Assembly eventually to take a view. It is likely to take the view that the enhanced security that it provides, and the reduction in public costs if we can reduce the impact on the fire authorities, will give obvious advantages. Those advantages would be not just to the private sector, the industry and the purchaser, but also to the public purse.

I do not think that the issue has been overtaken by events. Certainly, when the Welsh Assembly Government finally come to deliberate on these matters, they will take account of the current circumstances. I hope that those then obtaining will be somewhat more advantageous than they are at this particularly bleak time. As the noble Lord will already have appreciated, there are indications that the Welsh economy, like the British economy as a whole, is emerging out of recession, which will be a great stimulus to housebuilding.

Lord Livsey of Talgarth: My Lords, I am sure that the Minister will agree that the upside of this LCO is that it will involve the saving of lives. In the notes, there is a graphic statement that 20 people lose their lives to fire each year in Wales, and that about 80 per cent of fire-related deaths and injuries occur in the home. This will save life and grief to families. For the fact that it is going through, Ann Jones deserves a lot of praise. We are very happy to support the LCO.

Lord Davies of Oldham: My Lords, I did not doubt that the deftness of the noble Lord, Lord Livsey, would enable him to contribute to our deliberations, and I am grateful that his contribution is positive. No doubt it was even more positive in the light of the questions that the noble Lord, Lord Glentoran, asked, which I hope that I have answered satisfactorily. On that rising note, I beg to move.

Lord Glentoran: Perhaps I may formally declare an interest and apologise for forgetting to do so earlier. I have been a member of the National House-Building Council for six years.

Lord Davies of Oldham: My Lords, I do not think that anyone doubted the noble Lord's general interest, but it is good of him and appropriate that he should identify the particular interest.

Motion agreed.

National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010

Considered in Grand Committee

2.49 pm

Moved By Lord Davies of Oldham:

That the Grand Committee do report to the House that it has considered the National Assembly for Wales (Legislative Competence) (Culture and Other Fields) Order 2010.

Relevant document: 10th Report from the Joint Committee on Statutory Instruments.

Lord Davies of Oldham: My Lords, this draft LCO has been approved in the other place and by the National Assembly on 23 February. The Government recognise the wide range of cultural services and activities that local authorities provide, and the contribution such provision makes to the life of local communities. These services also contribute to the Welsh Assembly Government's agenda for health, community regeneration and education. Recognition of this contribution is at the heart of this legislative competence order.

The Assembly Government's aim is to widen participation in the full range of artistic, cultural, sporting and recreational activities. The background of people, their level of income or where they live should not be barriers to them accessing high-quality cultural experiences. This LCO will allow the Welsh Assembly Government to fulfil a commitment in its One Wales programme of government to place a statutory duty on local authorities to promote culture, to encourage partnership and to deliver high-quality cultural experiences for their communities.

Turning directly to content, the LCO inserts three matters into Part 1 of Schedule 5 to the Government of Wales Act 2006, one in each of three fields. These are:

"Field 2: ancient monuments and historic buildings, Field 3: culture",

and,

"Field 16: sport and recreation".

Each matter relates to the functions of local authorities in the support, improvement and promotion of the following: Matter 2.1 covers the public appreciation of archaeological remains, ancient monuments, buildings and places of historical or architectural interest, and historic wrecks; Matter 3.1 relates to arts and crafts, museums and galleries, libraries and historical records, and cultural activities and projects; and Matter 16.4 relates to sport and recreational activities. The LCO is framed in relatively narrow terms, in that it is limited to the functions of Welsh local authorities in these specified areas. It is not seeking broader powers over other aspects of culture in Wales, but the scope encompasses a wide range of cultural services and activities which local authorities provide.

The LCO has benefited from pre-legislative scrutiny by the Constitution Committee, the Welsh Affairs Committee in the other place and a committee of the National Assembly. I am grateful for the thorough scrutiny that has been undertaken, and some changes have been made to the draft LCO since that scrutiny took place. We have amended the Explanatory Memorandum in response to certain of the Welsh Affairs Committee's recommendations, and taken a further look at the exceptions contained in the LCO. The committee noted that Matter 2.1 in the proposed LCO refers specifically to local authority functions,

"in the support, improvement and promotion of the appreciation by the public of archaeological remains",

and ancient monuments, whereas the other matters in the LCO—Matters 3.1 and 16.4—make no reference to public appreciation. The committee's view was that the rationale for this difference should be set out in the Explanatory Memorandum; this has now been done at paragraph 7.10.

[Lord Davies of Oldham]

The Assembly committee also recommended that all the fixed exceptions in the proposed LCO be removed, taking the view that it was important for the Assembly to have powers to legislate in the whole area covered by Matters 2.1 and 3.1. The LCO has been revised to remove these specific exceptions. The UK and Welsh Assembly Governments, having considered the recommendations carefully, agreed with the Assembly committee's view and concluded that removing the fixed exceptions gives the Assembly appropriate flexibility and competence over a coherent area.

In considering the recommendations, we have been mindful of previous comments made by the Welsh Affairs Committee that LCOs should be drafted with the aims of clarity and simplicity in mind, and that excessive use of exceptions risks making the devolution settlement complex and difficult to understand. The Government very much agree and, following careful consideration of the scope of Matters 3.1 and 16.4, the UK and Welsh Assembly Governments have agreed to insert only one additional exception. This relates to the,

"licensing of sale and supply of alcohol, provision of entertainment and late night refreshment".

The phrasing of this exception mirrors the exception contained in paragraph 12 of Part 1—headed "Subject"—of Schedule 7 to the 2006 Act. It relates only to Matters 3.1 and 16.4.

We also carefully considered whether the six general or floating exceptions in the proposed LCO were needed. Three of the general exceptions have been removed, as they have no effect on the competence to be conferred. Three floating exceptions, which do relate to the matters, remain in the LCO. These are:

"(1) Public lending right.

(2) Classification of films, and video recordings. ...

(1) Betting, gaming and lotteries".

I would like to assure the Committee about the potential impact of a new cultural statutory duty on local authorities in the current economic climate. Any proposed measure brought forward as a result of this LCO would be subject to extensive consultation and a rigorous impact assessment. These would take into account all issues, especially finance. Indeed, the Assembly Government Minister for Heritage, Alun Ffred Jones, has made it absolutely clear to the National Assembly that this will be the case.

The Assembly Government are also mindful of the need to ensure that any statutory duty will preserve the flexibility of individual local authorities to determine and meet the needs of their own communities. Key stakeholders, particularly the Welsh Local Government Association and individual local authorities will be fully consulted on the use of any new powers introduced as a result of this legislative competence order.

I am sure the Committee will agree the important role that culture plays both in our communities and at a national level, and that this LCO is a modest but important extension of the Assembly's competence. Accordingly, I beg to move.

Lord Glentoran: My Lords, I thank the Minister for outlining the order. Its purpose is to supply the Welsh Assembly with legislative competence in respect of ancient monuments, historic buildings, culture, sport and recreation, all of which, I am sure, are of extreme interest to the population of Wales, and are very available. Essentially, it seeks the power to impose duties on local authorities in connection with the provision of recreational, sport and cultural activities as well as the improvement and promotion of historic buildings. These are areas in which local authorities already have powers. The policy of the Assembly Government, therefore, appears to be to seek to compel local authorities to provide such services, rather than simply to encourage them to do so.

Indeed, this is made clear by the Explanatory Memorandum. It states:

"Issuing guidance to local authorities (which the Welsh Assembly Government could do under existing powers) which is not backed by a statutory duty would not achieve the policy aim of the *One Wales* commitment".

The element of compulsion will inevitably result in additional cost to local authorities at what is, by any measure, a difficult economic time. Will the Minister indicate whether the Welsh Assembly Government intend to provide financial support to local authorities for complying with the new compulsory regime, or will the cost of compliance fall on the taxpayers?

Perhaps the Minister could also assist with a further matter. The Explanatory Memorandum indicates that there is,

"a need to ensure that putting culture on a statutory footing does not create a minimum standard which could have the unwanted impact of lowering provision in some areas rather than securing improvement".

Will the Minister please explain how it is proposed that this should be done? If standards are to be prescribed by the Assembly Government, they will of necessity be minimum standards and the feared consequence might be realised.

Finally, will the Minister please clarify the exceptions set out in Article 3 of the draft order? These relate to public lending right, classification of films and video recordings and betting, gaming and lotteries. The original draft LCO also included exceptions in respect of broadcasting, government indemnities for objects on loan and payment to Her Majesty's Revenue and Customs in respect of property accepted in satisfaction of tax apart from property in which there is a Welsh national interest.

The Explanatory Memorandum records that the Government have concluded that those three exceptions, which do not appear in the draft LCO before the Committee, have been removed as they have no substantive effect on the competence conferred by it. Will the Minister please formally confirm that he still considers this to be the case and that the order, in its final form, will have no impact on any of the exceptions which have been deleted from this order? I support the order in principle and await the noble Lord's comments.

3 pm

Lord Livsey of Talgarth: My Lords, before speaking to this LCO, I must declare a number of interests. I am a founder vice-president of the Hay-on-Wye Festival of Literature. I am also a member of Brecon Museum Art Fund, which selects art in local areas to be displayed

within the county. I am president of the Welsh Association of Disabled Cricketers—not surprisingly, I suppose, having done 35 seasons in the field. Also, I am president of the Abbey Cwmhir Association. Abbey Cwmhir is a monastic relic in Radnorshire and the grave of Llywelyn ap Gruffydd, the last native Prince of Wales. His headless body was buried there by the monks in 1282. So I declare a great interest in this particular LCO.

The historical interest is very important because relics in Wales have not always been all that well looked after, although the organisation Cadw, which is a conservation body in Wales, is doing an excellent job in putting that right. Local authorities do their best in difficult circumstances to maintain their buildings and local arts and crafts—sport is also catered for—but in all those areas, the voluntary sector is heavily involved and raises funds which are often matched either by the Assembly or by the local authority. We know that that will be extremely difficult in future, especially given the settlement that the Assembly is likely to get.

I associate myself with the remarks of the noble Lord, Lord Glentoran, and, in particular, his questions to the Minister on the exceptions and the fact that there are a number of statements about the inability to raise money. The Explanatory Memorandum mentions that,

"Welsh ministers may by order make provision preventing local authorities from doing, by virtue of this power, anything that is specified, or is of a description specified, in that order".

A little explanation of that would be helpful to the Committee. The principle of support for culture is extremely important in Wales. I certainly welcome the LCO and shall watch the enactment with detailed attention to see how successful it will be.

Lord Davies of Oldham: My Lords, I am grateful to both noble Lords for their broad support for the measure, while having some pertinent questions to which I shall do my best to reply—leaving the most difficult one until the end, if I may.

I begin with the most straightforward question. The noble Lord, Lord Glentoran, was anxious about whether the three floating exceptions removed from the LCO could impact on the three matters in the order. They do not impact on the three matters in the order at all. I can confirm that position. That question was addressed in consultation. It is right of the noble Lord to seek that assurance, which I can give him categorically.

The interesting and more difficult question to answer—I left the most difficult question until the end—theoretically is whether the LCO will result in a minimum standard of lower cultural provision being created in authorities, because once one makes a position universal, there is a danger that the bedding down of that universality will be below that already provided in the best circumstances.

That is an important consideration and I reflect that the Welsh Assembly Government were concerned about this matter. They want to preserve flexibility for individual local authorities to determine and to meet the cultural provision needs of their communities. As will be appreciated, on certain archaeological and historic aspects, local authorities have very different levels of needs and responsibilities because of somewhat chance factors. In putting forward this proposal, the Welsh Assembly Government have stated quite clearly that they are mindful of the danger of an unwanted impact on loan provision in some areas, which is already high because a minimum seems to be set.

They have to be trusted to meet that objective. After all, the whole point of a legislative competence order is that the responsibility will rest with the Welsh Assembly Government. Their responses in support of this position indicate how mindful they are of the very point raised by the noble Lord and provide some security that we will not see this measure produce a reduction to a common minimum. When one thinks about the differential provision of cultural opportunities across Wales, it will be recognised that the sheer diversity of that country means that those who are the most fortunate through historical factors such as past investment and the resources of the local authority will scarcely set their standards by the minimum of the less well resourced and well blessed of the authorities, the disparity being so great. I do not think we should worry about this too much, but I appreciate the point.

The noble Lord, Lord Livsey, mentioned the explanation in the explanatory note. It is subject to the general restrictions in Part 2B of the Government of Wales Act, which covers the limitations on conferring functions on Ministers of the Crown or creating criminal offences. All those were part of the Government of Wales Act, so I hope he will appreciate that that is the context in which this order is being presented.

On an issue which no doubt exercises all noble Lords who have addressed themselves to it: what is the point of a cultural minimum and an increased obligation on local authorities if those authorities are strapped for cash as regards meeting the obligations they already have? In formulating their statutory duties, the Welsh Assembly Government have already made it absolutely clear that they will take funding issues fully into account in taking forward proposals on this statutory duty. The opportunity for law making that we are seeking to extend to the Assembly Government is not within the timeframe we all expect of the present economic difficulties. After all, this will be a legislative possibility for many years to come. Of course, the Welsh Assembly Government will take decisions and reach conclusions on the basis of the resources they have available. I want to emphasise in particular to the noble Lord, Lord Glentoran, that under the partnership agreement with local government there is a requirement that all new burdens on local authorities in Wales are funded, so the Welsh Assembly Government know exactly where they stand in regard to the legislative burden. Consequently, we are bound to assume that they will cut their suit according to their cloth in the immediate future.

Lord Glentoran: Will this be funded by central government?

Lord Davies of Oldham: Yes. It is their responsibility. I hope that the Committee understands clearly that we are creating a framework for the Welsh Assembly Government to take decisions, but that the democratically elected Government in Wales must take as much account

[Lord Davies of Oldham]
of the resources that they demand from the people of Wales as the United Kingdom Government do of what they demand from their electorate. I commend the order.

Motion agreed.

National Assembly for Wales (Legislative Competence) (Education) Order 2010

Considered in Grand Committee

3.11 pm

Moved By Lord Davies of Oldham:

That the Grand Committee do report to the House that it has considered the National Assembly for Wales (Legislative Competence) (Education) Order 2010.

Relevant document: 10th Report from the Joint Committee on Statutory Instruments.

Lord Davies of Oldham: My Lords, this legislative competence order has already been approved in the other place and by the National Assembly for Wales. Good governance is at the heart of our schools and is central to providing the high-quality education that we want for our children. Good governance underpins and supports the work that schools do by setting high standards and targets and by creating an environment conducive to learning. This LCO forms part of the Welsh Assembly Government's legislative programme for 2009-10. It will complement the wide-ranging competence in the education field already enjoyed by the Assembly. The school governance model in place is more than 20 years old. The legislation covering school governance does not have the flexibility to allow the Assembly Government to respond to the changes and challenges emerging from the development of policies in Wales.

The order that we are debating will allow the Assembly to pass measures to strengthen and improve the governance of local authority maintained schools. For example, it will allow the Assembly to legislate to enhance the training and support available to school governors. It will enable legislation to bring about improved collaboration and shared good practice. It will also allow for the possibility of establishing bodies such as school companies or other educational bodies to provide services to schools and to exercise education functions on behalf of local authorities.

The order inserts three matters into Field 5—Education and training—in Part 1 of Schedule 5 to the Government of Wales Act 2006. Matter 5.2A relates to the conduct and governance of schools maintained by local authorities. Matter 5.2B relates to securing collaboration between persons or bodies with functions in relation to schools maintained by a local authority. Matter 5.2C enables persons or bodies with functions related to maintained schools to establish a body such as a company which could carry out activities related to education and training, and could exercise education functions on behalf of local authorities.

I thank the Constitution Committee of this House and the Welsh Affairs Committee in the other place for undertaking scrutiny of the proposed legislative competence order. The order has also benefited from scrutiny by a committee of the Assembly. The Welsh Affairs Committee considered the scope of the proposed LCO in relation to staffing and finance and noted that it could be clearer in this respect. A new Annex A has been inserted into the Explanatory Memorandum to explain what is within the scope of the LCO in respect of staffing and finance. The committee also recommended that consideration be given to amending Matter 5.2A with regard to staffing and finance. The Welsh Assembly Government carefully considered this recommendation, but concluded that any amendment to Matter 5.2A was unnecessary and could cause confusion, especially when compared with the competence conferred by Matter 5.12 in respect of further education. However, the explanatory note to the LCO has been amended to make it clear that an Assembly measure made as a result of this LCO could not, for example, amend the provisions of the schoolteachers' pay and conditions document. This matter exercised the minds of those who expressed anxiety on this score.

3.15 pm

In relation to Matter 5.2C, the committee recommended that the wording be reviewed to ensure that local authority functions other than education and training are not within scope. The matter has been amended to make clear that bodies can be established to carry out only the education functions of local authorities in addition to carrying out education and training activities generally. This order is about education.

References to the education functions of the local authority have also been inserted in anticipation of an order being made under Section 162 of the Education and Inspections Act 2006. This provision enables the Secretary of State to repeal references to a "local education authority" and replace it with "local authority" in England and Wales. The Constitution Committee highlighted the need to consider this issue and we have included a transitory reference in the LCO in relation to such an order. This LCO has been improved as a result of intensive pre-legislative scrutiny and complements the Assembly's existing legislative competence in education. Accordingly, I commend it to the Committee and I beg to move.

Lord Glentoran: My Lords, once again I thank the noble Lord, Lord Davies, for his explanation of this legislative competence order. The purpose of the proposed LCO is to confer on the Welsh Assembly additional legislative competence in education, primarily relating to the governance of maintained schools. The Assembly already has extensive competence in education. This proposed LCO, however, would extend the competence further to relate to the governance of maintained schools in Wales.

The role of the governing body in maintaining schools is, of course, of crucial importance. The Explanatory Memorandum tells us that studies of school governance have been commissioned by the Assembly Government which conclude that the effectiveness of governing bodies varies and that the training being made available to governors is uneven, with weaknesses in consistency of approach, availability and take-up.

The three matters proposed to be inserted into Field 5 of Part 1 of Schedule 5 to the Government of Wales Act 2006 would provide the Assembly with competence to legislate with respect to the conduct and governance of maintained schools. There are a few issues which I wish to raise with the Minister and I hope that he will address them in his closing remarks.

First, I am rather concerned to see that the Assembly could, pursuant to the powers proposed to be devolved, pass legislation not only in relation to the creation of bodies responsible for school governance, but also their abolition. Can the Minister say whether this means that boards of governors could be abolished altogether? It is clear from the Explanatory Memorandum that the merger of governing bodies of different schools is already contemplated. However, the role of governors is crucial in relation to public accountability. It would be extremely worrying if such accountability were to be removed by their abolition.

Secondly, the Explanatory Memorandum makes clear that changes to school finance and school staffing are not within the competence proposed to be conferred by the LCO. It states that:

"If new models for governance arrangements were created as a result of the LCO, there would be some linked changes to the persons or bodies exercising functions relating to staffing and finance, but the LCO does not confer competence to change the substantive nature of those functions".

Is that a weakness in the proposed order? If new governance arrangements are created, would the Assembly not need the flexibility to deal with the consequent necessary changes relating to staffing and finance?

Thirdly, Matter 5.2C confers competence on the Assembly to create new bodies for the carrying out of activities relating to education or training and exercising education functions on behalf of local authorities. This is a very wide power indeed. Although the Explanatory Memorandum gives a fairly narrow example of what the Assembly might do pursuant to the power—creating an educational body to provide services to schools and FEIs—the power is manifestly much broader in its scope. Is the Minister able to give other examples of actions that might be available to the Assembly under the terms of this matter and which are presently being contemplated by the Assembly Government?

These questions are important and I look forward to hearing the Minister's response.

Lord Livsey of Talgarth: I do not have any direct interests to declare, but my mother was a teacher with Breconshire County Council for 25 years, and I am a former school governor of a primary school. We know that the devolution of education in Wales has been a long-standing fact. Over time, we have refined the functions of education in Wales to the benefit of all our young people. I agree with the noble Lord, Lord Glentoran, when he alluded to the fact that sometimes there are, shall we say, differences in the quality of provision in some places, but that is due largely to the legacy of the decline in heavy industry and a lot of poverty in the south Wales valleys. On the other hand, the area I come from offers excellent education provision but for a declining number of children.

That is a problem in its own right in that the closure of some rural schools is an issue which is exercising people. Flexibility is therefore needed about decisions on whether governing bodies are amalgamated or even, in some instances, primary head teachers have to be responsible for more than one school. That certainly is the case at the primary school I once went to, which now has a shared head teacher. The flexibility provided in the LCO is important in order to ensure that proper provision is made.

Reference is made to Matter 5.2A, which covers the:

"Conduct and governance of schools maintained by local authorities, including … property, rights and liabilities".

This is important because the condition of some school buildings has deteriorated and often emergency repairs have to be carried out. However, many of the areas of concern have been covered by the noble Lord, Lord Glentoran, and I have no wish to repeat them. What I would say about this LCO is that it is particularly important because it enables and encourages collaboration and co-operation between schools maintained by local authorities as well as with outside bodies such as voluntary organisations whose expertise can only enhance the quality of a child's learning experience.

I end my remarks by saying that where I come from, there is an active local history society. In the Easter holidays, we are bringing together people who grew up during the Second World War and who attended the primary school. I am one of those people, and I will describe what it was like to be in that school during the war. Two of my fellow pupils at the time will do the same. Exemplars are very good and there are plenty of local communities in which co-operation and collaboration is extremely important.

Lord Davies of Oldham: My Lords, the noble Lord, Lord Glentoran, declared his interest when we debated the first order, and I am glad to see that the noble Lord, Lord Livsey, declared his interest as we debated the third. He will appreciate the envy with which I respond, having been born in south Wales but never having had the benefit of attending a primary school there. He has the advantage over me—but not with regard to this particular order, I hasten to add, as I hope that I am adequately briefed to answer the questions that noble Lords have asked. It will be recognised that the measure relates to school governance—an important but limited issue. Therefore, I will give clear responses to the points about the extent to which the LCO confers competence.

The noble Lord, Lord Glentoran, asked one of those questions to which there is only a yes or no answer. The answer to the question of whether the order confers competence to abolish school governors is yes. The Explanatory Memorandum explains this. However, the order declares a competence but does not announce a policy—far from it. Whether the Assembly would ever put forward such a measure is, under the terms of the order, for the Assembly to decide. Of course, as will be readily anticipated, the Assembly places great emphasis on the contribution that school governing bodies make to Welsh education. Far from it having a policy intention to abolish them, it seeks ways to ensure that they fulfil their functions more effectively. There is no doubt—and I do not think that this is a party-political view: my Government have done some enhancement in recent years, but I

[Lord Davies of Oldham]
pay due respect to the Opposition, and to the Liberal party, as well—that we all recognise that the contribution of the community to local schools, as expressed by the governing bodies, is of very great importance.

There was a time when a great deal of English and Welsh education was directed from the centre, and it could be thought that governing bodies were often implementing and rubber-stamping positions that had been adopted. That was always something of a caricature, because the real authority to which governing bodies related was their local authority, not central government. In so far as there was ever a failing, it was that too many circulars on these issues would appear from departments of state. However, in recent times, greater devolving of power to governing bodies has enhanced the participating role of local communities, which has been very much to the benefit of education.

So I will answer the noble Lord, Lord Glentoran, factually and accurately. The order does provide for this power. However, it is no statement of policy—far from it. There is no question of the National Assembly taking that view. This is about legislative competence over the long term. Quite properly, the Assembly wants to ensure that it is equipped with powers so that any future Assembly, a long time from now, will be able to carry out the democratic decisions that the Assembly makes. That is why it wants this competence in the framework.

3.30 pm

I turn to whether the exclusion of school staffing and finance from the scope of the order is a weakness. In my introduction, I emphasised that they are excluded, but I do not think it is a weakness of the order. After all, the issue concerns school governance and, as the Explanatory Notes make clear, the order certainly permits measures that would move responsibility for staffing and/or governance to or from school governing bodies. It permits this but provides sufficient flexibility should new governance arrangements mean that the functions need to be reordered. My answer to the noble Lord, Lord Glentoran, is that under this order flexibility is sought for the potential change. The staffing and finance functions are outside the scope of the order but there is flexibility for new governance arrangements, which means that in due course functions could be reordered.

I again emphasise that the noble Lord is asking a question about the Assembly's intent in seeking this legislative competence. It is not to provide for school governors to be directly involved in the payment of staff or directly involved in finance matters, because local authorities in Wales have an important role and the Welsh Assembly Government have pretty clear views on their relationships with local authorities. On the previous order I indicated how much the Assembly Government are concerned to safeguard and preserve their relationships with local authorities. As the noble Lord will be only too well aware, the Assembly Government cannot function effectively if they do not create the right relationship with local authorities. Therefore, on those issues, there is no intention of giving school governing bodies that competence at present.

As for the examples of the bodies that might be created through the order, I emphasise that the competence is quite broad. It is deliberately so in order to permit the National Assembly to pass measures that could create bodies that it thinks are necessary. The bodies might provide services and support for schools and school governors as well as governor training; we can all think of organisations that are concerned with enhancing the training of governors and the extent to which this has already produced dividends. There is no doubt at all that for a very long time people joined school governing bodies and were expected to learn on the job, or that they often came along with perspectives which were pretty hidebound. It is now widely appreciated that members who serve on school governing bodies have a very significant responsibility to their local community and that training is important. That is the kind of body that we think the Assembly might reasonably want to develop. However, it is for the Assembly to make up its mind about what kind of bodies should be established. It has the breadth for that, and that is to be commended. I therefore commend the order to the Committee.

Motion agreed.

Al-Qaida and Taliban (Asset-Freezing) Regulations 2010

Considered in Grand Committee

3.35 pm

Moved By ***Lord Myners***

That the Grand Committee do report to the House that it has considered the Al-Qaida and Taliban (Asset-Freezing) Regulations 2010.

The Financial Services Secretary to the Treasury (Lord Myners): My Lords, the regulations before the Committee seek criminal penalties for breaching the EC regulations giving effect to the United Nations asset-freezing regime against al-Qaeda and the Taliban within the European Union, and to give proper effect to that regulation in the United Kingdom. Noble Lords will be aware that the United Nations Security Council has mandated two separate terrorist asset-freezing regimes, with different applications and procedures. The first regime, chronologically, was established in 1999 by UN Security Council Resolution 1267 and applied an asset freeze against the Taliban. It was subsequently broadened by successor resolutions to apply an asset freeze against Osama bin Laden and individuals associated with al-Qaeda or the Taliban.

After the terrorist attacks on the United States in September 2001, the UN mandated a separate terrorist asset-freezing regime in UN Security Council Resolution 1373, whereby all states are required to identify and freeze the assets and resources of people who commit, or attempt to commit, or participate in or facilitate the commission of terrorist acts. There are two key differences between these two regimes. The first concerns the nature of the targets. The UN 1267 regime applies only to Osama bin Laden and those associated with

al-Qaeda or the Taliban. The UN 1373 regime applies more generally to those involved in terrorism, regardless of whether they are linked to al-Qaeda or the Taliban.

The second key difference between the two regimes concerns their geographical scope and listing procedure. The UN 1267 regime is global in application. The UN holds a central list of targets, and listing and delisting decisions are made by a committee of the UN Security Council. Once individuals or entities are listed, their assets must be frozen by all states. By contrast, under UNSCR 1373, freezing decisions are taken nationally and apply nationally, although individual states are encouraged to share information about national freezes so that, where appropriate, the assets of those involved in terrorism can be frozen across national boundaries.

The regulations we are debating apply only to the UN al-Qaeda and Taliban regime—the 1267 regime. They do not apply to the UN terrorist asset-freezing regime under Resolution 1373. The reason for this is the different position of the two UN asset-freezing regimes under European law. The European Union does not provide a legal basis to fully implement our obligations under UNSCR 1373 to freeze the assets of terrorists. This is because the EC regulation for that resolution deals with asset freezes only for persons who are involved in acts across the borders of the EU. It would not allow us to freeze the assets of home-grown terrorists, which UNSCR 1373 also requires. Consequently, following the Supreme Court's decision that Orders in Council made under the United Nations Act 1946 cannot be used to give effect to UN asset-freezing obligations, the Government are addressing our implementation of UNSCR 1373 through primary legislation.

The Terrorist Asset-Freezing (Temporary Provisions) Act was passed last month, and the Government have published a draft Terrorist Asset-Freezing Bill to provide a durable legal basis for freezing the assets of terrorists. As I said when the temporary Bill was debated in the House, the Government are committed to ensuring that there is proper scrutiny of our draft legislation. That is why we have published a public consultation document seeking the views of interested parties and the general public on our draft legislation and the Government's approach to terrorist asset freezing. I very much hope that interested parties and the public will engage with the consultation and submit responses. I am already looking into the issue raised in the House by the noble Baroness, Lady Hamwee, in connection with people feeling safe in making representations in connection with the consultation. I hope to be writing to her and to others who participated in that debate in a few days' time with a letter of reassurance about the procedures that will be followed and the necessary protections afforded.

The legal position of the UN al-Qaeda freezing regime is different. In 2002, the EU adopted Regulation 881, which implemented the al-Qaeda regime throughout the European Union. EC Regulation 881 is directly applicable in national law, and therefore the assets of those listed under the UN al-Qaeda regime have remained frozen in the UK, through the EC regulation, despite the Supreme Court's decision to quash the Al-Qaida and Taliban (United Nations Measures) Order 2006.

However, the quashing of the al-Qaeda order has removed the criminal penalties for breaching the EC regulation in the UK. It is therefore necessary to reinstate the enforcement provisions for EC Regulation 881 in national law, and that is what the Al-Qaida and Taliban (Asset Freezing) Regulations 2010, which we are considering today, are intended to do. Section 2(2) of the European Communities Act 1972 sets out that the appropriate legislative vehicle for doing that is a statutory instrument. However, the Government take the view that, given the points raised by the Supreme Court and the obvious public and parliamentary interest, it is right that these regulations should be subject to approval by Parliament under the affirmative procedure, and I welcome debating these regulations today.

Before I explain the detail of the regulations, I turn to the central purpose of the al-Qaeda and Taliban sanctions regime and to some of the issues that it has raised about due process. The central purpose of the al-Qaeda and Taliban sanctions regime is to stop the flow of funds to al-Qaeda and the Taliban, and those associated with them, and therefore to disrupt their operations. That is a necessary and vital task at a time when the threat from international terrorism remains severe and when British forces in Afghanistan are being killed by the Taliban and their allies. I am sure that the whole House will agree with the legitimate purpose that the UN sanctions regime is trying to achieve.

The Government remain of the view that maintaining and implementing UN-wide asset freezes against al-Qaeda and the Taliban is important to help to counter the threat that those bodies pose to international peace and security. We know that al-Qaeda and the Taliban source funds from all over the world. Therefore, the response must be global, and the best way of achieving that is to maintain a central UN list of sanctions targets. Within the UK alone, about £140,000 of funds are frozen under the UN al-Qaeda and Taliban regime, in addition to about £150,000 frozen under the terrorism orders.

Noble Lords will be aware that the Supreme Court raised concerns about individuals on the UN list not being able to challenge their listing at the UN in a court and that this consideration was central to the court's decision to quash the al-Qaeda order. The Government are committed to continuing to improve the UN 1267 committee's processes for listing and delisting. I am pleased to be able to say that, as a result of the UK's work with our Security Council partners, the UN has made great strides to improve its listing and delisting procedures. Reviews of all cases must now be conducted every three years, and Security Council members are working towards reviewing all current cases on the list by the end of June this year. In December, the Security Council agreed further improvements to listing and delisting procedures, including the establishment of an ombudsman who will be able to work with Security Council members to support the review process. We believe that this is a significant step forward and are pressing for this position to become operational as soon as possible.

3.45 pm

None the less, it is true that individuals are not able directly to challenge their listing within the UN system

[LORD MYNERS]
and there remains no independent judicial oversight of decisions taken by the UN Sanctions Committee to list individuals. It is important to note, however, that EC Regulation 881 does not automatically give effect to the UN list. Rather, the regulation establishes an EU list of targets. This means that when someone is added to the UNSCR 1267 list, their name must also be added to the EU's list in order for the asset freeze to take effect under the EC regulation. The EU's practice is to follow the UN's list in adding or removing names, and the EU's list is currently up to date in reflecting the UN list. A person who is added to the EU list may challenge the decision to list him by the EU in the EU courts. Noble Lords will be aware that such challenges have in fact been brought, most notably in the Kadi case, and a number of further challenges are currently before the EU courts.

Let me explain how the regulations we are considering today are intended to work. EC Regulation 881 implements UNSCR 1267 asset freezes in the EU by requiring that all funds and economic resources belonging to persons listed under the regulation are frozen; prohibiting funds or economic resources from being available to and/or for listed persons; prohibiting deliberate circumvention of the prohibitions and requiring persons to notify national competent authorities of any circumvention; and requiring persons to provide information that facilitates compliance and to co-operate with national authorities. It also requires each member state to determine effective, proportionate and dissuasive sanctions for breaching the regulation.

The regulations set the criminal penalties for breaches of the EC regulation. In order to set these criminal penalties and to give proper effect to the EC regulation in the UK, the al-Qaeda regulations need to set out in detail to whom the sanctions apply, the nature of the prohibitions, licensing arrangements, criminal penalties, information gathering powers and appeals mechanisms. This is because although the EC regulation sets out the requirements of the asset-freezing regime, it does not do so with the precision and authority that is needed for proper implementation under UK law, in particular regarding the creation of criminal offences. The regulations before the Committee therefore take the EC regulation as the starting point, but provide more detail with a view to creating a regime that is clear, effective and proportionate. This does no more than the minimum necessary to implement the EC regulation, and all the provisions of these regulations are necessary to enable us to fulfil our EU obligations; namely, to implement the EC regulation effectively and to provide proportionate and dissuasive penalties for breaching the provisions of that regulation.

The al-Qaeda and Taliban regulations define a designated person as someone listed in Annexe 1 of the EC regulation; define the scope of the provisions that apply as a result of the asset freeze; provide criminal penalties for breaches of the prohibitions; provide a mechanism for granting licences; and create an offence where a person knowingly or recklessly provides false information or documents to obtain a licence or acts outside the terms of that licence. They include provisions for the gathering and sharing of information; create an offence for failing to comply with Treasury requests for information; and amend the Counter-Terrorism Act 2008, so that someone affected by a Treasury decision made under the regulations—effectively a licensing decision—may apply to the court to have the decision set aside.

The scope of the prohibitions reflects our intention to make the regime proportionate and to seek to limit its impact on innocent third parties. The prohibitions mirror those set out in our draft Terrorist Asset-Freezing Bill. Thus, the regulations set out that the prohibition on making funds available for the benefit of a designated person applies only where the designated person is able to obtain a significant financial benefit, and the prohibition on making economic resources available to a designated person applies only where a person knows or has reason to suspect that the resource will be used to generate funds, goods or services.

I hope that I have explained why it is important that the UK fully meets its obligations to enforce the UN al-Qaeda and Taliban asset-freezing regime. I hope that I have also explained that although noble Lords may have concerns about the UN listing and delisting procedures, the UK has been at the forefront of action in the Security Council to improve the procedures, and that significant progress has been made. I have also explained that the European Union's implementation of the UN 1267 regime provides designated persons with the opportunity to challenge their listing within the EU, and indeed that this right has been acted on and tested.

Finally, I have also explained the content of the Al-Qaida and Taliban (Asset-Freezing) Regulations and that in the Government's view they represent an effective, fair and proportionate way of giving full effect to the EC regulation within the UK. I therefore commend these regulations to the Grand Committee.

Baroness Noakes: My Lords, I thank the Minister for introducing these regulations. I reiterate what I said last month when we debated the emergency legislation—that these Benches support the Government in their actions to deal with threats to the UK and the rest of the world from terrorist activity. For that reason we will support these regulations today, but our support is never unconditional. From time to time, the Government have sorely tested our support by introducing measures that seem to have a civil liberties bypass. It is interesting to note that the Joint Committee on Human Rights reported today along those lines in relation to the Government's approach to terrorist legislation. The regulations before us raise similar issues.

Late last week, the Government issued a consultation on the draft terrorist asset-freezing legislation to which the Minister has referred. This is necessary to replace the regime under the United Nations Act 1946, following the Supreme Court's judgment. The Treasury at that stage decided to pursue a sticking-plaster approach, involving the emergency temporary Act which was passed on 10 February, followed by consultation on draft legislation. The temporary Act runs out at the end of this year, but the Treasury has only just issued the consultation and therefore has used up a month of the rather short time left to implement a permanent regime.

We did not think that the Treasury had chosen the correct route last month, and we continue to believe that. We believe that it would have been better to attempt to legislate on the full regime last month, and that there was plenty of time to do that. However, the rather dilatory way in which the Government have chosen to initiate this consultation—given that the consultation document contained little more than could have been produced overnight in February—is another sign that they have perhaps given up on governing. The regime applied to asset freezes under EU Regulation 881/2002 is covered by these regulations, but is not within the consultation on terrorist asset-freezing legislation. I asked the Minister yesterday why this was, but he did not provide an answer. He merely referred to the fact that the debate on these regulations was due to take place today.

I completely understand that the individuals whose assets are frozen will be determined at the level of the United Nations and then the EU, and I will not raise any issues today in relation to how those determinations take place. I was interested to hear what the Minister said about improving the UN's processes, but clearly there is some way to go before people could be entirely satisfied with that. As the Minister has explained, these regulations cover the important areas of the licensing regime and offences. I do not understand why the Government would not want these to be harmonised under the Bill on which they are currently consulting. It seems to me, at the minimum, to be messy to have two legislative routes to cover what is effectively the same thing, with the only distinction being the origination of the designation process.

My concern is not so much about these regulations for the rest of 2010. We have accepted that the temporary Act will frank the existing regime for the other terrorist asset freezes until the end of the year, with consultation on a permanent replacement. It seems to me that we ought to do the same for these regulations in relation to the designations under EC Regulation 881. Will the Minister explain why these regulations are not also sunsetted for the end of 2010 and included in the replacement legislation?

I am aware that the Treasury has been crafting its terrorist asset-freezing orders in its usual minimalist way with a view to avoiding the fatal flaws in its earlier efforts, which were identified during the progress of the Ahmed case through the courts. The draft legislation basically builds on that position, but is different in some respects from these regulations. In particular, these regulations have no formal procedure for challenging the Treasury's decisions under them. While the Treasury have no say in designation, other decisions—for example, on licences and information—need proper appeal mechanisms. Why are the Government keeping this regime separate in terms of offences and such things as information powers from the rest of the terrorist asset-freezing regime?

It is by no means clear to me that Parliament will accept the draft legislation which is being consulted on as it stands. The biggest area is likely to be the need to have better routes than judicial review or judicial review lookalikes in order to challenge the Treasury. We are not convinced that the offences are correctly formulated in the new legislation. The Treasury might think that they have a final and definitive view of what should be included in asset-freezing legislation, and that consultation is a bit of a formality, but I would not like the Minister to be under any illusions about this. The Second Reading and Committee stages of the temporary Bill in February indicated that it was far from clear that there would be a consensus on a way forward on the basis of the draft legislation.

The Government have brought these regulations under the affirmative procedure, but we must not pretend that this represents a good degree of parliamentary scrutiny for what is in the regulations. The Government know that our custom is not to reject secondary legislation and that we have no opportunity to amend the regulations. I am less than clear that this represents the substantive parliamentary scrutiny that was in the minds of the Supreme Court in the Ahmed case. Furthermore, there is no way in which the Government would be obliged to bring these regulations back if Parliament takes a different view on some of the fundamentals when it considers the legislative replacement for the emergency Act.

Will the Minister agree that the consultation on the new draft legislation should cover whether the content of these regulations should be found a home within the new legislation? If he cannot agree with that, will he agree that, if any new legislation makes substantively different provisions from any which are in these regulations, the Government will return to Parliament with revised regulations to replace these?

4 pm

Baroness Hamwee: My Lords, I hope that the envelope I have just been passed is not relevant to the debate. I thank the Minister for his explanation of the regulations and of their relationship—or non-relationship—to parallel legislation. The context in which we are debating the draft regulations includes the report of the Joint Committee on Human Rights, which calls for a review of all anti-terrorism legislation. When I made a note yesterday of the few things that I wanted to say on these draft regulations, the first thing that I wrote down was "piecemeal". It would be more than helpful—in fact, it would be proper and appropriate—for us to look at anti-terrorism legislation across the board, rather than to apply what the noble Baroness called a sticking plaster. Dealing with this bit by bit is not satisfactory. When the bits include a statutory instrument that we cannot amend, it is even less satisfactory.

Another part of the context is the amount that is currently frozen. When we debated the emergency legislation last month, the Minister gave us a figure of about £150,000. He gave more figures today, but I did not catch whether that amount covered both regimes or whether it was a similar amount for this regime. Previously, we debated the fact that however small the amount—£150,000 is not much—one can create a lot of havoc with very few resources. I will not make too much of that.

I still find it difficult that we are not taking the 2001 Act as a starting point, extending it to cover the UK and so on. In particular, creating offences by secondary legislation makes me very uncomfortable, whatever

[Baroness Hamwee]
the 1972 Act said. I agree with the noble Baroness that, if we cannot use existing legislation, we should look at the proposed permanent legislation for both regimes. When we debated the emergency legislation, we heard explanations of why the 2001 Act would not work. But this says to me that the Government should get the primary legislation up to scratch, so that we have something that is complete, scrutinisable—if that is a word—and amendable.

I thank the Minister for taking on board the point that I made yesterday about consultation on the proposed new permanent legislation. The issue occurred to me only just before going into the Chamber, and I hoped that it would not put me on the right wing of the argument if I appeared to suggest that there should be more confidentiality than was proposed. I did not mean that, but I am beginning to get a greater feel for the complexity of some of these matters than I had when I took on the home affairs brief only three months ago.

We appreciate and share the objective of restricting funds that might go to terrorist causes, or might have terrorist applications, provided that it is properly done. We will not oppose the regulations. We are where we are, and some of the issues highlighted in the cases that ended up in the Supreme Court, particularly human rights issues, remain.

At the time of the emergency legislation on 5 February, a Written Statement was made about licensing and the factors that the Government would take into account. I found that Statement very reassuring because of concerns about descriptions of the draconian effects of the orders—the word "draconian" was used by the Supreme Court. I am unclear whether that approach applies to those who will be affected by this order. It would be helpful to have on the record the fact that that approach is formally a matter for this order as well as for the legislation that we debated and passed last month.

Paragraph 9 in the order, to which I would have tabled a probing amendment had I been able to do so, deals with the offences of "a body corporate etc". I am interested in the "etc". Individuals may commit an offence where their own body corporate is guilty of an offence; that is where the offence is committed with the consent or the connivance of an individual or is attributable to any neglect. The term "neglect" seems to me to be very wide and certainly wider than "consent" and "connivance" and is something that is more likely to happen than recklessness—it is further along the spectrum.

I have a degree of concern about that. One can be neglectful without intending to be and without intending the effect. The Minister may say that, if there is a trial, that will be taken into account when sentencing. Can the Minister say anything about that provision? I would also have tabled amendments rather similar to those moved by my noble friend Lord Thomas of Gresford on the length of time, the number of repeat directions, the need for findings of fact, and appeal and judicial oversight. The Minister has referred to some of those and I note what he said about the UN proceedings and an ombudsman. That is helpful.

Although the subject matter is immensely important, we on these Benches are uncomfortable about approaching the matters this way, although clearly, at this stage in the parliamentary cycle, that is what we will have to do.

Lord Myners: My Lords, this is rather outside the ordinary territory which the noble Baroness, Lady Noakes, and I normally occupy of discussing issues relating to the economy, the banking system and finance. It is a particular delight to have the noble Baroness, Lady Hamwee, join us in this discussion to give us variety and her own particular perspectives on these issues relating to individual and personal liberty.

Baroness Hamwee: My Lords, I am grateful for that. The person who is most delighted is probably my noble friend Lord Newby.

Lord Myners: It is pleasant to speak on an issue where there are no opportunities for banker bashing. I also remind noble Lords of my personal declarations of interest: I record my membership of Amnesty and Liberty. I am deeply concerned about many of the issues that lie at the heart of some of the matters that we are considering today.

On behalf of the Government, I also welcome the support that the Conservative Party and the Liberal Party are giving to the necessary steps that we are taking to protect the security of the country. I recognise the concerns expressed by the noble Baronesses, Lady Noakes and Lady Hamwee, but I also applaud the fact that, notwithstanding those concerns, they encourage the passing of the necessary orders.

The noble Baroness, Lady Noakes, referred to the consultation process. I remember well the debate that we had at Second Reading in the House about the sunset provision. We produced the consultation document in March, having laid the draft legislation on 5 February. The consultation document is deliberately wide to encourage as broad as possible a range of issues to be brought forward, rather than asking narrower questions. I agree with the noble Baroness that, in view of that approach—which, of course, was the consequence of deliberation on our part—the document did not take a great deal of time to prepare. The key issue is the length of time that it takes people to prepare and consider their responses. That is why we need the time for proper scrutiny of the Bill, including through public discussion and debate about the issues to which it gives rise.

Consideration of the draft legislation can start as soon as we believe that the consultation process has completed its necessary stages. There will of course be a full debate on the proposed formal legislation. I look forward to that, because issues were certainly raised in respect of the temporary legislation which, in view of the time available, were probably not fully debated. These are issues which need to be debated with great care. We look forward to and welcome the debates that will take place as the Bill works its way through Parliament.

To pick up one or two other questions, the noble Baroness, Lady Noakes, asked yesterday why the consultation on the terrorist asset-freezing regime specifically excludes those covered by the al-Qaeda

and Taliban asset-freezing regime. As I explained, the answer is simply that EC Regulation 881/2002 has direct effect in UK law. The UK is required to provide effective and proportionate penalties for breach of the EC regulation. Given the limited purpose of the Al-Qaida and Taliban (Asset-Freezing) Regulations, a consultation would not be appropriate for the al-Qaeda asset-freezing regime.

However, the Government take the view that given the points raised by the Supreme Court and the obvious public and parliamentary interest, it is right that the regulations should be subject to approval by Parliament under the affirmative procedure, and I welcome the fact that we are debating the regulations today.

Baroness Noakes: Perhaps I may come back on that. The Minister has repeated what he already said, which is that the people under this regime can be dealt with by regulations that go through only the affirmative procedure, and that the regime will be kept separate from people under other procedures. I have not heard a substantive reason for why that is so. As he said, the regime is not minor; it covers offences and is a licensing regime. These are not small issues. I have not heard a substantive reason why the content is to be kept separate in legislative terms from people dealt with under the other UN resolution.

4.15 pm

Lord Myners: I thank the noble Baroness for adding that observation. As I have said, these regulations implement EC regulations, but her observation is important. There is limited scope for us to determine how we implement the Bill, but given that the information-gathering powers largely replicate those of the Bill, we will of course consider these regulations again in the light of the Bill's passage.

I am aware that the point is being made—by, I think, both the Conservative and Liberal spokesmen—that the process does not, for instance, allow the tabling of amendments. The noble Baroness, Lady Hamwee, has identified an area where she would table an amendment, if only for probing purposes. I am much persuaded by the argument. I will therefore reflect carefully with officials on whether there is a process by which we can allow the orders to be subject to further parliamentary approval in a manner that would allow noble Lords to table amendments, either in the belief that they should be passed or, at least, to probe more carefully the Government's thinking.

I will also further reflect on the noble Baroness's observations on whether a consultative process should be linked to these regulations, as they were to the previous ones. There is a significant degree of overlap here, but we need to reflect carefully on whether there is a case for some further consultative process to inform thinking and decision making. That is another reason why it is incumbent on the Government, having persuaded the House to allow a sunset date of the end of December, to take full and complete advantage of the time that we have secured. Parliament did not grant us that time on the basis that we would dither or drag our feet in preparing the necessary work, but that we should be able to evidence that we have used the time as part of a good process to consult widely, and to permit Parliament to engage in close and detailed scrutiny of all aspects of this regulation.

I, for one, am deeply aware that there are very fine issues of balance which need to be achieved here, between protecting society against a risk that the security forces continue to tell me is high and, at the same time, being respectful of civic liberties and individual rights. Having taken note of what the noble Baronesses, Lady Noakes and Lady Hamwee, said on this point, I may write in due course with further consideration. However, I would like them both to be very clear that, to the extent that I have any future involvement in this process, it will be my wish that there should be full and proper scrutiny. I say that not, of course, in having any doubt about the outcome of the forthcoming general election, but the Prime Minister might come to the conclusion, as many people in the House already have, that there is probably somebody better able to do this job than me—proud as I am to be doing it.

The noble Baroness, Lady Hamwee, asked about the figures. Perhaps I might repeat that £140,000 of funds is frozen under the UN al-Qaeda and Taliban regime; in addition, there is £150,000 frozen under the terrorism order, so the total is just under £300,000. The noble Baroness also asked about Regulation 9 and the use of "neglect". I am advised by officials that neglect means a lack of care that a reasonable person would show. We would expect that any prosecution would be brought only if there was clear evidence of a failure to follow proper procedures.

A question was asked about challenges to licensing decisions. Schedule 2(1) adds these regulations to the Counter-Terrorism Act 2008. The effect is to provide a procedure for applications to a court to set aside licensing decisions. I am also aware of the JCHR report on counterterrorism and human rights, which I believe was published only today. I have not had an opportunity to study it, and no doubt the Government will want to look carefully at what the JCHR has said.

As the Explanatory Memorandum makes clear, the regulations before us are compliant with the Human Rights Act. The EC regulation is already UK law. The freeze on al-Qaeda and Taliban assets is already given force through EC regulation. However, it is important that we pass these regulations to enforce the sanctions and to provide penalties for breaches of the regulations. This will ensure that we continue to meet our international obligations, and will give the UK a more effective mechanism for compliance and for enforcement of the freeze in order to prevent funds from reaching al-Qaeda and the Taliban.

In closing, I emphasise again that in these times of severe threat to our national security, we must take the necessary steps to prevent terrorists from raising funds and using them for terrorist purposes. A proper framework to implement EC regulation effectively, and to provide penalties for non-compliance, is essential both to help prevent terrorist financing and to meet our international obligations. I will write to the noble Baronesses, Lady Noakes and Lady Hamwee, with the answers to any detailed questions that I have not addressed in my closing speech. I commend the regulations to the Grand Committee.

Motion agreed.

Financial Services and Markets Act 2000 (Amendments to Part 18A etc.) Regulations 2010

Considered in Grand Committee

4.21 pm

Moved by ***Lord Myners:***

That the Grand Committee do report to the House that it has considered the Financial Services and Markets Act 2000 (Amendments to Part 18A etc.) Regulations 2010.

Relevant document: 8th Report from the Joint Committee on Statutory Instruments.

The Financial Services Secretary to the Treasury (Lord Myners): My Lords, I shall speak also to the Financial Services and Markets Act 2000 (Liability of Issuers) Regulations 2010.

I start by setting out the purpose of the first order. Section 313A of the Financial Services and Markets Act 2000 gives the FSA the power to suspend or remove financial instruments from trading where this is necessary to protect either investors or the orderly functioning of the financial markets. The Act requires the FSA to give written notice both to the issuer of the instrument concerned and to all those who trade in financial instruments, for example in those particular shares. This is a bureaucratic, burdensome and inefficient procedure, requiring the FSA to write to the increasing number of exchanges, trading platforms and firms that trade with each other over the counter. However, it is important that firms receive timely information of such an announcement, to ensure that immediate effect can be given to the suspension of trading.

We propose to simplify the procedure for notifying firms of a trading suspension or of the removal of a financial instrument from trading. These regulations give the FSA the power to announce such a suspension or removal via a regulatory information service, as it already does with other regulatory announcements, and with which firms are very familiar. In practice, such announcements are rapidly disseminated by secondary information providers such as Bloomberg, Thomson Reuters and others.

In the light of this, we are also clarifying the procedure that the FSA must follow to give effect to a suspension or removal from trading. For example, the regulations set out what decisions the FSA may make following a challenge to a suspension or removal from trading imposed on a class of institutions by either affected institutions or the issuer; when the FSA is required to give written notice of its decisions; and when the decisions must be published by means of an RIS.

I make it clear that the FSA is not being given additional powers. The purpose of the regulations is to enable the FSA to use its existing powers more effectively. I ask noble Lords to note also that the coming into force date of this statutory instrument has been corrected from 6 April to 9 April, to take account of the Easter Recess.

It is crucial that the FSA has effective tools to deliver its objectives of ensuring market confidence and consumer protection. This is what the changes to Part 18A of the FSMA provide. I hope that noble Lords will agree that this is an important change.

I now move on to the second order: the Financial Services and Markets Act 2000 (Liability Of Issuers) Regulations 2010. The purpose of the regulations is to extend the current statutory regime for the liability of issuers for misstatements as set out in Section 90A of FSMA. These regulations are the culmination of an extensive period of review and consultation carried out initially by Professor Paul Davies QC, Cassel Professor of Commercial Law at the London School of Economics, and most recently by HM Treasury.

Under the existing statutory regime, issuers of securities traded on regulated markets in the United Kingdom are liable for fraudulent misstatements made to the market in a limited class of publications. These regulations extend that regime to cover both issuers of any securities admitted to trading on a securities market in the UK, and issuers for which the UK is the issuer's home state. Claims for misstatement may be brought not only by buyers of securities but also by sellers and holders of securities where they have acted in reliance on a fraudulent misstatement and suffered loss as a result. The regulations extend the regime to include not just announcements that are required to be made under the transparency directive, but all information published by means of a recognised information service, and information which has been announced by the issuer as being available by such means. While this brings a much greater number of announcements within the scope of the regime, we feel that there is likely to be little impact on the day-to-day checking process by issuers. Issuers and directors already face significant financial and reputational penalties for misstatements, and issuers are required to have robust disclosure assurance processes.

The regulations also create liability for dishonest delay in publishing information in limited circumstances. The claimant must be able to demonstrate that they have suffered loss in respect of their securities as a result of delay by the issuer in publishing information and that a manager within the issuer acted dishonestly in delaying publication of that information. There will naturally be situations where disclosure of information is delayed for good reason, for example to check facts before publication. This will not be dishonest behaviour by the issuer and will not give rise to a claim.

The regulations provide that an issuer will not be subject to any form of liability other than liability under the statutory regime or certain specific forms of liability which are listed in the regulations. These include contractual liability and civil liability arising from a person having assumed responsibility to a particular person for a particular purpose for the accuracy or completeness of the information concerned. The latter preserves the existing liability under the common law for negligent misstatement, as decided in Caparo v Dickman and subsequent cases. I should like to make clear that responsibility statements in reports and accounts which companies are required to produce would not, in and of themselves, be regarded as

constituting a representation to a particular person for a particular purpose for the accuracy or completeness of the information concerned.

In conclusion, these regulations are the culmination of an extensive period of review and consultation, and the proposals have gathered widespread support from affected parties throughout the process. They provide clarity as to the liability that issuers may have to pay in compensation to claimants who have suffered loss as a result of relying on misstatements, or dishonest omissions by the issuer. I therefore hope that noble Lords will agree to the important amendments to the statutory regime provided for by these regulations. I beg to move.

4.30 pm

Baroness Noakes: My Lords, I thank the Minister for introducing these two sets of regulations. They are rather different from each other with the only common point being that each is rooted in Financial Services and Markets Act. It might have been more logical if they had been debated separately. The Treasury's capacity for grouping disparate issues never fails to amaze me. But I missed the trick and so we must debate them together.

I shall take the Part 18A regulations first as these are the least controversial and I have no major concerns with them. The regulatory impact assessment says that there will be one Section 313A suspension each year. Will the Minister say how many have actually been made in each year since the FSA opened its doors for business? Linked to that, I note that the annual benefits amount to £10,000 savings for the FSA in each year; that is, each one of these will generate savings of £10,000. That would give a net present value, according to the RIA, of £93,000, which is stated to be over 10 years. I think that that means that the Treasury is using a discount rate of 1 per cent. Will the Minister confirm whether that is the case? If so, why is a 1 per cent discount rate appropriate?

More substantively, there clearly have been costs within the Treasury in consulting on, processing and drafting this instrument, not to mention the opportunity costs of the Minister, the noble Lord, Lord Oakeshott, and myself in preparing for and debating these regulations. Does the Minister really think that a net present value of £93,000 can justify the costs incurred in giving the FSA an easier life? The Minister said that this is an important change. It seems to me rather wasteful. With cost-benefit equations like that in the public sector it is not surprising that whoever wins the election will find a lot of low-hanging fruit around to reduce the costs of bureaucracy.

I have little to say on the liability of issuers regulations. Perhaps I may be getting demob happy because I think that this is the last time that the Minister and I will be debating statutory instruments this side of the election. The Government have approached this issue carefully, starting with the review carried out by Professor Davies. There was some divergence of views during the consultation, but we agree with the line that the Government have taken. Clearly, one of the most difficult areas was the extraterritorial effect of extending the liability in respect of traded securities from the UK issue, wherever the markets on which they were traded are. We do not disagree with the Government's approach but if there was to be an area where unintended consequences might occur, this would be my guess.

My question to the Government concerns the formal review of these new provisions. The Explanatory Note says that no formal review is scheduled and that the Government will monitor the impact of the regime. The regulatory impact statement is rather more forthcoming and says that the Government would expect to review the policy within three years. Can the Minister be clear with the Committee about the Government's intentions here? Does the Minister agree that it would be important for the territorial basis of the regime, if not other areas, such as the safe-harbour wording, to be reviewed and will he commit the Government to doing so after a specified time?

I have one small point relating to the position of investor claims in the event of insolvency. The consultation response notes that there was a difference of view between those who thought that claims should rank alongside other creditors in an insolvency, which is the current position, and those who thought that such claims should be subordinated. The Government said that these regulations should not be held up while that matter was unresolved and I do not dissent from that, but will the Minster give an idea of when this might be resolved or considered further? I am not aware of any general review of insolvency law into which that sort of issue might be fitted. Is there any special purpose consideration being undertaken and, if so, when might that be brought to a conclusion?

Lord Oakeshott of Seagrove Bay: My Lords, first, I declare my interest as a director of an investment management firm regulated by the FSA. I was very intrigued by the comments made by the noble Baroness, Lady Noakes, about the opportunity cost of preparing for a debate such as this. I feel my meter now running really fast. I am not sure whether my hourly rate is as high as that of a former leading partner of KPMG, but perhaps I can compare notes with the noble Baroness later.

We do not have serious worries about the first set of regulations, but I, too, would be interested to know how many times this procedure is likely to be invoked. I am having difficulty getting my head round exactly what pieces of paper we are talking about although I know obviously that we are talking about OTC products. Perhaps I am rather old-fashioned but I would find it helpful to know what instruments the FSA is concerned about. Clearly, there was not a large number of responses to the Treasury consultation. Broadly speaking, we on these Benches do not have serious concerns but we would be interested in receiving a little more explanation.

We strongly support the principle behind the second set of regulations. The report of Professor Davies makes a very good case. Too many issuers have played fast and loose and they should be made to take their responsibilities more seriously in respect of damage or loss suffered as a consequence of giving inaccurate, false or misleading information. My only question is, if it is right to introduce this measure—we believe that it is—why has it taken so long to do it? The consultation

[Lord Oakeshott of Seagrove Bay]
closed in October 2008—almost 18 months ago—so why has it taken so long to introduce something which is widely supported and concerns the important issue of consumer and investor protection? But subject to that, we welcome the regulations.

Lord Myners: My Lords, I am most grateful for the contributions that have been made to the debate. Both these sets of regulations have been made after comprehensive consultation and careful consideration.

The noble Baroness is correct—this is the last opportunity in this parliamentary Session that she and I will have to discuss statutory instruments. She feared that she may be feeling demob happy, but I feel upcoming withdrawal symptoms at no longer being challenged, as the noble Baroness always does so effectively. She always exhibits her absolute commitment to read every line and subsection of any statutory instrument or piece of legislation that I find myself proposing to the House or Grand Committee. She sets a standard for all to aspire to in the thoroughness with which she does her work on issues which are often very complex and probably quite tedious. However, they are important in the circumstances in which they are activated.

The noble Baroness and the noble Lord, Lord Oakeshott of Seagrove Bay, asked how often these powers have been exercised under FSMA. Section 313 was inserted into FSMA to reflect a requirement arising from the EU's Markets in Financial Instruments Directive—otherwise known as MiFID. The powers under Section 313A have not yet been used by the FSA to suspend trading of a financial instrument. The powers under subsections (4) to (5) of Section 313C to suspend or remove a financial instrument from trading where that instrument has been suspended or removed from trading in another EEA state are used frequently by the FSA. Under subsections (4) to (5) of Section 313C the FSA is simply acting on notice from other EEA competent authorities.

The FSA has other ways in which it can suspend trading under FSMA. For example, it has the power to suspend the listing of a financial instrument under Section 77 of FSMA, as it did when it suspended Northern Rock and Bradford & Bingley shares in 2008. However, these other various powers are dependent on breaches of listing, prospectus transparency or disclosure rules and apply only to suspension from listing or trading on a regulated market. They do not enable the FSA to suspend trading across the whole market, and trading in the OTC or over-the-counter market can continue. Suspending trading across the whole market may be necessary to protect consumers—for example, if the issuer is in severe financial difficulty—or to maintain market integrity if trading has become disorderly. MiFID gives the FSA the power to suspend trading on OTC markets, and therefore it is essential to ensure that the FSA is able to carry out its duties effectively.

Let me be clear: there have been actual occasions during the crisis that have required a trading suspension, when the FSA was able only to suspend listing. Suspending OTC trading would not have been practical, as the FSA would have had to serve written notices on the many individual firms trading on the OTC.

Why is that important if the FSA has never used the powers? The FSA is of the view that it is very important to address that defect in the current UK regime—in particular, in the post-MiFID context, where considerable trading now takes place outside the rules of exchanges and multilateral trading facilities. If the FSA can demand a suspension across that entire market quickly, that will give it a more effective tool to manage volatility and market stability concerns. It will also greatly enhance the FSA's ability to protect investors' interests, because investment firms and banks will not be able to trade in financial instruments where trading has been suspended for regulatory reasons.

The Takeover Panel has also expressed concerns about the FSA's inability to halt trading in the OTC markets. The Takeover Panel relies on the FSA to halt trading in the event of problems during merger and acquisition activity. In its view, halting OTC trading is essential to that.

The noble Baroness asked whether the cost/benefit justifies the Part 18 regulations. We are of course required under EU law to ensure that the FSA can exercise the power to suspend shares from trading, so we do not have a choice whether we want to take that power. The discount rate used is apparently in accordance with HM Treasury guidance. I will have to do the maths myself and find out whether the noble Baroness is correct. I look forward to getting a briefing from my officials and will of course share the outcome with both the noble Baroness and the noble Lord, Lord Oakeshott.

The noble Lord, Lord Oakeshott, asked why there was an 18-month delay in issuing the liability consultation. I am advised—and this makes great sense from my experience in the Treasury—that the Treasury has had to prioritise work during the banking crisis. The Treasury is a very lean machine in that respect; it does not carry excess capacity. Clearly, the banking crisis has had to take up a lot of capacity which the Treasury would otherwise have been able to use to focus on other issues.

The noble Baroness also asked whether we will consider the issue of ranking with the Insolvency Service. I can commit that we will do that in due course. I hope in writing to the noble Baroness and the noble Lord to give a little more information or colour to what "in due course" might mean. I can also confirm to the noble Baroness that we will review the proposals within three years and consider the extraterritoriality issue that was raised.

As I said, in order to ensure that the FSA has effective tools to deliver its objectives of market confidence and consumer protection, it is clear that we need to give it the option to give notice of its decisions by using the RIS services. The Part 18A regulations achieve that aim. The Financial Services and Markets Act 2000 (Liability of Issuers) Regulations 2010 provide clarity as to the liability that issuers may have to pay in compensation to claimants who have suffered loss as a result of relying on misstatements or dishonest omissions by the issuer. I regard these as important steps forward,

and for my own part I have been happy to devote a few hours to this matter, as I am sure have the noble Baroness and the noble Lord. My own hourly charge rate is rather lower than that of a KPMG partner and certainly a lot lower than that of a former Secretary of State or anyone who offers themselves rather as a taxi offers itself to the public for financial gain.

Lord Oakeshott of Seagrove Bay: I think that the noble Lord would be terrific value at five grand a day.

Lord Myners: It is most kind of the noble Lord to say that. One takes any compliment from him with great pleasure because they are so rarely on offer. With that, I commend these regulations to the Committee and I thank noble Lords for their participation in the debate.

Motion agreed.

Financial Services and Markets Act 2000 (Liability of Issuers) Regulations 2010

Considered in Grand Committee

Moved By ***Lord Myners:***

That the Grand Committee do report to the House that it has considered the Financial Services and Markets Act 2000 (Liability of Issuers) Regulations 2010.

Relevant document: 11th Report from the Joint Committee on Statutory Instruments.

Motion agreed.

Committee adjourned at 4.46 pm.

Written Statements

Thursday 25 March 2010

Armed Forces: Equipment

Statement

The Minister for International Defence and Security (Baroness Taylor of Bolton): My right honourable friend the Secretary of State for Defence (Bob Ainsworth) has made the following Written Ministerial Statement.

Further to my Statement to the House on Monday 22 March, I am pleased to announce the next steps on three projects that will deliver vital equipment and support to the Royal Navy in the coming years and maintain a sovereign maritime industrial sector configured to meet our defence needs efficiently.

We have decided to proceed with the assessment phase for the Type 26 Combat Ship, the Royal Navy's next generation surface warship; to sign a terms of business agreement (TOBA) with Babcock Marine covering surface and submarine support activities; and to commit to the initial build and long-lead procurement activities for Astute Boats 5 and 6 respectively at BAE Submarine Solutions at Barrow-in-Furness.

The Type 26 Combat Ship will provide the backbone of the Royal Navy's future surface combatant force from early in the next decade. We envisage it being optimised for anti-submarine warfare, providing protection to maritime task groups, the strategic deterrent, and land forces in the littoral environment, though it will also be able to operate in a wide variety of other roles, able to deploy an embarked military force by boat or helicopter, undertake surveillance and intelligence gathering activities, conduct counter terrorism and counter-piracy operations, and support disaster relief and humanitarian operations.

The assessment phase will be a £127 million, four-year contract with BAE Systems surface ships that will deliver a cost-effective ship specification for development and manufacture. Among other things, it will examine whole-life costs, consider the potential for international export, develop tailored logistic support arrangements and produce a full ship specification for consideration prior to the main investment decision. In doing so, this work will protect skills and employment in the warship design sector and maintain a key industrial capability for the UK.

We have delayed proceeding with this work until the recent planning round was completed, and any further significant delay would increase the risk that we would be unable to maintain the maritime industrial workload at a cost-effective level once carrier manufacturing is past its peak. It would also increase the risk of our having to retire the Type 22 and 23 Frigates before the Type 26 is ready to replace them. However, to ensure that we can incorporate any changes to the design or concept of operations that might result from the Strategic Defence Review (SDR), a mid-programme review point has been included as part of the work.

Secondly, as part of our ongoing efforts to deliver increased value for money and support the continued transformation of the maritime industrial sector, I am pleased to announce that we have signed a 15-year partnering agreement with Babcock Marine. We announced our intention to negotiate a so-called TOBA with Babcock Marine in 2007 following the acquisition of Devonport Management Limited by Babcock International Group, and it has been under negotiation for many months. This agreement will guarantee Babcock Marine's role as our lead industrial partner for submarine support, maintenance and decommissioning, and our preferred supplier for engineering and other services for surface warships and submarines at Her Majesty's naval bases Devonport and Clyde. Babcock Marine will also continue to advise the Ministry of Defence on the initial phases of submarine dismantling options and will play a more active role in through-life capability management for the Royal Navy's fleet, ensuring maximum availability and value for money in the support of future warships and submarines.

In exchange for this guaranteed scope of work, the agreement will deliver guaranteed savings and benefits to the department of at least £1.2 billion over 15 years, at outturn prices. These savings will flow from performance improvement and efficiency measures enabled by long-term confidence, and will be embedded in the contracts for goods and services that will be negotiated within the framework of the agreement. I would emphasise that, because the agreement will not guarantee a specified level of work, we can be confident that the choices available in the SDR will not in any way be constrained, but by proceeding now we will ensure that we can start delivering the savings envisaged as soon as possible.

The Government have also made a contractual commitment to proceed with the initial build of Astute Boat 5 and long-lead procurement activities associated with Astute Boat 6, at a total cost of over £300 million. This commitment is necessary now to ensure a consistent workload for the UK's submarine building industry. This investment will allow the timely delivery of the Astute class boats, which are the biggest and most advanced attack submarines ever ordered for the Royal Navy. Furthermore, since the same industrial skills, experience and capability are necessary to deliver the successor deterrent submarine programme, this investment will play a part in ensuring a smooth transition from the Astute programme to the successor deterrent.

These decisions demonstrate the Government's commitment to the long-term future of the Royal Navy and the UK's maritime defence industry. They will deliver vital defence capability and sustain a world-class, efficient sovereign maritime industry.

I intend to make more announcements in the coming days about new and additional capability for our Armed Forces and defence contracts for UK industry.

Armed Forces: Helicopters

Statement

The Minister for International Defence and Security (Baroness Taylor of Bolton): My honourable friend the Minister of State for the Armed Forces (Bill Rammell) has made the following Written Ministerial Statement.

I wish to inform the House today of the findings of the Royal Air Force service inquiry into the crash of the RAF Tornado F3, ZE 982, on 2 July 2009 into a mountainside in Argyll, Scotland. Tragically, both the pilot, Flight Lieutenant Kenneth Thompson, and the navigator, Flight Lieutenant Nigel Morton, were killed. Our deepest sympathies remain with their families and friends.

The purpose of a service inquiry is to establish the circumstances of the loss and to learn lessons from it; it does not seek to apportion blame. The service inquiry was convened on 3 July 2009 and has now presented its findings.

The service inquiry found that Tornado ZE 982 was the lead of a pair of Tornado F3 aircraft flying a routine low-level training sortie out of RAF Leuchars on 2 July 2009. From the accident data recorder information available to it, the service inquiry was able to identify the sequence of airborne events and concluded that the cause of the accident was controlled flight into terrain due to insufficient turning room being available within the valley to complete the turn. Effectively, once the aircraft had entered into the final turn it was all but impossible to achieve the turn safely. As a consequence, the aircraft crashed into the north slope of Glen Kinglas, Argyll, 14 minutes after take-off. The second Tornado crew witnessed the crash and took immediate recovery action, in due course returning safely to RAF Leuchars. The service inquiry concluded that the aircraft's flying control systems, engines and structure were serviceable and all critical systems operated correctly during the sortie and that there was no evidence to prove that any equipment issues caused the aircraft's loss.

The inquiry findings serve to demonstrate that military flying is never without risk and that low-level flying presents additional challenges.

The service inquiry panel made a total of 26 recommendations largely relating to aircrew training and check and assurance processes. These are being addressed and will be implemented, as appropriate, as soon as is practicable.

A redacted version of the inquiry findings will be placed in the Library of the House today. It will also be made available on the MoD internet site and can be found by following the link below:

http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/BoardsOfInquiry/.

Buses

Statement

The Secretary of State for Transport (Lord Adonis): My right honourable friend the Minister of State for Transport (Sadiq Khan) has made the following Ministerial Statement.

In January 2009, my right honourable friend the Member for Ashfield, the then Secretary of State for Transport, announced the launch of a second round of Kickstart bus funding. I am pleased to announce today the provisional successful bidders from the competition. A list of these has been placed in the Libraries of the House.

The scheme was launched with funding of £25 million, which has been revised to £15 million. The successful bids represent the best possible value for money for the department. I have written today to the provisional successful bidders, asking them to confirm their interest in the scheme.

Kickstart is targeted at schemes which have the potential to become successful but which initially might be more marginal in commercial terms and require some financial help to start them off, or which are currently marginal schemes that with some extra support could be made more successful.

Through Kickstart, we are looking to pump-prime bus services which will contribute to the department's overall objectives of increasing bus patronage, and in particular developing bus services as an alternative to car use, bringing with it a reduction in congestion and benefits to the environment. It will also contribute to objectives on improving accessibility and social inclusion. This round focused on schemes which make use of the new bus powers in the Local Transport Act 2008. We hope this will allow us to build up good practice on the use of these powers to promulgate to other local authorities and operators.

Conflict Prevention Pool

Statement

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): My right honourable friend the Secretary of State for Foreign and Commonwealth Affairs (David Miliband) has made the following Written Ministerial Statement.

I, together with my right honourable friends the Secretary of State for Defence and the Secretary of State for International Development, wish to inform the House about our plans for conflict funding for the next financial year.

The 2007 Comprehensive Spending Review settlement set the programme resources available for conflict prevention and stabilisation for FY 2010-11 at £229 million (an uplift of £50 million from FY 2009-10), with an additional call on the Treasury reserve for assessed peacekeeping costs, currently capped at £374 million. Taking into account end-year flexibility arrangements, the UK's total available conflict resource for FY 2010-11 is likely to be £628.5 million. This excludes the net additional costs of military operations in Afghanistan and Iraq, where separate arrangements are in place to draw on the Treasury reserve.

We have agreed that we will earmark £450 million to cover the cost of assessed peacekeeping contributions, allowing us to meet our international legal obligations.

We have increased funding from £171 million in 2009-10 to £178.5 million in 2010-11 for discretionary activity funded through the tri-departmental conflict pool (CP). The conflict pool (CP) will continue to fund discretionary conflict prevention, stabilisation and peacekeeping activity under the existing five programmes: South Asia, Middle East, Africa, Wider Europe and Strategic Support to International Organisations.

the allocation for South Asia will be £84.8 million, which includes an allocation of £82 million for activities in Afghanistan and Pakistan, reflecting

the very high priority that we attach to this region. We will continue all conflict-related activity in Afghanistan, particularly in Helmand, where a large proportion of resources is spent on stabilisation programmes. We will increase funding for Pakistan. We are also in a position to maintain activity in Sri Lanka and Nepal;

in Africa, the total allocation will be £42.2 million, which will be used to fund conflict prevention programmes and discretionary peacekeeping engagements in priority countries such as Sudan, DRC, Kenya and Zimbabwe. We will increase funding for Somalia to reflect its increasing priority. HMG will also maintain their focus on building Africa's capacity to prevent and manage conflict;

in wider Europe, the total allocation will be £22.2 million. This will allow HMG to continue to fund a UK contribution to UN peacekeeping in Cyprus, conflict prevention work in the Balkans such as rule of law and security sector reform and conflict prevention work in Georgia and the Commonwealth of Independent States. We will also maintain our commitment to EU and OSCE operations in the Balkans and Caucasus;

in the Middle East, the total allocation will be £13.8 million. Within the allocation of £13.8 million we will increase resources for conflict prevention in Yemen and for programmes supporting the Middle East peace process (MEPP). We will also continue to support conflict prevention programmes in Lebanon and to fund stabilisation activity in Iraq; and

the £6.5 million Strategic Support to International Organisations programme, which provides support for international organisations, includes support for Security Sector Reform advisory capacity and for the United Nations Rule of Law Unit, the Peacebuilding Support Office, a Department of Peacekeeping Operations and Department of Field Support package and defence education.

These allocations will allow the conflict pool to retain a reserve of £9 million to act primarily as a buffer against fluctuations in the exchange rate and increases in assessed peacekeeping or other conflict-related costs. The likely cost of the assessed contributions will be kept under review.

We will continue to prioritise within the resources available. We remain committed to maintaining our significant contribution to international peacekeeping, and to funding essential conflict prevention and stabilisation activity in priority regions.

Constitutional Reform Act 2005: Post-Legislative Scrutiny

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My right honourable friend the Lord Chancellor and Secretary of State for Justice (Jack Straw) has made the following Written Ministerial Statement.

I am today laying before the House the Government's memorandum to the Justice Committee on post-legislative scrutiny of the Constitutional Reform Act 2005. Copies have been placed in the Libraries of both Houses.

The Constitutional Reform Act 2005 introduced wide-ranging constitutional reform to the executive, legislature and judiciary. This reform has been implemented, in line with the stated objectives of the Act, as detailed in the memorandum. The full impact on our constitutional settlement of these major reforms is only likely to be felt years from now, as the institutions and relationships it created continue to mature.

Core Quality Standards

Statement

The Attorney-General (Baroness Scotland of Asthal): The Director of Public Prosecutions has today issued the first set of Core Quality Standards for the Crown Prosecution Service, which now incorporates the Revenue and Customs Prosecution Office.

The Core Quality Standards set out in plain language the key requirements for a successful prosecution and I welcome their publication. They inform members of the public of the level of service they can expect from those who prosecute on their behalf. Likewise, they inform CPS staff of what is expected of them and how they will be held to account for the quality of the service provided.

The standards outline, broadly in chronological order, the level of service that the public, and other criminal justice stakeholders can expect at each stage of the process: from early advice to investigators at the outset of a case; through to the appeals process; and how the service will respond to complaints or feedback which might follow at the conclusion of a case.

The Core Quality Standards will be an important tool for improving the quality of service delivered to the public. Performance against the standards will be monitored and reported to the public at the end of each financial year.

To ensure that the standards are widely accessible, they will be published in the most commonly spoken languages in our communities as well as in English, Welsh, audio and Braille.

Copies of the Core Quality Standards have been placed in the Libraries of both Houses, and are also available on the Crown Prosecution Service website at www.cps.gov.uk.

Driving: Licences

Statement

The Secretary of State for Transport (Lord Adonis): My honourable friend the Parliamentary Under-Secretary of State for Transport (Paul Clark) has made the following Ministerial Statement.

I am making this Statement with my honourable friend the Minister of State for Borders and Immigration, the Member for Oldham East and Saddleworth (Phil Woolas), as part of a joint programme of work between the Driver and Vehicle Licensing Agency (DVLA) and the United Kingdom Border Agency under the auspices of the immigration enforcement strategy *Enforcing the Deal*.

We are today announcing an administrative change, under the existing legal framework, in the way in which DVLA considers applications for UK driving licences from non-EEA nationals. There is already strong operational co-operation between DVLA and the UK Border Agency to prevent identity and immigration fraud by foreign nationals. The Government's strategic objective is to move to a position where possession of an identity card for foreign nationals issued under the UK Borders Act 2007 becomes a qualifying criteria for non-EEA nationals wishing to obtain a UK driving licence.

As a preliminary measure, I am informing the House that from today those applying for a provisional as well as full driving licence will have to demonstrate that they are lawfully resident in the UK, not simply lawfully present, in order to qualify for a driving licence. Those who are present in the UK on temporary permission or temporary release under the Immigration Act 1971 will not be considered eligible for a driving licence. Those granted leave to enter or remain in the UK for at least 185 days will continue to be able to apply for a licence while their leave is extant, provided that they otherwise qualify.

It is right that those whose status remains undecided and those without leave should not be seeking to establish the benefits of ordinary settled life in the UK, including access to driving licences. Transitional provisions will apply to those with an outstanding licence application at DVLA.

Employment Tribunal Awards and ACAS Settlements

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My honourable friend the Parliamentary Under-Secretary of State, Ministry of Justice (Bridget Prentice) has made the following Written Ministerial Statement.

Today, I am announcing measures that build upon the current provisions for enforcement of awards from employment tribunals in the courts.

The High Court Enforcement Officers Association has agreed that a number of its members will take part in a scheme, to be known as employment tribunal fast track, that will assist successful claimant enforce their employment tribunal awards anywhere in England and Wales.

With effect from 6 April 2010, the fast track scheme will allow a High Court enforcement officer to be assigned to their case as soon as the respondent fails to pay the award as ordered. The officer will thereafter progress the case through the court processes and onward to execution of a High Court writ issued against the respondent's goods.

All the costs of the fast track scheme will be recoverable from the respondent with a small fixed cost liability for the claimant if the award is not recovered.

The award will continue to be registered on the register of judgments, orders and fines which, if left unpaid, could have a detrimental effect upon the credit status of the respondent.

It is our intention to now consider if the fast track scheme can be extended to include recipients of ACAS settlements orders so they too can benefit from the services the High Court enforcement officer.

The Government are determined to ensure that individuals who are entitled to their employment tribunal awards are not denied access to justice by a small minority of unscrupulous individuals or companies who refuse to respect the award. These changes will ensure that all recipients can pursue the payment of their award with ease.

Energy: Nuclear Power Stations

Statement

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): I have today issued two consultation documents relating to the arrangements for the financing of nuclear decommissioning and waste handling for new nuclear power stations.

It is the Government's policy that the owners and operators of new nuclear power stations must set aside funds over the generating life of the power station to cover the full costs of decommissioning and their full share of waste management and disposal costs. The two consultations published today represent significant progress in the delivery of that policy.

The first consultation is on "a Methodology to Determine a Fixed Unit Price for Waste Disposal and Updated Cost Estimates for Nuclear Decommissioning, Waste Management and Waste Disposal".

This consultation document sets out:

changes to the Government's policy framework for setting a fixed unit price as a result of feedback from stakeholders received during the pre-consultation process;

the main stages of the proposed methodology to determine a fixed unit price and worked examples of how it would be calculated using this methodology; and

the Government's updated estimates of the costs for decommissioning, waste management and waste disposal of new nuclear power stations.

The second consultation is on "the Financing of Nuclear Decommissioning and Waste Handling Regulations", which proposes to implement regulations that will seek to:

recover the costs associated with the consideration of a funded decommissioning programme (FDP), including the costs of obtaining advice in relation to the FDP or in relation to the information about the FDP;

amend the procedure as set out in the Energy Act 2008 for modifying an approved FDP;

implement reporting requirements;

clarify requirements for the verification of a FDP; and

to define the financing elements of FDP.

This is also a consultation on a draft order to make certain matters associated with a FDP designated technical matters.

We want to hear from members of the public, industry, financial and other institutions that may be involved in the financing of new nuclear power stations, non-governmental organisations and any other organisation or body with an interest.

The consultations will close on Friday 18 June 2010. Copies of the consultations will be placed in the Libraries of House.

Food: Nanotechnologies

Statement

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): My honourable friend the Minister of State, Department of Health (Gillian Merron) has made the following Written Ministerial Statement.

We are today laying before Parliament the Government's response (Cm 7857) to the House of Lords Science and Technology Committee report on nanotechnologies and food, which was published on 8 January 2010.

Nanoscience and nanotechnologies have advanced in recent years to the stage where there are a range of innovative products on the market that contain nanomaterials, ranging from cosmetics to surface coatings for glass. While developments in the food industry are generally at an early stage, applications of nanotechnology in this sector have the potential to bring about benefits to both industry and consumers.

The Science and Technology Committee's inquiry is therefore timely and its report provides a detailed and extremely thorough analysis of a range of issues including support for innovation, research into health and safety implications, regulation and public engagement.

The Government's response welcomes the committee's report and its recommendations. Some of the issues that have been raised by the committee are specific to food, while others are wider in scope. The Food Standards Agency has therefore liaised closely with other government departments—the Department for Business, Innovation and Skills and the Department for Environment, Food and Rural Affairs—in considering the committee's recommendations and developing the overall response.

In several places the response cross-refers to the Government's UK nanotechnologies strategy, *Small Technologies, Great Opportunities*, which was published on 18 March 2010. The Government's position on nanotechnologies is set out in the strategy as follows:

"The UK's economy and consumers will benefit from the development of nanotechnologies through Government's support of innovation and promotion of the use of these emerging and enabling technologies in a safe, responsible and sustainable way reflecting the needs of the public, industry and academia".

This approach applies equally in the food sector, where the role of public engagement is of particular importance. The committee rightly highlights the heightened public sensitivities about new food technologies and the value of effective public communication and openness. Therefore, in addition to taking forward the other recommendations in the report, the Food Standards Agency will be working closely with industry, consumer groups and other stakeholders to ensure that the public have accurate and impartial information about the way in which nanotechnologies are being applied to food.

Today's publication is in the Library and copies are available to honourable Members from the Vote Office.

Health: H1N1 Pandemic

Statement

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): My right honourable friend the Secretary of State for Health (Andy Burnham) has made the following Written Ministerial Statement.

I am pleased to announce that an independently chaired review of the UK response to the 2009 H1N1 ("swine flu") pandemic has been established. This review has been jointly commissioned, and the chair appointed, by all four of the UK Health Ministers. The review will be chaired by Dame Deirdre Hine. The review team is situated within the Cabinet Office, which will lead the review with the full co-operation of all the UK health departments.

As part of the normal procedure following a major emergency event, the review will consider the effectiveness of the UK response to the 2009 pandemic and make recommendations to inform planning for any future pandemic. We expect the review team to conduct a paper review of all the key elements of the response and to interview key individuals involved. However, it will be for Dame Deirdre to determine precisely how she wishes to proceed.

The chair will start work as soon as possible. In order that the review can inform future pandemic planning and to ensure that its findings are placed in the public domain as soon as possible, Ministers have asked that the review complete its work in time to publish a report before the summer parliamentary recess (in any of the four nations of the UK).

I would like to take this opportunity to express the Government's thanks to all of those who have assisted and advised on the response to the swine flu pandemic.

Highways Agency: Business Plan

Statement

The Secretary of State for Transport (Lord Adonis): My honourable friend the Parliamentary Under-Secretary of State for Transport (Chris Mole) has made the following Ministerial Statement.

The Highways Agency's business plan for 2010-11 has been published today. It sets out the agency's budgets for the financial year and how that funding will be spent. The plan contains 12 key performance targets against which the agency's performance will be measured. These are set out in the table below:

Key Performance Deliverables	*Business Plan Targets for 2010-11*
Reliability: Implement a programme of delivery actions that tackle unreliable journeys on the strategic road network	Reliability: The HA will deliver the 2010-11 components and impacts of the reliability delivery plan as agreed by the Secretary of State
Major Projects: Deliver to time and budget the programme of major schemes on the strategic road network.	Major Projects: For the programme of national schemes in the construction phase, maintain a programme level of 1.0* against the cost performance index (CPI) and the schedule performance index (SPI). *(a programme–level variance of +0.1 or -0.05 against the CPI and the SPI would mean that the target would be deemed to be met)
	Major Projects: For the programme of regional schemes in the construction phase, maintain a programme level of 1.0* against the cost performance index (CPI) and the schedule performance index (SPI). *(a programme–level variance of +0.1 or -0.05 against the CPI and the SPI would mean that the target would be deemed to be met)
	Major Projects: For the programme of national schemes in the development phase, achieve a milestone achievement index of 1.0
Safety: Deliver the Highways Agency's agreed proportion of the national road casualty reduction target.	Road Safety: By the end of 2010 reduce by a third (ie to 2,244*) the number of people killed or seriously injured on the core network compared with the 1994-98 average of 3,366. *To allow for expected year-on-year fluctuations in casualty levels, the HA will be deemed to have met the target if the reduction achieved is no more than 5% above the milestone target figures.
Maintenance: Maintain the strategic road network in a safe and reliable condition, and deliver value for money.	Maintenance (Condition Index): Maintain a road surface condition index of 100 ±1 within the renewal of roads budget
	Maintenance (Cost & Efficiency): Deliver selected maintenance renewals* costs at an average level below inflation by the end of 2010-11 when compared with 2009-10. *Excluding technology maintenance
Carbon: Contribute to national and international goals for a reduction in carbon dioxide emissions by lowering the Highways Agency's emissions	Carbon: By the end of 2010-11, achieve a 3% reduction in our carbon* emissions from our direct energy and fuel usage, our network energy, and our business travel, when compared with 2008-09, in line with the UK carbon reduction target. *Carbon Dioxide (CO_2) equivalent
Environment: Improve quality of life for transport users and non-transport users, and promote a healthy natural environment	Environment: Deliver the following in-year actions contained in the 2010-11 Environmental Action Plan
	Air Quality: To complete studies examining a representative selection of air quality exceedences on the strategic road network, and to develop options for mitigating these problems.
	Noise: Review and validation of first priority locations as shown in the Defra noise action plans enabling the development of prioritised improvement actions for 2011-12 and beyond.
	Water Environment: Deliver six effective interventions at priority outfalls, priority soakaways and flooding hotspots and culverts.
	Nature Conservation: Deliver 10 interventions to support protected species and enhance habitats in accordance with the HA Biodiversity Action Plan.
Customer Satisfaction: Deliver a high level of road user satisfaction	Customer Satisfaction: Improve road user satisfaction by at least 0.2 percentage points compared with the level achieved in 2009-10. Develop and agree a new customer satisfaction measure and target to be implemented for 2011-12.
Efficiency: Deliver the Highways Agency's contribution to the Department for Transport's efficiency target	Efficiency (Programme): Deliver cumulative efficiency improvements of £144 million by the end of 2010-11.
	Efficiency (Administration): Deliver our programme within the allocated administration budget over the CSR07 period, which requires cumulative efficiency savings of 17.2% in real terms by the end of 2010-11

Copies of the business plan have been placed in the Libraries of both Houses.

Hillsborough

Statement

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

On 15 December 2009, I announced the establishment of the Hillsborough Independent Panel and the appointment of the Right Reverend James Jones, Bishop of Liverpool, as the panel's chairman. The appointment of seven panel members was announced in my Written Statement of 26 January 2010.

In view of the range of skills needed and the hundreds of thousands of documents within the panel's scope, my announcement on 26 January referred to the likelihood of further appointments, including the appointment to the panel of a suitably experienced lawyer. I can now confirm that Raju Bhatt, a founder and partner of Bhatt Murphy Solicitors and one of the founding members of Inquest Lawyers Group, has been appointed as a member of the Hillsborough Independent Panel.

This announcement completes the process of appointments to the panel, each of which is for a period of two years.

I am confident that the panel members have the skills and experience that they need to be successful in the challenging tasks the panel faces, and that it will continue to act with independence, rigour, and sensitivity. The panel will, itself, consider the range of professional expertise it may wish to call upon in due course.

House of Lords Appointments Commission: Annual Report

Statement

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): My right honourable friend the Prime Minister has made the following Statement.

I have today placed the House of Lords Appointments Commission annual report October 2008-March 2010 in the Libraries of both Houses. I am grateful to the members of the commission for the report and their valuable work during the period.

Housing: Council Houses

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Minister for Housing and Planning (John Healey) has made the following Written Ministerial Statement.

I am publishing today for consultation a prospectus setting out our detailed plans for reforming council housing finance in England. My objective in doing this is to dismantle the housing revenue account subsidy system which was introduced in 1935 and has operated in its current form since 1989. I want to replace it with a devolved system of responsibility and funding for council housing.

I want to provide more flexibility in finances and more transparency in the operation of the system. I want to devolve control from central to local government. And, in return, I want to increase local responsibility and accountability for long-term planning and housing management to meet the needs of local people.

The current redistributive housing revenue account subsidy system has a long history and a clear rationale. Councils have different spending needs and different capacities to raise income. Without redistribution, some councils would have to charge higher rents or deliver lower quality services. But the annual uncertainty of subsidy decisions has inhibited long-term planning and asset management and it has meant that council landlords are less accountable to their tenants.

On 30 June 2009, I announced the Government's proposals for replacing the centralised annual subsidy system with a devolved self-financing system. Under this, councils will finance their own housing from their own rents, in exchange for a one-off redistribution of housing debt to make the settlement financially neutral between central and local government. Freeing councils from the annual funding decisions in the current system will enable them to plan long term, secure greater efficiencies and improve the management of their homes and the quality of service to their tenants. This reform involves 1.8 million homes, 177 councils and a total annual budget of over £6 billion.

The consultation on our broad proposals ended on 27 October 2009. We received 223 responses showing strong support for our proposed system of self-financing, which many in local government have been calling for over many years. Since then we have worked closely with local authorities, experts and representative bodies in a government-led project group to develop soundly based and detailed proposals. I am grateful to all those who have contributed to this work.

The detailed plans I am publishing today for local self-financing and management mean 4.2 million people living in council homes will have landlords with more money to maintain their homes and neighbourhoods. This reform will guarantee tenants whose homes have been upgraded through the Government's Decent Homes programme that their homes will be maintained at least to this standard for the future.

I can confirm the detailed principles and terms on which our plan for this self-financing settlement is based. These include:

all councils will have at least 10 per cent more each year to spend on managing, maintaining and repairing their homes—the equivalent of over £500 million more per year nationally. This deals with the underfunding for maintenance which was identified in the review of council housing finance last year;

there will be a one-off distribution and allocation of debt between local authorities in order to put all councils in an equal position to support their stock from their future income without the need for annual subsidy. The total debt that is supported in the current system will be around £21.48 billion by April 2011. The value of the stock under self-financing using our lead option of a 7 per cent discount rate is £25.13 billion. This means there will be a net receipt for Government of around £3.65 billion at the point of the self-financing settlement, making this settlement neutral between central and local government;

all rents and receipts from sales of houses and land within the HRA will be retained in full by the local authority. By ending the national pooling of all capital receipts, we will support local authorities in creating full asset management strategies covering both capital and revenue;

no local authority will have a proposed allocation of housing debt which is not sustainable for the long term;

rental income assumed in the calculation of debt is based on current rental policy which is designed to keep rents affordable and limit annual increases to tenants; and

funding capacity created for a new generation of council house building.

Since the late 1980s, councils have effectively been unable to build new council houses for their communities. I have now made social housing grant available to local authorities and released funding for two rounds of local authority new build schemes. As a result, we have under way this year, with the first round funding, schemes to build over 2,000 new council houses, the largest council house building programme for nearly two decades. In total, over 87 councils, led by all political parties, will start more than 4,000 homes over this year and next.

Today's announcement and the self-financing reform means we can go much further. My plans set the self-financing settlement with a 7 per cent discount rate at a level which will give councils, after they have met the spending needs to manage and maintain their existing homes, the capacity to fund 10,000 new council homes each year from 2014-15—a five-fold increase in the council house building programme in the current year; this would generate over 20,000 jobs and over 1,000 apprenticeships. Councils will be able to build new homes without increasing local authority borrowing once the self-financing settlement is in place.

I am looking to establish as part of this consultation whether local authorities have the will to use this funding capacity to build new homes to help meet local housing needs. The response of local government to this challenge in the consultation will help us determine whether our lead option of a 7 per cent discount rate is appropriate for the final terms of the self-financing settlement.

The Government are totally committed to completing the Decent Homes programme and recognise that £3.2 billion of works are still needed to meet their Decent Homes commitment. Meeting this investment need will therefore be a central element of its decisions on investment priorities at the next spending review.

Self-financing will fundamentally change the relationship between central government and local authority landlords. It both strengthens local accountability and creates a more strategic relationship between local authorities and central government. Today's consultation makes proposals for improving the accounting and financial framework within which self-financing will operate. This will provide assurances that, there will be sufficient safeguards for tenants and local and national taxpayers, under a devolved financing system.

The settlement will provide councils with the resources they need for effective management of their housing without recourse to further borrowing. Because of this, we will set a cap on the borrowing each local authority can service from the HRA, based on the opening debt. The prospectus sets out details for the calculation of this cap. It is a fiscally prudent deal which protects the interests of tenants and taxpayers.

This is a once and for all settlement. Any major future policy changes would need also to take into account the financial consequences as an additional consideration and funding transaction. If this plan and the terms set out in the prospectus are broadly accepted by local authorities, this devolved system of financing and accountability could be in place by 2011-12 through a voluntary agreement between government and councils. If not, legislation will be required, delaying implementation by at least a year.

I hope local authorities will seize this opportunity for radical reform of the HRA subsidy system which they have long criticised and this opportunity to build new council homes for their local communities.

In order to assist councils in examining the potential of this self-financing deal for their housing services and tenants, CLG officials will be available to meet and explain the proposals during the consultation period.

I urge all local authorities to examine carefully the plans I am publishing today, and to respond fully to our consultation. The consultation will run until 6 July.

Insolvency Service: Performance Targets

Statement

The Minister for Trade and Investment (Lord Davies of Abersoch): My honourable friend the Minister for Business and Regulatory Reform (Ian Lucas) has today made the following Statement.

I have today agreed to the publishing of the Insolvency Service's corporate plan for the period 2010-11.

As a result of changes in public behaviour, with individuals increasingly opting for voluntary insolvency and bankruptcy procedures, the Insolvency Service is planning in 2010-11 to deal with a level of new compulsory insolvency cases within a range of 71,500 to 80,000, significantly less than was predicted in 2009.

The service is also planning to deal with a range of 120,000 to 150,000 redundancy payments and other insolvency-related claims during 2010-11.

The service's "Enabling the Future" programme, a major programme of IT-led investment, and its service transformation plan to implement online services and improve its customers' experience, will deliver significant savings for the service and its customers over the next five years. In 2010-11, the service will review its long-term fees strategy, with a view to reducing its bad provision and the use of BIS funding to cover working capital. This will enable the service to achieve a real-term reduction in insolvency case administration fees of 2.5 per cent.

Action will continue to be taken against bankrupts and company directors in respect of financial misconduct or dishonesty, and the service will continue to investigate the affairs of companies in the public interest. In 2009, the service undertook a new stakeholder satisfaction survey for confidence in its enforcement regime, achieving an overall confidence level of 68 per cent. I have asked the service at least to maintain this level during 2010-11, and I have also set a target in relation to the timeliness of instigating disqualification proceedings in appropriate cases.

I have set targets in relation to the timeliness of releasing reports to creditors in bankruptcy and insolvency cases, and of processing claims for redundancy payments. Also, a target has been set in relation to the overall satisfaction levels of the service's users.

The corporate plan will be available from 1 April 2010 at http://www.insolvency.gov.uk/aboutus/CorporatePlan.pdf

INSS Published Targets	*2009-10 Target*	*2010-11 Target*
Customer Focus		
User Satisfaction levels as measured through the Agency User Satisfaction Index[1]	90%	90%
Case Administration		
Level of real term reduction in fees for insolvency case administration	Year 3 of a 15% target	2.5%
Percentage of reports issued to creditors within 8 weeks		
for bankruptcy cases	N/A	92%
for company cases	N/A	80%
Enforcement		

INSS Published Targets	*2009-10 Target*	*2010-11 Target*
Stakeholder confidence in The Insolvency Service's enforcement regime	N/A	68%
The average time from insolvency order to the instigation of disqualification proceedings in appropriate cases	20 Months	19 Months
Redundancy Payments		
Action redundancy payment claims		
within 3 weeks	78%	78%
within 6 weeks	92%	92%

[1] This is a combined indicator covering bankruptcy and redundancy cases.

The service will also look to build upon its Charter Mark accreditation (held since 1999) by obtaining Customer Service Excellence accreditation in 2010, and will work towards Investors in People reaccreditation in 2011-12.

In addition to these targets, the service is required to meet centrally promulgated targets relating to replying to correspondence from honourable Members, and making payments to suppliers.

Other Targets	*2009-10 Target*	*2010-11 Target*
Reply to correspondence from Members of Parliament within 10 days	100%	100%
Process payments to suppliers within 30 days	100%	100%

The Government have also instructed departments and agencies to maximise levels of payment of undisputed invoices within eight days.

Intercept Evidence

Statement

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

My Written Ministerial Statement of 10 December reported the conclusions of the work programme set in train following the Privy Council review of January 2008, to implement the use of intercept as evidence, consistent with protecting the public and national security. This concluded that the "PII Plus" model of IaE, recommended for further work by the Privy Council review, would not be legally viable, and would worsen rather than enhance our ability to bring the guilty to justice. The Advisory Group of Privy Counsellors (the right honourable Sir John Chilcot, the right honourable Sir Alan Beith MP, the right honourable Michael Howard QC MP, and my noble and learned friend the right honourable Lord Archer of Sandwell) established to advise on the work programme agreed with this conclusion.

My WMS confirmed the Government's commitment to report back on further scoping analysis, intended to establish whether the problems identified were capable of being resolved, prior to the Easter Recess. The areas to be examined were:

further enhancing the judicial oversight available;

full retention of intercept material alongside alternative review requirements;

advances in technology which might make full retention and review more manageable.

I am having placed in the House Libraries copies of a progress report to my right honourable friend the Prime Minister on behalf of the advisory group.

The findings underline the complexity and difficulty of the issues raised. None of the approaches examined successfully reconcile the requirements for trials to remain fair with those necessary to protect operational capabilities. In some cases the problems are such that further work is not justified. In some others the position may be less categorical. Reflecting this, the advisory group has suggested further, more focused work building on that undertaken previously and intended to establish whether the remaining approaches could be implemented in way that is operationally sustainable and affordable. The Government agree that this would be useful.

I should like to express my thanks to the advisory group for their continued contribution to this programme of work.

London Underground

Statement

The Secretary of State for Transport (Lord Adonis): I informed the House last year on 29 October 2009 (*Official Report,* col. 28WS-29WS) that an Independent Advisory Panel would be set up to scrutinise the Transport for London (TfL) investment programme.

Yesterday, 24 March 2010, the Mayor announced the appointments of the first six members of the panel from a shortlist agreed with me. TfL has informed me that it expects the panel, now known as the Investment Programme Advisory Group (IPAG), to be up and running by May 2010. Further details can be found on the TfL website at http://www.tfl.gov.uk/corporate/media/newscentre/15095.aspx.

The IPAG will provide additional reassurance to the mayor, and to taxpayers and farepayers, that the TfL investment programme is being delivered economically and efficiently.

Marine Management Organisation

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My honourable friend the Minister for Marine and Natural Environment (Huw Irranca-Davies) has made the following Written Ministerial Statement.

The new Marine Management Organisation (MMO), established by the Marine and Coastal Access Act 2009, is under a duty to exercise its functions with the overarching objective of making a contribution to the achievement of sustainable development in the marine area.

The Act requires the Secretary of State to give the MMO guidance on the contribution it is to make to the achievement of sustainable development, and a draft of any such guidance must be laid before Parliament.

A draft of the guidance, which has taken into account the comments of a broad range of organisations, MMO delivery partners, and the MMO Board, will be laid today and copies made available in the Vote Office and at http://www.official-documents.gov.uk/document/other/9780108509032/9780108509032.asp.

National Minimum Wage

Statement

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): My right honourable friend the Minister for Business, Innovation and Skills (Pat McFadden) has today made the following Statement.

In June 2009 the Government asked the Low Pay Commission to produce its next report on the national minimum wage by the end of February 2010. I should like to thank the commissioners for all their hard work.

The Low Pay Commission's 2010 report

The main recommendations put forward by the Low Pay Commission concern the rates of the minimum wage and an apprentice minimum wage. The commission has recommended that the adult hourly rate of the minimum wage should increase from £5.80 to £5.93. It has also recommended increasing the development rate (which will cover workers aged 18-20 years) from £4.83 to £4.92 and that the rate for 16-17 year-olds movers from £3.57 to £3.64. It recommends that these changes take place in October 2010.

The commission has also recommended that there should be a single apprentice minimum wage rate of £2.50 per hour for those apprentices currently exempt from the national minimum wage; that is, all those under the age of 19 and those aged 19 and over in the first 12 months of their apprenticeship.

The Government accept these recommendations.

In addition, the Government accept the commission's recommendations that there should be specific guidance on the national minimum wage for the entertainment sector; and that HMRC investigates whether contract and agency cleaners in the hotel sector are receiving their entitlement under the national minimum wage for their hours worked.

The Government note the commission's recommendation that there should be a commitment, as a minimum, to maintaining current funding in real terms for monitoring and enforcement of the national minimum wage until at least March 2014.

Government's response to individual recommendations in the Low Pay Commission's 2010 report

National Minimum Wage rates

We recommend that the adult minimum wage rate should increase from £5.80 to £5.93 from October 2010.

We recommend that the youth development rate for should increase from £4.83 to £4.92 and that the 16-17 year-old rate should increase from £3.57 to £3.64 from October 2010.

We recommend that the accommodation offset should increase from £4.51 to £4.61 per day from October 2010.

ACCEPT

Apprentices

We recommend that non-employed apprentices are excluded from the apprentice minimum wage and continue to be exempt from the national minimum wage.

We recommend that the apprentice minimum wage be applied as a single rate to those apprentices currently exempt from the national minimum wage. That is all those under the age of 19 and those aged 19 and over in the first 12 months of their apprenticeship. The wage should cover both those employed on traditional contracts of apprenticeship and employed apprentices on government-supported level 2 and 3 schemes.

We recommend that all hours of work and training (relating to both on-the-job and off-the-job) under an apprenticeship should be counted as hours for which the apprentice wage must be paid. All hours should be paid at the same wage rate.

We recommend that the apprentice minimum wage be set at an hourly rate.

We recommend the apprentice wage is set at a rate of £2.50 per hour and is introduced from October 2010.

We recommend that in England transitional arrangements are put in place so that current apprentices retain a contractual entitlement to at least £95 per week for the remainder of their apprenticeship or until they are entitled to the national minimum wage.

We recommend that the Government include the review of the apprentice minimum wage rate and arrangements in our annual terms of reference.

ACCEPT

Particular Groups of Workers

We recommend that the Government produce, in conjunction with interested parties, sector specific guidance on the national minimum wage for the entertainment sector.

We recommend that HMRC investigates whether contract and agency cleaners in the hotel sector are receiving their entitlement under the national minimum wage for their hours worked.

ACCEPT

Compliance and Enforcement

We recommend that the Government commit, as a minimum, to maintaining current funding in real terms for monitoring and enforcement of the national minimum wage until at least March 2014.

NOTE

The Government will consider the level of funding for national minimum wage monitoring and enforcement as part of the wider next spending review settlement discussion and will announce a decision on this at the same time as the settlement. We have today published our national minimum wage compliance strategy which highlights how we aim to maximise our compliance impact and emphasises the importance that the Government place on our enforcement activities

Copies of the Low Pay Commission's 2010 report and the national minimum wage compliance strategy have been placed in the Libraries of both Houses.

NHS: Prescription and Dental Charges

Statement

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

I am announcing a freeze in prescription charges for 2010-11. The prescription charge will remain unchanged at £7.20 for each quantity of a drug or appliance dispensed. The cost of a prescription prepayment certificate (PPC) will remain at £104.00 for an annual certificate. PPCs offer savings to those who need frequent prescriptions throughout the year. The cost of the three-month PPC, which is useful for those with a shorter-term need for prescription items, will remain at £28.25.

Alongside this, I am confirming that we will not be introducing any changes to the age exemption criteria for free prescriptions in April 2010. We are considering how best to implement changes to the age at which people qualify for free prescriptions, in line with the changes to state pension age for women.

NHS dental charges will also be frozen at their current rates for the 12 months beginning 1 April 2010. The dental charge payable for a band 1 course of treatment will remain at £16.50 and the charge for a band 2 course of treatment will remain at £45.60. The charge for a band 3 course of treatment will remain, for a third year, at £198.

Charges for elastic stockings and tights, wigs and fabric supports supplied through hospitals will also remain unchanged.

The range of NHS optical vouchers available to children, people on low incomes and individuals with complex sight problems to help with the purchase of glasses also remains unchanged in 2010-11.

Pensions: NEST

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My honourable friend the Minister of State for Pensions and the Ageing Society (Angela Eagle) has made the following Written Ministerial Statement.

I am pleased to announce the appointment of further members of the NEST Corporation.

Ms Jeannie Drake is appointed as deputy chair of the NEST Corporation. Her appointment will take effect from 1 April 2010, initially as deputy chair designate until the NEST Corporation is established on 5 July, at which point Ms Drake will take on the full duties of deputy chair. Ms Drake is currently acting chair of the Personal Accounts Delivery Authority (PADA) and will retain this role until PADA is wound up on 5 July 2010.

Ms Drake brings a deep knowledge of the objectives of NEST and the wider agenda for pensions. As deputy chair, Ms Drake will provide an excellent continuity of knowledge and will be able to make an immediate contribution to the running of NEST.

I am also pleased to announce the appointment of the following members of the NEST Corporation:

Mr Tom Boardman;

Mr Laurie Edmans;

Dr Dianne Hayter;

Mr Chris Hitchen;

Mr Julius Pursaill; and

Ms Sue Slipman

Their appointments will be as members designate from 1 April 2010 until the NEST Corporation is established on 5 July. These individuals will bring a wide breadth of knowledge and expertise to the NEST Corporation.

The NEST Corporation will be a non-departmental public body, responsible for launching and running NEST, a new low-cost pension scheme for moderate to low earners who are not currently served by the private sector. NEST will ensure all employers have access to a suitable pension arrangement in order to fulfil their forthcoming duties under the Pensions Act 2008.

In the long term, we expect NEST to have between 3 and 6 million members, and hundreds of thousands of participating employers. Developing and delivering a scheme of this scale is a significant challenge, and these appointments demonstrate the ongoing government commitment to ensuring NEST succeeds.

NEST will be established when the National Employment Savings Trust Order 2010 comes into effect on 5 July. The order will be supplemented by the NEST rules, both of which will be published today. Together, the order and rules set out the scope and parameters for the operation of NEST. An Explanatory Note will be published with the rules, to set out the changes following consultation in April 2009.

Copies of the rules and the Explanatory Note will be placed in the Libraries of both Houses. The order will be published and made available through the OPSI website at http://www.opsi.gov.uk/si/si2010/uksi_20100917_en_1.

Planning
Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Minister for Housing and Planning (John Healey) has made the following Written Ministerial Statement.

The Pre-Budget Report 2009 *Securing the Recovery: Growth and Opportunity* stated that, "CLG will undertake by Budget 2010 an end-to-end review of the call-in process, seeking to speed up decision-making". We have now completed this review and I am today publishing a report of the review and have placed copies in the Library of the House.

All parts of the process were examined to identify where there may be scope to work more efficiently, or to streamline the process. The review makes a number of recommendations and these are summarised below.

Better information:

for Ministers on the implications of calling a case in, and on the value added by call-in;

for third parties on the call-in process and policy;

for government offices on what cases should be put to Ministers;

for government offices on dealing consistently and fairly with third-party requests to call in; and

on call-in timescales and trends.

More effective working:

between statutory agencies and government offices;

between planning central casework and the Planning Inspectorate ;

to try and avoid issuing decisions subject to obtaining further commitments from the applicant (via "minded to" letters);

to speed up the process, particularly where there are issues with planning obligations; and

in planning central casework, to ensure that where possible, call-in cases are prioritised.

Better selection:

of the cases which should be called in; and

of the call-in issues which the inquiry will focus on

We will also explore the scope for improved use of electronic working at the inquiry stage, and for the government offices to work with local planning authorities at an earlier stage to help avoid call-ins. We will also consider how to make the most effective use of inquiry time—for example by providing more flexibility in the way evidence is examined.

Many of the recommendations in the review can be accepted and acted on immediately, with further work to begin on exploring the longer-term recommendations. Overall the review concluded that up to £2 million a year for applicants might be saved by calling in fewer cases, inquiries could be shorter in 40 per cent of cases (with possible savings of up to £900,000 per year for all parties involved in the inquiry process), and there are further potential time and cost savings identified that might be secured in the future.

A further parliamentary Statement will be issued in due course clarifying government policy on call-in, and updating the Caborn statement of 1999.

Prevention of Terrorism Act 2005
Statement

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

In accordance with Section 14(3), 14(4) and 14(5) of the Prevention of Terrorism Act 2005, Lord Carlile of Berriew QC prepared a report on the operation of the Act in 2009, which I laid before the House on 1 February 2010.

I am grateful to Lord Carlile for another considered review. Following consultation within my department and with other relevant agencies, I am today laying before the House my response to Lord Carlile's recommendations.

I am also laying before the House my response to the report on the renewal of the control order legislation by the Joint Committee on Human Rights (published on 26 February 2010).

Copies of the government responses will be available in the Vote Office and a copy of each will also be placed on the Home Office website.

Queen Elizabeth II Conference Centre: Key Performance Targets
Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My honourable friend the Parliamentary Under-Secretary of State (Shahid Malik) has made the following Written Ministerial Statement.

I am today announcing key performance targets that have been agreed for the Queen Elizabeth II Conference Centre for the period 1 April 2010 to 31 March 2011.

The agency's principal financial target for 2010-11 is to achieve a minimum dividend payment to the Department for Communities and Local Government equal to the total of 6 per cent of average capital employed and a sum equal to the capital charge that applies to the building for the year concerned. Therefore, the agency's budget for 2010-11 includes a minimum dividend payment of £1,000,000. The agency is a revenue producing business and will also pay to the department an additional £200,000 (20 per cent) as its contribution to the Government's operational efficiency programme.

The agency also has the following targets to achieve:

a 65 per cent occupancy of its rooms based on a theoretical full occupancy revenue of £9.048,000;

overall score for value for money satisfaction of greater than 90 per cent;

the number of complaints received to be less than two per 100 events; and

an average response time when answering complaints of less than four working days.

Transport: GLA Transport Grant

Statement

The Secretary of State for Transport (Lord Adonis): Following consultation with the Mayor of London, I have today determined the Greater London Authority transport grant for 2010-11 at £2,871,589,000.

This is a block resource grant provided by the Government to Transport for London to support and improve transport services in London, including London Underground.

Victims Advisory Panel: End of Tenure Report

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My honourable friend the Parliamentary Under-Secretary of State, Ministry of Justice (Claire Ward) has made the following Written Ministerial Statement.

I have today laid before Parliament an end of tenure report for the second Victims Advisory Panel, which met between July 2006 and July 2009.

The report gives details of the panel's work across the period and sets out recommendations that it has made. I would like to take this opportunity to thank all the members of the panel for their hard work.

Youth Justice Board Review

Statement

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): My right honourable friend the Lord Chancellor and Secretary of State for Justice (Jack Straw) has made the following Written Ministerial Statement.

My right honourable friend the Member for Normanton (Ed Balls) and I welcome the report published today, *Safeguarding the Future: A Review of the Youth Justice Board's Governance and Operating Arrangements* (the YJB review). This highlights the significant improvements in youth justice since 1998, as well as making important recommendations for the future. We are grateful to Dame Sue Street and Frances Done for their thoughtful and thorough analysis.

The creation of the Youth Justice Board (YJB) and pioneering multi-agency youth offending teams through the Crime and Disorder Act 1998 is described by the YJB review as "amongst the most significant [reforms] ever made to the criminal justice system". The 1998 Act brought co-ordination and consistency to the previously ineffective and disparate system that was so heavily criticised by the 1996 Audit Commission report, *Misspent Youth*. Crucially, for the first time it put in place a distinct, formal structure for dealing with young offenders.

Now, instead of pulling in different directions, the police, social services, schools and local authorities are working closely together to protect the public through prevention and, where that fails, punishment and reform. One key focus is on tackling problems before they are allowed to take root, challenging bad behaviour before it escalates.

At the same time, there are also serious consequences for those who do offend. Custody must remain an option open to sentencers for serious and persistent offenders or those who fail to respond to other interventions.

We have also expanded the range of community punishments to hold young offenders to account where appropriate and to make them give redress to the communities that they have wronged.

All this work is underpinned by the £100 million youth crime action plan, which has already impacted on more than 300,000 young people, as well as a new sentencing framework, the youth rehabilitation order, which combines rigorous punishment with interventions to help young offenders to reform.

The evidence suggests that this approach is having an effect: the number of young people entering the criminal justice system has fallen by over 12 per cent between 2000-01 and 2008-09; the frequency rate of reoffending has fallen by nearly a quarter between 2000-2008; and the number of young people sentenced to immediate custody has also fallen significantly over this period.

This progress is encouraging. The Youth Justice Board has played an important part, for which it deserves credit. However, we want to achieve a further step change: fewer victims and less reoffending, with the best outcomes delivered across the country. That is why we commissioned a review of the Youth Justice Board in September 2009 and why we accept the review's message that the YJB needs to achieve a stronger grip on performance, provide clearer direction and give the best value for public money. The current leadership has shown itself to be ready to rise to this challenge. We accept the review's recommendation that the board should build on its strengths and reinvigorate its role.

As today's report highlights, protecting the public must be clearly recognised as the first priority within an integrated approach that improves outcomes for young people. This is central to our approach to justice. We accept the recommendation that the YJB should further emphasise and publicise its role in protecting the public from youth crime.

The review makes clear the importance of strong partnership working between the YJB and central government and makes a number of important recommendations to strengthen this further. We will seek to implement these immediately, building on the successful work through the youth crime action plan. We agree that the Home Office should have greater involvement in that partnership working with the YJB and its sponsoring departments.

We will now develop proposals for putting into practice all the review's recommendations. We will examine how to achieve the Youth Justice Board's purpose and objectives with the best value for money for the taxpaying public and will publish a detailed response in the summer.

We will build on our success in preventing crime and reducing reoffending. The Youth Justice Board will continue to ensure that there are sufficient places in secure accommodation for the most serious, persistent young offenders. Where there are weaknesses in performance, the board will focus considerable attention on monitoring and raising standards in local areas, on holding local authorities and providers of youth justice services to account and on spreading best practice across the country. The review makes it clear that there is more to do in this respect. We accept that and will immediately work with the YJB to ensure that it happens. The board will be strengthened in its role through provisions in the Children, Schools and Families Bill that give the Government the power to intervene directly in poorly performing youth offending teams.

The best partnership working should be shared and built on across the country. No one should be left in any doubt about the importance attached to protecting people from becoming victims of crime and to holding the perpetrators to account.

Written Answers

Thursday 25 March 2010

Agriculture: Genetically Modified Crops

Questions

Asked by ***The Countess of Mar***

To ask Her Majesty's Government how many staff were in the Department for Environment, Food and Rural Affairs' unit responsible for genetically modified organisms in each year since 2000; and what was the annual budget for that unit in each year since 2000. [HL2794]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): The following table gives the information requested from 2003-04, based on the number of Defra staff working full-time on GM policy issues. Other Defra staff contribute some of their time to work on GM issues, but it would be difficult to apportion this accurately. Information for earlier years is not available.

Year	*Number of staff working full time on GM issues at the beginning of each financial year*	*Pay costs for staff working full time on GM issues (salary, ERNIC and employer's pension contribution)*
2003-04	22	830,000
2004-05	20	626,000
2005-06	15	649,000
2006-07	13	646,000
2007-08	10	387,000
2008-09	9	361,000
2009-10	8	372,000

Asked by ***The Countess of Mar***

To ask Her Majesty's Government how many meetings have taken place between ministers and (a) representatives of the biotechnology industry and its trade organisations, and (b) representatives of non-governmental organisations and consumer groups, on matters relating to genetically modified crops and foods in the past five years. [HL2866]

Lord Davies of Oldham: Since the beginning of 2007, Defra Ministers have had five meetings with representatives of the biotechnology industry and three meetings with non-governmental organisations specifically about matters relating to genetically modified crops and foods. Information for earlier years is not available.

Asylum Seekers

Question

Asked by ***Lord Avebury***

To ask Her Majesty's Government how much they paid to settle claims by asylum seekers subjected to administrative detention for wrongful imprisonment, unlawful use of force or medical damage in 2008 and 2009; and what were the associated legal costs. [HL2983]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The Home Office prepares its accounts in accordance with UK GAAP (generally accepted accounting principles) adapted for the public sector in accordance with guidance issued by HM Treasury.

The information is not collated in the way requested.

Bangladesh

Question

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what representations they are making to the government of Bangladesh about alleged harassment and deportation of Burmese Rohingya refugees. [HL2845]

Lord Brett: We are concerned by the recent reports by Medecins Sans Frontieres and Physicians for Human Rights on the situation facing displaced Rohingyas in Bangladesh. We have raised the plight of the Rohingyas and their status with the Government of Bangladesh, both bilaterally and in concert with EU partners. Most recently, my honourable friend the Parliamentary Under-Secretary of State for International Development, Mike Foster, raised the importance of meeting the basic needs of the displaced Rohingyas in Bangladesh with the Bangladeshi State Minister for Environment and Forests on 17 March.

Benefits

Question

Asked by ***Lord Bradley***

To ask Her Majesty's Government how many people were in receipt of incapacity benefit as a result of mental health problems in each of the past five years. [HL2714]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Causes of incapacity are based on the International Classification of Diseases, 10th Revision, published by the World Health Organisation. To qualify for incapacity benefit/severe disablement allowance, claimants have to undertake a medical assessment of incapacity for work which is called the personal capability assessment. Therefore, the medical condition recorded on the incapacity benefit/severe disablement allowance claim form does not itself confer entitlement to incapacity benefits, so for example, the decision for a customer claiming benefit on the grounds of a mental and behavioural disorder would be based on their ability to carry out the range of activities in the personal capability assessment.

The number of incapacity benefit/severe disablement allowance claimants with a main disabling condition as a mental or behavioural disorder as at August in each year since 2005—Great Britain and abroad.

Date	*All cases*	*Mental and Behavioural disorders*
August 2005	2,767,740	1,089,150
August 2006	2,724,980	1,097,480
August 2007	2,683,160	1,109,290
August 2008	2,632,000	1,105,170
August 2009	2,299,580	989,610

Source: Department for Work and Pensions Longitudinal Study 100 per cent data.

Notes:

1. The figures are based on data derived from the Incapacity Reference Guide for Decision Makers. The guide is based on the International Classification of Diseases 10th Revision (ICD -10). The relevant section does not differentiate between mental and behavioural disorders.

2. Figures are rounded to the nearest 10.

3. Employment and support allowance replaced incapacity benefit and income support paid on the grounds of incapacity for new claims from 27 October 2008. Data by medical condition are not currently available for employment and support allowance/

4. Figures are published at www.nomisweb.co.uk.

Broadcasting: Irish and Ulster Scots Languages

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what announcements they have made since 1 January about the broadcasting of the Irish and Ulster Scots languages; and how any such announcements meet the requirements for equality and parity of esteem. [HL2828]

Baroness Royall of Blaisdon: On 1 February, the Government signed a Memorandum of Understanding with the Irish Government that, among other things, ensures the widespread availability of the Irish language channel TG4 in Northern Ireland following the digital switchover. The Government see no inconsistency with obligations in respect of equality and parity of esteem.

Burma

Questions

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government following the report of the International Development Committee on DfID Assistance to Burmese Internally Displaced People and Refugees on the Thai-Burma Border (10th Report, session 2006–07), how much funding has been provided to community-based organisations on the Thai-Burma border to build schools, clinics and shelter in Burma. [HL2819]

Lord Brett: Since 2007, approximately £660,000 of funding from the Department for International Development (DfID) has been used by non-governmental organisations, based in Thailand, to provide humanitarian assistance in Burma. This assistance includes the provision of health, education and other services, and financial support to enable particularly vulnerable people displaced by conflict to buy food. About £18,000 of this funding has been used to build classrooms and water and sanitation facilities for people displaced by conflict.

Asked by ***Lord Alton of Liverpool***

To ask Her Majesty's Government what assessment they have made of whether elections due in Burma later this year will be free and fair. [HL2822]

Lord Brett: Election laws published by the Burmese regime in early March compound the iniquities of the 2008 constitution. The laws appear to force the National League for Democracy to expel Aung San Suu Kyi and other political prisoners from the party, or disband and withdraw from the political process. The laws also require political parties to endorse a constitution imposed through a sham referendum and place severe restrictions on their ability to campaign. In view of these and other restrictions, planned elections cannot be free and fair. The military government appear intent on further marginalising the democratic opposition and Burma's many ethnic groups, when only a fully inclusive political process stands any chance of delivering stability and solving Burma's many problems.

Businesses: Growth

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what discussions they plan to hold with the City of London Corporation's Economic Development Office following its recent report on the financial needs of United Kingdom small and medium-sized enterprises. [HL3078]

The Minister for Trade and Investment (Lord Davies of Abersoch): The City of London's report provides a good summary of the financing landscape affecting small and medium-sized enterprises (SMEs), including the funding escalator required for different stages of business growth. Government acknowledge the conclusions in the report and will continue to work with a wide range of stakeholders and partners, including the City of London, to support the financial needs of UK SMEs and to help address the issues that the report identifies.

Buying Solutions

Question

Asked by ***Lord Newby***

To ask Her Majesty's Government how much was paid by the Ministry of Defence and its agencies to (a) PricewaterhouseCoopers, (b) KPMG, (c) Deloitte, (d) Ernst & Young, (e) Grant Thornton, (f) BDO

Stoy Hayward, (g) Baker Tilly, (h) Smith & Williamson, (i) Tenon Group, (j) PKF, (k) McKinsey and Company, and (l) Accenture, in each of the past five years for which information is available; how they monitor contracts with those firms; and how the department reports (1) during, and (2) at the end of, contracts to Buying Solutions. [HL2096]

The Minister for International Defence and Security (Baroness Taylor of Bolton): The Ministry of Defence Financial Management Shared Service Centre (FMSSC) contracts database shows that payments have been made over the past five complete financial years to the companies listed in the following table. The amounts shown have been rounded to the nearest £1 million.

Company	*2004-05 (£m)*	*2005-06 (£m)*	*2006-07 (£m)*	*2007-08 (£m)*	*2008-09 (£m)*
Ernst Young	•	•	1	1	4
Deloitte	3	3	8	9	
Grant Thorton	0	0	•	0	
KPMG	3	2	3	9	7
Accenture	•	•	0	•	0
PricewaterhouseCoopers	5	5	5	4	5
BDO Stoy Hayward	0	0	0	•	0
Mckinsey & Co	13	19	2	•	0
Smith & Williamsons	0	•	0	0	0

• - Under £1 million

0 - No payments made in period

There are no records of payments being made to Baker Tilly, Tenon Group or PKF.

To monitor and assess the compliance and performance of individual contracts against a defined requirement, the Ministry of Defence (MoD) incorporates milestones, critical success factors, performance indicators, and contract completion conditions, and conducts project evaluations.

MoD is not required to report this spend data to Buying Solutions.

Climate Change

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether they will pursue bilateral agreements on climate change with other countries, following the lack of a full agreement at the Copenhagen climate change conference in December 2009. [HL2564]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): The UK Government remain committed to achieving an international legally binding agreement through the UNFCCC. The Copenhagen Accord provides a strong platform on which to build. We will continue to work bilaterally and through multilateral institutions both to support practical action on the ground to address climate change and to work towards a legally binding agreement.

Cyprus: Property

Question

Asked by ***Lord Maginnis of Drumglass***

To ask Her Majesty's Government whether they regard the European Court of Human Rights ruling on 5 March that the Immovable Property Commission in Northern Cyprus provides appropriate redress for Greek Cypriot complaints about deprivation of property following the 1974 Turkish intervention as de facto recognition of the enabling Government in the Turkish Republic of Northern Cyprus. [HL2935]

Lord Brett: The European Court of Human Rights (ECHR) ruling is not a de facto recognition of the self-declared "Turkish Republic of Northern Cyprus" (TRNC). The ECHR ruling stated clearly that,

"to the extent that any domestic remedy is made available by acts of 'TRNC' authorities or institutions, it may be regarded as a 'domestic remedy' or 'national' remedy vis-a-vis Turkey... the overall control exercised by Turkey over the territory of northern Cyprus entails her responsibility for the policies and actions of the 'TRNC'".

Accordingly, the Government do not regard this ruling as a de facto recognition of the self-declared "Turkish Republic of Northern Cyprus".

The full judgment of the ECHR in this case is available at http://cmiskp.echr.coe.int/tkp197/view.asp?item=7&portal=hbkm&action=html&highlight=&sessionid=49443179&skin=hudoc-en.

Debt Management Schemes

Question

Asked by ***Lord Elton***

To ask Her Majesty's Government whether they have introduced a telephone campaign offering to assume responsibility for all the debts of qualifying individuals applying before 6 April; and what assessment they have made of the effects of the campaign on heavily indebted persons. [HL2838]

To ask Her Majesty's Government whether the funds at the disposal of the promoters of a telephone campaign, claiming to be made by the Government and offering to assume responsibility for all the debts of qualifying individuals applying before 6 April, are derived from HM Treasury; if so, how much is available; on what terms; and for how long. [HL2839]

To ask Her Majesty's Government what are the terms under which, in a telephone campaign claiming to be made by them, qualifying individuals applying before 6 April are offered to be relieved of all of their personal debt. [HL2840]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): There is no government telephone campaign offering to assume responsibility for all debts of qualifying individuals. Any government scheme would not involve cold calling consumers, nor would it encourage consumers to seek to evade their debts.

The Government are aware that there have been some instances of misleading and unlawful cold calling practices. In some cases, consumers have been misled into believing that they were one of the "few chosen individuals" contacted as part of a government scheme to help wipe out consumer debt. The Office of Fair Trading last year ordered six debt management businesses and four cold calling companies to stop using unsolicited and misleading calls to advertise their services. Follow-up formal enforcement action has been taken against some of those companies.

Energy: Light Bulbs

Question

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government what plans they have to monitor the number of eco-friendly light bulbs that fail after less than four years. [HL2914]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): Through Commission Regulation (244/2009/EC), requirements are set on lumen maintenance and survival factors for non-directional household lamps placed on the European market, as well as energy efficiency requirements.

The National Measurement Office has the enforcement responsibility for this regulation and will be carrying out a programme of product testing. The tests will be targeted on products that are known to have a higher risk of non-compliance.

Estate Agents: Regulation

Question

Asked by ***Baroness Harris of Richmond***

To ask Her Majesty's Government further to the Written Answer by Lord Young of Norwood Green on 16 March (*WA 158*), what response they made to the report of January 2009 by Professor Colin Jones *Government Review of Regulation and Redress* in the UK Housing Market, prepared for the then Department for Business, Enterprise and Regulatory Reform, which recommended the regulation of estate agents. [HL3013]

The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green): The Government welcomed Professor Jones' report. It is an important contribution to the ongoing debate about improving service standards among property professionals, for the benefit of consumers.

EU: Internal Market Scoreboard

Question

Asked by ***Lord Harrison***

To ask Her Majesty's Government what assessment they have made of the operation of the European Union internal market in the light of the Internal Market Scoreboard published in March; and what their priorities are for further developing the internal market. [HL3080]

The Minister for Trade and Investment (Lord Davies of Abersoch): The March scoreboard demonstrates that the record of member states in transposing EU legislation correctly and on time continues to improve. However, further improvement is still needed, not only on the measures contained in the scoreboard but also in the way in which legislation is implemented in practice, to make sure the anticipated benefits are really delivered to businesses and citizens.

The Government's *EU Compact for Jobs and Growth*, published in October 2009, identifies a number of priorities for further development of the single market including: a focus on barriers in high growth sectors such as services, the digital economy and low-carbon technologies, as well as barriers preventing cross-border trade by small and medium enterprises; further steps to reduce the burden of EU legislation on businesses; improved co-operation between national enforcement authorities; more accessible problem-solving mechanisms; and measures to facilitate the free movement of workers.

European Court of Human Rights

Question

Asked by ***Lord Crickhowell***

To ask Her Majesty's Government what response they have given to the European Court of Human Rights' invitation to submit written observations on the admissibility and merits of Application No 31965/07 Hardy & Maile v the United Kingdom for which a response was initially required by 17 February, subsequently extended by the court to 5 March at the request of Her Majesty's Government. [HL2910]

Lord Brett: The Government have submitted written observations as requested by the European Court of Human Rights, setting out the Government's position that this application is inadmissible for non-exhaustion of domestic remedies, alternatively that there is no violation of the convention.

Global Fund

Question

Asked by ***Baroness Northover***

To ask Her Majesty's Government what assessment they have made of the effectiveness of their contribution to the Global Fund to Fight Aids, Tuberculosis and Malaria; and what steps they are taking to ensure the Fund receives adequate future funding during this year's replenishment process. [HL2937]

Lord Brett: In its recent annual report on innovation and impact, the Global Fund Secretariat estimates that fund-supported programmes have saved 4.9 million lives; provided 2.5 million people with antiretroviral treatments for AIDS; provided 6 million people with TB treatments; and distributed 104 million insecticide-treated bed nets. However, the UK Government acknowledge that the fund can and should do more to streamline its operations; work better with partner country systems and other donors; deliver better value for money; and improve its communications.

The UK made a long-term pledge at the Global Fund's 2007 replenishment of £1 billion from 2008 to 2015. The UK will continue to encourage others to honour their pledges and new donors to step up to the table, as well as support new efforts on innovative financing for health systems.

Government Departments: Websites

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government what plans they have to update the "fact files" page of the website of the government office for the North East to carry data on unemployment in the north east region after August 2009. [HL2666]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Government offices ceased to publish the fact files for all the government office regions from 3 March 2010 as an efficiency measure as it duplicated information that was already available from other sources. Information, such as data on unemployment, can be obtained directly from the Office for National Statistics website.

Haiti: Law and Administration

Questions

Asked by ***Lord Judd***

To ask Her Majesty's Government what part they are playing in establishing open, accountable and effective Government in Haiti. [HL2953]

Lord Brett: The UK has contributed a community engagement expert to the team which has now produced a post-disaster needs assessment (PDNA). The PDNA identifies important recommendations to establish open, accountable and effective government in Haiti, including: to seek a political consensus during the reconstruction period; to strengthen the democratic process through support to Parliament and political parties, to support civil society to promote dialogue on public policy; to strengthen the capacities of the Provisional Electoral Commission; and to support the institutional strengthening of the National Identification Office.

The UK believes that follow up to the PDNA is best supported by multilateral institutions, including the World Bank, European Commission and Inter-American Development Bank. The UK's share of the reconstruction funding already announced by these organisations amounts to around $50 million. The UK will use its position as major stakeholder in the multilateral bodies to ensure the priorities and principles they set for their allocations in Haiti address the most pressing needs—informed by the recommendations of the PDNA and the Government of Haiti's strategy for reconstruction and development.

In addition, in 2008/09 the UK contributed US$42 million to the UN Stabilization Mission in Haiti (MINUSTAH) through our assessed contributions to UN Peacekeeping. The UK, as a permanent member of the UN Security Council, also politically supports MINUSTAH through the Security Council mandate process. MINUSTAH has played a critical role in providing support to the Haitian Government for a number of years, including for free and fair elections such as the presidential elections in 2006. It will continue to do so for the next presidential elections, which we hope will take place as soon as conditions allow, and at the latest before the end of the current president's mandate.

Asked by ***Lord Judd***

To ask Her Majesty's Government what contribution they are making towards developing the rule of law and the administration of justice in Haiti. [HL2954]

Lord Brett: In 2008/09, the UK contributed US$42 million to the UN Stabilization Mission in Haiti (MINUSTAH) through our assessed contributions to UN peacekeeping. The UK, as a permanent member of the UN Security Council, politically supports MINUSTAH through the Security Council mandate process. MINUSTAH plays a critical role within Haiti in training and supporting the Haitian National Police, providing the skills required to effectively and fairly maintain law and order within the country.

Following the earthquake of 12 January, the UK contributed a community engagement expert to an international team which has now produced a post-disaster needs assessment (PDNA). The PDNA identifies important recommendations to develop the rule of law and the administration of justice in Haiti, including: to restore and enhance the operational capacities of actors in the justice and public safety system; and to modernise the justice and public safety system and expand services at the territorial level.

The UK believes that follow-up to the PDNA is best supported by multilateral institutions, including the World Bank, European Commission and Inter-American Development Bank. The UK's share of the reconstruction funding already announced by these organisations amounts to around $50 million. The UK will use our position as a major shareholder in the multilateral bodies to ensure the priorities and principles the institutions set for their allocations in Haiti address the most pressing needs—informed by the recommendations of the PDNA and the Government of Haiti's strategy for reconstruction and development.

Additionally, experts from the UK Government's Stabilisation Unit are advising the Haitian Ministry of Justice on a programme of prison rebuilding. This is part of an international donor effort to rebuild and improve the prison sector in Haiti. Improving prison conditions had also been a priority before the earthquake. The work is now continuing, and the team are also providing advice to the Haitian Ministry of Justice on introducing international standards on prison management, as well as better security management and contingency planning.

Homelessness

Question

Asked by ***Baroness Miller of Chilthorne Domer***

To ask Her Majesty's Government in what circumstances the Crown Prosecution Service would prosecute a young person begging. [HL2969]

The Attorney-General (Baroness Scotland of Asthal): The Crown Prosecution Service (CPS) would prosecute a youth for begging only if there was sufficient evidence to provide a realistic prospect of conviction and if a prosecution was in the public interest.

The public interest would not usually require a prosecution if the youth admitted the offence and had not previously been convicted of an offence or received a warning from the police. In these circumstances, the police would usually issue a reprimand or warning for the offence.

Youths are usually only referred to the CPS for prosecution if the youth denies the offence or if the youth has already received a final warning or has been convicted of an offence. The CPS will consider each case on its merits and would take into account the interests of the youth and factors such as the reasons for begging, the prevalence of the offence in the area, whether the begging was aggressive and whether members of the public had complained.

House of Lords: Sittings

Questions

Asked by ***Lord Campbell-Savours***

To ask the Chairman of Committees what assessment has been made of the additional costs to Parliamentary works projects arising out of any sittings of the House of Lords in September 2010. [HL2800]

The Chairman of Committees (Lord Brabazon of Tara): It is estimated that a September sitting would, in total, add approximately £1.3 million to the cost of shared and Lords-only major works projects taking place over the summer, largely because of the need to accelerate or delay them. This does not include Commons-only projects.

Asked by ***Lord Campbell-Savours***

To ask the Chairman of Committees what consultation has been undertaken with contractors regarding any disruption arising from or delays to Parliamentary works projects as a result of any sittings of the House of Lords in August or September 2010. [HL2802]

The Chairman of Committees: Discussions on this matter have been held with the contractor currently undertaking the cast iron roofs project. Contractors have not yet been appointed to the other major projects likely to be affected by an August or September sitting (the mechanical and electrical project and the fire safety works) but the tender documents will reflect these considerations.

Income

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government what were the average weekly incomes in each region and country in the United Kingdom in (a) 1997, (b) 2006, and (c) 2009. [HL2750]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Specific information regarding household income for the United Kingdom is available in *Households Below Average Income 1994-95 to 2007-08*.

The information where available is presented in the table.

Median weekly household income, by region and country, before and after housing costs, in 2007-08 prices, 1997-98—1999-00 and 2005-06—2007-08

Region/ Country	*Before Housing Costs*		*After Housing Costs*	
	1997-98—1999-00	*2005-06—2007-08*	*1997-98—1999-00*	*2005-06—2007-08*
England	£342	£396	£270	£331
North East	£293	£352	£235	£304
North West	£317	£365	£255	£311
Yorkshire and the Humber	£307	£366	£246	£311
East Midlands	£330	£369	£266	£317
West Midlands	£330	£361	£265	£304
East of England	£372	£420	£293	£351
London	£374	£441	£278	£351

Median weekly household income, by region and country, before and after housing costs, in 2007-08 prices, 1997-98—1999-00 and 2005-06—2007-08

Region/ Country	Before Housing Costs		After Housing Costs	
	1997-98—1999-00	2005-06—2007-08	1997-98—1999-00	2005-06—2007-08
South East	£400	£457	£311	£377
South West	£333	£396	£264	£332
Scotland	£334	£388	£269	£336
Wales	£310	£356	£249	£309
Northern Ireland	..	£360	..	£312

Source: Households Below Average Income, DWP

Notes:

10. These statistics are based on *Households Below Average Income*, sourced from the Family Resources Survey. The *Households Below Average Income* series and the Family Resources Survey is available in the Library.

11. Small changes should be treated with caution as these will be affected by sampling error and variability in non-response.

12. The reference period for *Households Below Average Income* figures are single financial years. Three survey year averages are given for regional statistics as regional single year estimates are subject to volatility.

13. The income measures used to derive the estimates shown employ the same methodology as the Department for Work and Pensions publication *Households Below Average Income* series, which uses disposable household income, adjusted (or "equivalised") for household size and composition, as an income measure as a proxy for standard of living.

14. For the *Households Below Average Income* series, incomes have been equivalised using Organisation for Economic Co-operation and Development equivalisation factors.

15. Median incomes have been provided rather than mean incomes because the income distribution is skewed with some outliers with high incomes.

16. Incomes are presented in 2007-08 prices and have been rounded to the nearest pound sterling.

17. Figures have been presented on a Before Housing Cost and an After Housing Cost basis. For Before Housing Costs, housing costs (such as rent, water rates, mortgage interest payments, structural insurance payments and ground rent and service charges) are not deducted from income, while for After Housing Costs they are.

18. ".." indicates figures are not available. Figures are only available for the Northern Ireland and the United Kingdom from 2002-03 onwards.

Iran

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they are making representations to the Government of Iran about the arrests of the Rev Wilson Issavi, Mr Hamid Shafiee and his wife Reyhaneh Aghajary and their conditions in custody. [HL2851]

Lord Brett: We are aware of these arrests and remain concerned at the treatment of religious minorities in Iran. We have raised our concerns over the human rights situation in Iran, including the treatment of religious minorities, with the Iranian authorities both bilaterally and via the EU. My honourable friend the Foreign and Commonwealth Office Minister of State, Ivan Lewis MP, raised our concerns with the Iranian ambassador on 20 January.

Israel and East Jerusalem: Property

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they will make representations to the government of Israel requesting that all property claims in Israel and east Jerusalem be treated on a basis of equality, in particular those dating from 1948; and whether they will raise the matter in the European Union in the context of the human rights clause of the European Union–Israel Association Agreement. [HL2817]

Lord Brett: The UK does not recognise the illegal Israeli annexation of east Jerusalem. We have consistently raised concerns about actions taken directly by the Israeli Government or by private organisations with the support of the Israeli legal system (such as the absentee property law and the enforcement of pre-1948 property claims by Jewish litigants to Palestinian land where no such parallel right exists for Palestinian litigants) that have the effect of altering the demographic balance of Jerusalem. This includes the building of settlements on occupied land, the eviction of Palestinian families from their homes and the demolition of Palestinian housing.

Justice: Arrest Warrants

Question

Asked by ***Lord Pearson of Rannoch***

To ask Her Majesty's Government which United Kingdom citizens have been extradited under the European arrest warrant; for which alleged crimes; to which European countries; and how long they have spent in custody awaiting trial. [HL2940]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The Serious Organised Crime Agency and Crown Office and Procurator Fiscal Service (for Scotland) are the designated authorities in the UK responsible for processing European arrest warrants (EAWs). It is not possible from current systems to break down the number of EAWs received by the UK into nationality, alleged offence type and requesting EU member state. To do so would require a manual examination of all files and incur disproportionate cost. Once a person has been extradited from the UK to another jurisdiction, the designated authorities' involvement in the EAW process ceases.

How long a person is held on remand awaiting trial, whether in custody or on bail, is governed by the law of the requesting state and this can vary from country to country. Internationally accepted standards usually allow for a two-year period of detention before trial, depending on the circumstances of the case. While the UK is unable to interfere in the legal processes of another country, the Foreign and Commonwealth Office, if appropriate, will consider making inquiries with

local authorities to establish the reason for any delay in trial proceedings for any British national held on remand for more than 24 months.

Local Authorities: Fixed Penalty Notices

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government what powers local authorities have been given since May 2005 which increase their ability to levy fixed penalty notices. [HL2662]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The Government do not hold a central register of the fixed penalty notices introduced by their various departments. They are responsible for legislative proposals affecting local government in those policy areas for which they have responsibility.

Since May 2005, my department has provided local authorities with powers to issue fixed penalty notices in the following areas: breach of duties in relation to the provision of home information packs under Part 5 of the Housing Act 2004; and breach of duty in relation to energy performance certificates, display energy certificates or air conditioning inspections or reports under Regulations 40 and 43 of the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007.

Northern Ireland Office: Opinion Polls

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether the Northern Ireland Office has approved suppliers for conducting opinion polls; if so, who are the approved suppliers; how they were chosen; by whom; and when. [HL2829]

Baroness Royall of Blaisdon: I refer the noble Lord to the Answer given on 22 March 2010 (*Official Report*, col. *WA 249*).

Northern Ireland Public Prosecution Service

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government whether the Public Prosecution Service for Northern Ireland, in deciding not to prosecute two students accused of being involved in the attack on a south Belfast church where Romanians were sheltering, took account of the social status of their parents. [HL2927]

To ask Her Majesty's Government why the Public Prosecution Service for Northern Ireland reconsidered its decision not to prosecute Nigel Brown and Gary Taylor in relation to the death of Thomas Devlin; and how often in the past five years it has reconsidered decisions not to prosecute. [HL2928]

To ask Her Majesty's Government how many times the Public Prosecution Service for Northern Ireland has prosecuted for murder in each of the past five years; how many prosecutions have resulted in an acquittal; and how many have resulted in a conviction. [HL2929]

To ask Her Majesty's Government why the Northern Ireland Public Prosecution Service is advertising for temporary prosecuting staff; and whether they propose to increase the number of permanent prosecuting staff. [HL2930]

Baroness Royall of Blaisdon: These are operational matters for the Acting Director of Public Prosecutions. I have asked him to reply directly to the noble Lord and will arrange for copies of the letters to be placed in the Library of the House.

Passports

Question

Asked by ***Lord Marlesford***

To ask Her Majesty's Government how many forged or stolen United Kingdom passports have been detected at the United Kingdom border in each of the last 12 months. [HL2958]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The following table details the detections of forged and stolen United Kingdom passports at UK Border Force offices for each month in 2009, the most recent period for which figures are available.

	Forgeries	*Lost/Stolen*
Dec 09	8	3
Nov 09	10	5
Oct 09	10	4
Sep 09	21	6
Aug 09	12	4
Jul 09	10	1
Jun 09	12	4
May 09	12	6
Apr 09	17	7
Mar 09	17	6
Feb 09	14	4
Jan 09	13	8
Total for last 12 months	156	58

Pensions

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Baroness Thornton on 5 January (*WA 50*), how many pensions are paid to British nationals in Ireland; and how many recipients are over 90 years old. [HL2658]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The information requested is not available. The information that is available is in the table.

State Pension recipients in Ireland as at August 2009

Total	*Total aged 90 plus*
113,710	2,680

Source:
DWP Information Directorate: Work and Pensions Longitudinal Study

Notes:

1. Caseload figures are rounded to the nearest 10. Totals may not sum due to rounding.

2. Some additional disclosure control has also been applied.

Police: Pursuits

Question

Asked by ***Lord Condon***

To ask Her Majesty's Government when the code of practice on the management of police pursuits will be issued to police forces. [HL3026]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My right honourable friend the Policing Minister will be making an announcement about this issue shortly.

Population

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what proposals they have to limit the population growth of the United Kingdom. [HL2543]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): We will continue to consider the implications of population projections and develop policy accordingly.

Railways: High-speed Trains

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what conclusions they have drawn from the consultation with interested parties and the public on the proposal for a rapid transport system linking St Pancras and Euston stations for the High Speed Two railway. [HL3074]

The Secretary of State for Transport (Lord Adonis): As set out in the High Speed Rail Command Paper (CM 7827), the Government believe that any new high-speed rail line should be connected to the wider European high-speed rail network via High Speed One and the Channel Tunnel, subject to cost and value for money. This could be achieved through either or both of a dedicated rapid transport system linking Euston and St Pancras and a direct rail link to High Speed One. HS2 Ltd will carry out further work to assess the viability and cost of each of these, including a full assessment of the business case, prior to any public consultation.

Railways: National Express Franchises

Question

Asked by ***Baroness Hanham***

To ask Her Majesty's Government whether Mr Stephen Byers has spoken to the Secretary of State for Transport, Lord Adonis, regarding National Express's East Coast franchise; and, if so, what was (a) the date on which the contact took place, and (b) the nature of the contact. [HL3052]

The Secretary of State for Transport (Lord Adonis): I had a brief conversation in the House of Commons with the right honourable Member for North Tyneside in June 2009 about the East Coast Main Line. I set out the content of the conversation in my Answer to the noble Baroness' Question on 22 March 2010 (*Official Report*, col. 754).

Asked by ***Baroness Hanham***

To ask Her Majesty's Government whether the Secretary of State for Transport, Lord Adonis, has been informed of any payments made by the National Express Group plc, its subsidiaries or representatives to Mr Stephen Byers; and, if so, at what date he was informed of any such payments. [HL3053]

Lord Adonis: I have not been informed of any payments made by the National Express Group plc or its subsidiaries or representatives to the right honourable Member for North Tyneside.

Asked by ***Baroness Hanham***

To ask Her Majesty's Government on what occasions the Secretary of State for Transport, Lord Adonis, (a) met, or (b) spoke to, (1) Mr Stephen Byers, (2) representatives of the National Express Group plc or its subsidiaries, and (3) Mr Stephen Byers and representatives of National Express Group plc or its subsidiaries together, since 3 October 2008. [HL3054]

Lord Adonis: Since 3 October 2008, I have had the following meetings and discussions:

As set out in my Answer to the noble Baroness' Question on 22 March 2010 (*Official Report*, col. 754], I had a brief conversation about the East Coast Main Line with the right honourable Member for North Tyneside in June 2009 in the House of Commons. I also met him socially on 11 February 2010; no matters relating to National Express were discussed.

I have met representatives of the National Express Group plc or its subsidiaries on a regular basis. As Minister of State, I had meetings on 23 October 2008, 28 November 2008, 18 February 2009 and 21 April

2009. Since becoming Secretary of State, I have met representatives on 9 June 2009, 26 June 2009 and 17 November 2009. Some of these meetings were specifically to discuss issues relating to National Express Group plc or its subsidiaries; others were wider events involving other transport stakeholders.

I have held no meetings or discussions with the right honourable Member for North Tyneside and representatives of National Express Group plc or its subsidiaries together.

Syria

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether in discussions about the European Union Neighbourhood Policy and the Euro-Mediterranean Partnership and in other appropriate fora they will raise the situation of the Kurds in Syria, in particular their citizenship status, freedom to demonstrate, land rights, language rights and other human rights. [HL2936]

Lord Brett: As I said in my Answer of 9 February to the noble Lord, we regularly raise the issue of Kurds with the Syrian Government.

We will consider using any multilateral fora to raise the issue of Kurds, including the ones that the noble Lord mentions. If signed by Syria, the structures provided by the EU Association Agreement will provide the EU with a regular political forum to raise human rights and other concerns.

Visas

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government whether the students in north India, Bangladesh and Nepal who made applications under previous rules for tier 4 student visas to the United Kingdom to study at private colleges which have been suspended will have their applications automatically declined and fees returned; and how many such applications are pending decision under the previous rules. [HL2872]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Students who have made applications in North India, Bangladesh and Nepal to suspended colleges will have their applications considered once the outcome of the suspension is known.

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answers by Lord West of Spithead on 12 January (*WA 148*) and on 23 February (*WA 296*), whether they collate statistics on the number of foreign students granted visas to study at particular private colleges; and, if so, why it is commercially sensitive to provide details of the number of visas per college. [HL2874]

Lord West of Spithead: The UK Border Agency can collate statistics on the number of foreign students granted visas to study at particular private colleges if needed, but we do not do so regularly, except when we are making checks to ensure compliance with our rules.

Publication of such data would make commercially important information about the college's activities available to competitors and could put the private college at an unfair disadvantage.

Asked by ***Lord Laird***

To ask Her Majesty's Government how many student visas have been issued in the past ten years; and how many have been issued to dependants of students. [HL2875]

Lord West of Spithead: The information requested has only been collated since 2004. In the past six years, 1,305,592 entry clearance visas have been issued to students and 124,816 entry clearance visas have been issued to the dependants of students.

Zimbabwe

Question

Asked by ***Lord Acton***

To ask Her Majesty's Government how much aid they gave to Zimbabwe in each of the past five years for which figures are available. [HL2788]

Lord Brett: Details of UK aid to developing countries from 2004-05 to 2008-09 are available in the 2009 edition of *Statistics on International Development*, a copy of which is available in the House Library. The relevant figures for Zimbabwe are reproduced in the table below.

Financial Year	*Total Bilateral Gross Public Expenditure (£ Thousands)*
2004-05	27,355
2005-06	35,376
2006-07	34,096
2007-08	46,660
2008-09	57,332

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