Vol. 718
No. 64

Monday
29 March 2010

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

For column numbers see back page

£3·50

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

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

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

This issue of the Official Report is also available on the Internet at www.publications.parliament.uk/pa/ld200910/ldhansrd/index/100329.html

PRICES AND SUBSCRIPTION RATES

DAILY PARTS

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

Annual subscriptions:
Commons, £865; Lords £525

WEEKLY HANSARD

Single copies:
Commons, £12; Lords £6

Annual subscriptions:
Commons, £440; Lords £255

Index:

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

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

BOUND VOLUMES OF DEBATES are issued periodically during the session.

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

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

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

All prices are inclusive of postage.

House of Lords

Monday, 29 March 2010.

2.30 pm

Prayers—read by the Lord Bishop of Lincoln.

Introduction: Baroness Grey-Thompson

2.37 pm

Dame Carys Davina Grey-Thompson DBE, commonly called Dame Tanni Grey-Thompson, Dame Commander of the Most Excellent Order of the British Empire, having been created Baroness Grey-Thompson, of Eaglescliffe in the County of Durham, was introduced and took the oath, supported by Baroness Finlay of Llandaff and Lord Coe.

Introduction: Lord Bichard

2.45 pm

Sir Michael George Bichard KCB, having been created Baron Bichard, of Nailsworth in the County of Gloucestershire, was introduced and took the oath, supported by Baroness Blackstone and Lord Ouseley.

Death of a Member: Earl Northesk

Announcement

2.49 pm

The Lord Speaker: My Lords, I regret that I have to inform the House of the death yesterday of Earl Northesk. On behalf of the whole House, I extend condolences to the noble Earl's family and friends.

Afghanistan

Question

2.50 pm

Asked By ***Lord Astor of Hever***

To ask Her Majesty's Government what action they are taking to improve the quality of food for British military personnel at forward operating bases in Afghanistan.

Lord Tunnicliffe: My Lords, before answering, I am sure that the whole House will wish to join me in offering sincere condolences to the family and friends of Lance Corporal of Horse Jonathan Woodgate from the Household Cavalry Regiment, serving as part of the Brigade Reconnaisance Force, and of Rifleman Daniel Holkham from 3rd Battalion The Rifles, serving with 3 Rifles Battle Group, who were killed recently on operations in Afghanistan.

The food provided on operations is constantly reviewed and developed in response to views from the front line to ensure that quality and nutritional standards are maintained and to provide variety. The Armed Forces feeding project is evaluating actual food and energy intake. Gender, ethnic and cultural differences are also being considered. This study is due to report at the end of the year.

Lord Astor of Hever: My Lords, our thoughts, too, are with the families and friends of Lance Corporal of Horse Woodgate of the Household Cavalry and of Rifleman Holkham of 3 Rifles.

On occasions, soldiers and Royal Marines are having to make do with boil-in-the-bag ration packs or tinned spam, sometimes for up to 50 days, because of helicopter resupply shortages. What assurances can the Minister give the House that everything possible is being done to ensure that FOBs are resupplied with fresh food? What research is being done to bring our field rations into line with those of our allies, such as the Americans, who have self-heating meals?

Lord Tunnicliffe: My Lords, it would be rare for our forces to find themselves having to make do with boil-in-the-bag food. Most forces are in forward operating bases of about 400 people. They will typically have chefs. About 80 per cent of the food they work with is fresh or dried, and about 20 per cent is from 10-man ration packs. On rare occasions, perhaps at patrol bases or out on patrol, one-day kits are used. They are superb. I have eaten them, and I know of a number of others who have done so, too. It is fortuitous that this month's *Defence Focus* has a two-page spread on the varieties available and the cultural differences catered for. I am assured—but then I would be, wouldn't I?—that they are the envy of our allies. I shall place a copy of *Defence Focus* in the Library.

Lord Dholakia: My Lords, I associate these Benches with the condolences that the Minister has expressed. I had the pleasure, with a number of noble Lords, to visit our bases in Kandahar and Camp Bastion. The standard, quality and variety of food for various nationalities were remarkably good. How are those standards maintained in other forward places?

Lord Tunnicliffe: My Lords, in a sense I am slightly repeating myself. What makes a real difference to quality of food is being able to have military chefs well forward. Most soldiers will be served by military chefs in the main bases. These are the dynamic things, but most of the time that quality is maintained at the forward operating bases. They are working from fresh supplies and from the 10-man pack, which is a pack of foods that are now pre-varietised in the UK before they are sent, so we do not repeat the one unfortunate incident when they were all the same. We do an awful lot to produce the variety. The idea of these military chefs is particularly exciting; they are soldiers first—they are fighting chefs—but, at the end of the day, they provide the morale-boosting variety.

Baroness Dean of Thornton-le-Fylde: My Lords, first, I declare an interest as a young captain who is a member of our family is in FOBs in Afghanistan at the moment, so this is of particularly keen interest for

[Baroness Dean of Thornton-le-Fylde]
me. The food is important for physical well-being, but it is also important in the operating field for the morale of our service men and women. Certainly the food has improved back at base, but we need to see an improvement in FOBs—there is no doubt about it. I would take a lot more heart if the Minister could comment on the possibility of an outcome at the end of this year, which will then take some time to implement. Is there any way that the schedule for that could be brought forward? It is not a highly technical matter, and it would certainly help if it could be.

Lord Tunnicliffe: My Lords, the situation is developing all the time so, in a sense, it would be wrong to say the end of the year. There have been considerable improvements in the recent past, with the development of the multi-climate ration pack, which is the new one-man pack. It came out of troops being dependent on them for extended periods; that is why it has developed into a much wider variety. It is very nutritionally sound, with 4,000 calories and the sort of balanced diet that we do not think about having. We have very bad diets compared with these packs. I urge people to look at the magazine that I mentioned. We are doing a good job for our front-line forces; there is good variety, good nutrition and they are very healthy on it.

Lord Brooke of Sutton Mandeville: Does the Minister recall the quotation in Stanhope's *Conversations with Wellington* who says, effectively, "You never know what you are going to meet with. Sometimes you have to get by on a steak and a pint of claret."?

My I refer the Minister to the Duke of Wellington's diaries in the hope that he will learn as much about food as we have, as a consequence of visits to Wellington Barracks, about the way the Duke looked after his men when they were in barracks?

Lord Tunnicliffe: I am not precisely familiar with the quotation and I hope that the noble Lord will forgive me for that. However, looking at history, Wellington was so successful because he took his supplies with him. He did not rob the countryside; he planned ahead and took his impedimenta with him for cooking and so forth. Frankly, nothing has changed over the generations, except that in periods of new challenge we have not been well adapted. We are now adapted to Afghanistan and we are in Afghanistan doing exactly as he did—not the claret though; no alcohol in Afghanistan. Apart from the claret, we are trying to improve and maintain morale through a large variety of good food.

Baroness Trumpington: Is the Minister suggesting that, like Wellington, our troops should live off the countryside? Would it be mostly dope?

Lord Tunnicliffe: I am not the first, and I shall probably not be the last, Minister to be misunderstood by the noble Baroness. I am saying the very opposite: Wellington succeeded by not living off the countryside, but by feeding his troops properly. It has been a tradition of the British Army; it is probably in its finest hour now in Afghanistan.

Parliament: 2012 Pageant

Question

2.59 pm

Asked By ***Lord Roberts of Llandudno***

To ask the Leader of the House what support she will give to the proposal for the performance of a pageant of Parliament in 2012 to celebrate the achievements of Parliament.

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): My Lords, I understand that the noble Lord, Lord Roberts of Llandudno, has put his interesting proposal to the House authorities. I hope that he will understand that it would be inappropriate for me, at this stage, to lend my personal support to any particular proposal while it is under consideration.

Lord Roberts of Llandudno: I am grateful to the Minister for that partially cheerful answer but, after many months—years, even—of such difficult times in Parliament, does she not agree that a pageant of Parliament that shows the achievements of the British Parliament over many centuries could do something to restore our reputation? Will the Leader of the House encourage those authorities who are able to help us with facilities of any nature to discuss with us the future of this proposal?

Baroness Royall of Blaisdon: My Lords, I agree that we have been through difficult times, but I still think that we should be proud of our Parliament and proud of our democracy. Anything that can be done to engender more confidence is a good thing. I think that we need to wait until this proposal has been through the proper procedures, which is what is happening now. However, I draw the noble Lord's attention to the fact that the noble Lord, Lord Hall of Birkenhead, who was introduced last week, is chair of the Cultural Olympiad. He might find that useful.

Lord Richard: Does my noble friend agree that this is a somewhat unreal suggestion from the Liberal Democrat Benches? Before we celebrate the achievements of Parliament, would it not be a good idea to persuade the Great British public that there are achievements that deserve to be celebrated in the form of a pageant? We have to be a bit more popular. Can my noble friend imagine the front page of the *Sun* if we were to have a pageant to celebrate the achievements of Parliament? I can imagine little that would be worse for the reputation of this House.

Baroness Royall of Blaisdon: I hear what my noble friend says and I can of course imagine the front page of many newspapers. However, I still think that there are many achievements of this Parliament, and of this House in particular, of which we should be proud.

Lord Elystan-Morgan: My Lords, is there not a strong case for deferring the main celebrations of Parliament until 2015, when we can celebrate Magna Carta, not only for what it contained but for the massive impetus and inspiration that it gave to the cause of human freedom?

Baroness Royall of Blaisdon: My Lords, it is an excellent idea to celebrate 2015. In 2012 we will have the Olympics, the Paralympics—we have just welcomed the noble Baroness, Lady Grey-Thompson—and of course the Diamond Jubilee of Her Majesty the Queen, so there will be much to celebrate that year.

Lord McNally: My Lords, is not 2012 the right year for this, a year when we will be celebrating the Diamond Jubilee of the Queen in a constitutional monarchy? Nothing could be more depressing than the noble Lord, Lord Richard, waiting for the approval of the *Sun* before this Parliament has a pageant. It is time for Parliament to get off its knees and to tell the people of this country that it is here that their liberties are secured, as they have been for 800 years. That would be a celebration indeed in 2012.

Baroness Royall of Blaisdon: My Lords, I completely agree. I would never go on my knees. I am very proud of Parliament and would never wait for the endorsement of the *Sun* for anything. If we did that, we would not be governing in the way in which we are. There is much to be proud about. While there will be much to celebrate in 2012, there will also be much to celebrate in 2015.

Lord Wright of Richmond: My Lords—

Lord Ashley of Stoke: My Lords—

Noble Lords: Lord Wright!

Lord Hunt of Kings Heath: My Lords, why can we not hear from my noble friend and then from the noble Lord, Lord Wright?

Lord Ashley of Stoke: Is my noble friend aware that this could be seen as a public relations exercise and that, as such, not only the *Sun* but other newspapers would have a field day mocking the attempt to paint Parliament white? The timing is very bad and absolutely wrong. I would be opposed to any such move.

Baroness Royall of Blaisdon: I hear what my noble friend says. Clearly there are a wide variety of views around the House. Ultimately it is for this House to decide on these issues but, while I understand concerns about a public relations exercise, there is also much that we should continue to be proud of in our Parliament.

Lord Wright of Richmond: My Lords, is the Minister aware that, if this proposal finds favour, I for one look forward to hearing Welsh Peers singing the praises of Parliament?

Baroness Royall of Blaisdon: Yes, my Lords, together with Peers from Scotland, Northern Ireland and England.

Lord Lawson of Blaby: My Lords, the Leader of the House has mentioned the *Sun*, but is it not more to the point that, if this rather curious proposal were to go ahead, it would be important that it was sponsored by the *Daily Telegraph*?

Baroness Royall of Blaisdon: My Lords, what an excellent idea.

Lord Marlesford: My Lords, does the noble Baroness agree that one of the reasons to be proud of Parliament is if it does its job properly in scrutinising legislation put forward by the Executive before it is passed?

Baroness Royall of Blaisdon: My Lords, that is what we do day in and day out. This House in particular is extremely good at it.

Lord Brooke of Sutton Mandeville: My Lords—

Lord Stoddart of Swindon: My Lords, bearing in mind the fact that Parliament has been losing powers not only to Wales, Scotland and Northern Ireland but to Europe as well and is continuing to do so, and is held in less respect now than it ever has been, would it not be more appropriate to hold a memorial service than a pageant?

Baroness Royall of Blaisdon: No, my Lords, I completely disagree. We celebrate the continued life of this Parliament.

Housing: Shorthold Tenancies

Question

3.05 pm

Tabled By ***Baroness Gardner of Parkes***

To ask Her Majesty's Government what plans they have to alter the present annual rent limit of £25,000 for assured shorthold tenancies; and what impact assessment of any such change has been carried out.

Baroness Gardner of Parkes: My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest which is in the Register.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My Lords, the Minister for Housing made a statutory instrument on 22 March raising the annual rental threshold for assured tenancies to £100,000 from 1 October 2010. This will extend the framework of assured and assured shorthold tenancies to the majority of private lettings as the original legislation intended. An impact assessment was published alongside the SI and placed in both Houses' Libraries.

Baroness Gardner of Parkes: I thank the Minister, but really the notice has been quite short. That was obviously tabled after my Question. Is he aware that the Royal Institution of Chartered Surveyors said that London will be the most adversely affected and that it says:

"The Government needs to ensure that landlords and agents dealing with these properties are aware of the changes and will have time to access a relevant scheme."

How much time is he proposing to allow?

Lord McKenzie of Luton: The consultation around these proposals shows that there was very broad support for raising the threshold. So far as timing is concerned, these will not come into effect until 1 October 2010, which gives time for landlords to enter into arrangements, particularly around security for tenants' deposits, which I think is the point being pressed by the noble Baroness.

Baroness Maddock: My Lords, I wonder whether the Minister could help me with two questions. One concerns students, who I know have been very anxious that the threshold should rise. Could he assure me that students and landlords will be ready for this on 1 October, which is the start of the new student year? Secondly, I understand that no guidance about how this will be rolled out has been published. Could the Minister tell us when it will be published?

Lord McKenzie of Luton: On the first point, it is of particular benefit to students, because although a £25,000 threshold might seem quite a high rent, when students club together to lease a property they have fallen outside the protections of the shorthold tenancies and the assured shorthold tenancies in particular. So far as guidance is concerned, I cannot give a precise timetable on that. Obviously the change here is relatively straightforward. Key protections for tenants are that their deposits be protected and the right to have two months' notice.

Baroness Knight of Collingtree: Is the Minister aware of the extreme concern which has been expressed on this matter by the British Property Federation? It says that the amendment—which is what it amounts to—is very crude and that the inevitable serious consequences have not yet been properly considered.

Lord McKenzie of Luton: My Lords, yes we are aware of the representations that the BPF has made. We have liaised with it, and I think that some of its concerns have been assuaged. It was concerned in particular about a possible read-across to the Local Government and Housing Act 1989 and the ability of leaseholders to get security of tenure at the end of their leasehold period. We do not think that read-across is fair. Certainly there is no direct read-across in the legislation. Concerns have also been expressed around the Leasehold Reform Act 1967. No decisions have been taken on what, if any, amendments may be required to that legislation as a result of the changes we are proposing.

Baroness Hanham: My Lords, is the Minister happy that the tenants' deposit scheme is working properly? It has, I understand, been reported that landlords are bypassing the tenants' deposit scheme by taking post-dated cheques, which does not seem to be quite the spirit.

Lord McKenzie of Luton: Indeed, I have no particular data about that device being used to get round it. Obviously the three deposit protection schemes are very important. There is the custodial one in which it does not cost landlords anything to participate, other than the interest they lose in hanging on to the deposit. The two other schemes are insurance based, which obviously incur a premium from them. It is very important and I think it is right to say that if they do not participate in these schemes, they lose their right to just give two months' notice to secure the property that is leased.

Baroness Gardner of Parkes: Does the Minister agree that it is extremely difficult for small landlords who may not be using an agency to know where to go for these deposit schemes? I use an agent, but I went on the internet to try to locate details of these schemes, and found it extremely difficult. What will the Government do to publicise this arrangement so that people know where they stand?

Lord McKenzie of Luton: My Lords, as part of our broader response to the Rugg review, we have outlined a package of measures including not only a national register for landlords and regulation of letting and managing agents but setting up a private sector tenants' helpline, which we are hoping to have in place by the end of this year.

Baroness Gardner of Parkes: My Lords—

Noble Lords: Oh!

Baroness Gardner of Parkes: My Lords, will the Minister assure me that that will be in place by the time the scheme is introduced, which he originally said would be October? Now he says that we will know about it by the end of the year.

Lord McKenzie of Luton: My Lords, I was talking about one particular component of the package of measures—the private sector tenants' helpline. This is an ongoing proposition which will be available to tenants for years to come. However, the point about making sure that tenants and landlords are fully aware of this when it comes into operation on 1 October is a fair one.

Royal Mail: Bicycles

Question

3.12 pm

Asked By ***Lord Berkeley***

To ask Her Majesty's Government what assessment they have made of how Royal Mail's plan to substitute vehicles for cycles on postal rounds will affect the Government's objective of reducing carbon dioxide emissions.

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): None, my Lords.

Lord Berkeley: My Lords, I thank my noble friend for that Answer. It is just as well, because he might not like the conclusion. Is he aware of the letter I received on 11 February from the chief executive of Royal Mail, who said that 24,000 Royal Mail bicycles were being phased out and many converted to vans because,

"these bicycles pose the wider safety risk associated with busy street networks, where the rider is exposed to greater risk than other vehicle users"?

Does my noble friend agree that that is a bit of a slap in the eye for the Government's cycling policy, which encourages cycling rather than the driving of vans? Does he agree with the Royal Mail statement that it cannot give these redundant cycles to charity for use in Africa because of health and safety fears there?

Lord Hunt of Kings Heath: On that latter point, my Lords, my understanding is that Royal Mail has indeed donated delivery bicycles to Recycle, a charity that sends them to projects across the African regions. On his substantive point, my noble friend makes a very telling point about safety and cycling. My colleagues in the Department for Transport are ever eager to encourage active travel, embracing cycling, but we need to understand that the main reason for the change is to improve the efficiency of the Post Office. Bikes will not always be substituted by vehicles; the Royal Mail is also investing in trolleys, which can carry larger loads.

Lord Strabolgi: My Lords, does it not depend on the load whether the mail is delivered by a bicycle or in a vehicle?

Lord Hunt of Kings Heath: My Lords, my noble friend makes a very good point, which we in the Department of Energy and Climate Change keep under review at all times. The maximum weight in the cycle panniers comes to 32 kilograms, which is often not sufficient for the parcels and packages it is an increasing part of the postman's lot to deliver. Sometimes vehicles will be used, but I understand that Royal Mail will invest very largely in trolleys, which will be more appropriate.

Lord Teverson: My Lords, in three days' time, one of the Government's flagship climate change policies—the carbon reduction commitment—starts, which affects Royal Mail and other large public and private organisations. Yet although road transport fuel accounts for some one-third of emissions, it is not included in that flagship project. Therefore, it is quite understandable that organisations make decisions such as this. Is that not a major hole in one of the Government's major policies to improve climate change?

Lord Hunt of Kings Heath: No, my Lords, that misses the point regarding Royal Mail. In fact, carbon budgets will have a powerful impact in driving changes in policy which will help us meet our emission reduction targets. In the last few years, Royal Mail has seen a considerable reduction in its emissions and is pledged to meet the 10:10 guarantee this year. The decision it has taken on bikes has to be seen in an overall progressive context.

Lord Tanlaw: My Lords, does the Minister recall Mr Peter Hain making an objection on behalf of the postmen, whether on foot or on bicycle, against the Lighter Evenings Bill on the basis that the morning post was delivered before the sun was up in the winter months? Now the post is delivered when the sun is beginning to set. Will the Minister ask Mr Hain to withdraw on behalf of his union the objection to daylight saving? If weekend reports are correct, will both the parties opposite, which claim to be reconsidering the matter, help these postmen deliver letters in the afternoon by supporting daylight saving in their manifestos?

Lord Hunt of Kings Heath: My Lords, I think the noble Lord's time is coming.

Lord Stoddart of Swindon: My Lords, the Royal Mail is fortunately still a wholly state-owned enterprise. Could the noble Lord use his influence to persuade it to use electric rather than motor vehicles?

Lord Hunt of Kings Heath: My Lords, Royal Mail is looking to develop a vehicle policy which will encourage low-emission vehicles. I am sure that the use of electric vehicles in the future will be one such option. It is not for the Government to tell Royal Mail what to do but we should encourage it to improve its efficiency, which is why the recent agreement between Royal Mail and the CWU is heartily to be rejoiced at.

Lord Colwyn: My Lords, the Minister probably is not aware that the last two times I have been knocked off my bicycle were by GPO vans.

Lord Hunt of Kings Heath: My Lords, that is a matter for great regret by all noble Lords.

Lord Dykes: My Lords, would the Minister not also rejoice at that part of the latest agreement between unions and management which provides for Saturday to be a full, normal working day? Presumably that can be without an increase in emissions.

Lord Hunt of Kings Heath: My Lords, the noble Lord is absolutely right. My understanding is that the agreement will shortly go out to ballot among the postal workers. There is no doubt that the agreement provides much encouragement towards modernisation of the service. It is in that context that the decision on bicycles ought to be seen.

Lord Geddes: My Lords, with reference to the supplementary question of the noble Lord, Lord Berkeley, could the Minister, with his great expertise, advise the House how you convert a bicycle into a van?

Lord Hunt of Kings Heath: My Lords, my understanding is that most of the content of mail now carried by bicycles will be converted to trolleys. A proportion of these will be electric; others will be manual. It is not yet known whether that will also require the use of vehicles. That is clearly an operational matter for Royal Mail.

Lord Brooke of Sutton Mandeville: My Lords, is the Minister aware that the reason Crown Post Offices in central London were so close together up to a quarter of a century ago was because you had to allow for the ability of a small boy on a bicycle to deliver a telegram, which occurred so frequently in the narratives of Mr Sherlock Holmes?

Lord Hunt of Kings Heath: My Lords, I am delighted that the noble Lord has solved that mystery for us.

Lord Lawson of Blaby: My Lords, the Climate Change Act as presently drafted requires a 34 per cent reduction in carbon emissions by 2020. It has been widely reported that the Prime Minister is now in favour of increasing that to a 42 per cent reduction by 2020. Can the Minister say what this will cost? If not, can he ensure that Parliament is informed of the cost before there is any question of further movement in this direction?

Lord Hunt of Kings Heath: My Lords, it is premature to talk about the cost, because we are still in the process of negotiation. The noble Lord, of all people, should know that we always wanted a more ambitious target for 2020, but on the back of a comprehensive and ambitious deal at Copenhagen. That has not been achieved, but we will continue to discuss with our colleagues the ways in which we can reach that path. That will be the point at which to talk about costs.

Arrangement of Business

Announcement

3.20 pm

Lord Bassam of Brighton: My Lords, with the leave of the House, my noble friend Lady Royall of Blaisdon will repeat the Statement entitled "European Council" at the conclusion of the speech that is in progress at 3.45 pm.

Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010

Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010

Safeguarding Vulnerable Groups Act 2006 (Regulated Activity, Devolution and Miscellaneous Provisions) Order 2010

Safeguarding Vulnerable Groups Act 2006 (Controlled Activity and Miscellaneous Provisions) Regulations 2010

Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) (England and Wales) Order 2010

Motions to Approve

3.20 pm

Moved By ***Baroness Morgan of Drefelin***

That the draft regulations and orders laid before the House on 27 January, 2 and 10 February be approved.

Relevant documents: 8th and 9th Reports from the Joint Committee on Statutory Instruments, considered in Grand Committee on 15 and 23 March.

Motions agreed.

Funding Code: Criteria and Procedures

Motion to Approve

3.21 pm

Moved By Lord Faulkner of Worcester

That the funding code laid before the House on 8 March be approved.

Relevant document: 11th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 23 March.

Lord Scott of Foscote: My Lords, perhaps I may ask the Minister a short question on this code before it is approved by the House. The funding code, as your Lordships will know, is intended to set out the manner in which funding of civil litigation may take place. One of the criteria expressed is that the litigation in question should be of wider public interest. Of course, if it is not of wider public interest there may be other very good reasons for allowing the funding, but wider public interest is expressed to be a criterion to be taken into account that may, in a particular case, sway the issue.

A further provision in the funding code states that, where the commission has undertaken funding and there is a substantial wider public interest, the clients may not settle the case without the agreement of the commission. A condition of the granting of the funding is that the client is required to agree not to settle without the consent of the commission. Can the Minister help me on whether that agreement between the client and the commission is thought to be legally enforceable, because I should have thought that it would be contrary to most people's idea of the public interest in speedy litigation and very unlikely to be held enforceable? If it is not regarded by the Government as enforceable, why is it there at all? It is the client who is in charge of the litigation. That provision should be dropped and never applied.

Lord Faulkner of Worcester: My Lords, I hope that the noble and learned Lord will forgive me. It would have been easier for us if he had given us notice of his

intention to raise this matter. The code was considered at length in Grand Committee on 23 March and, if he will forgive me, I will write to him with the answer that he seeks.

Motion agreed.

Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2010

Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2010

Motions to Approve

3.23 pm

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

That the draft regulations laid before the House on 28 January be approved.

Relevant document: 7th Report from the Joint Committee on Statutory Instruments, considered in Grand Committee on 23 March.

Motions agreed.

Anti-Slavery Day Bill

Third Reading

3.24 pm

Bill passed and sent to the Commons.

Draft Overarching National Policy Statement for Energy (EN–1)

Motion to Resolve

3.24 pm

Moved By ***Lord Jenkin of Roding***

That this House calls on Her Majesty's Government to amend the "Conclusion on need" section in Part 3.1 of the Draft Overarching National Policy Statement for Energy (EN–1) so that the case for all forms of sustainable and low carbon energy is strengthened from "significant" to "being of critical importance" to delivering the United Kingdom's energy policy goals of secure and affordable energy supplies and mitigating climate change. *Considered in Grand Committee on 23 February.*

Lord Jenkin of Roding: My Lords, I understand that it is agreed between the usual channels that we should debate all five Motions—three in my name, one in the name of my noble friend Lord Crickhowell and the other in the name of the noble Lord, Lord Teverson—together. I have been asked more than once in the last few days how these Motions come to find themselves on the Order Paper this afternoon. I hope, therefore, that it might be appropriate if I take a few moments to explain how we are where we are.

The Motions arise under the Planning Act 2008, which established new processes for accelerating planning approval of "nationally significant infrastructure projects". The Act set up the Infrastructure Planning Commission and established national policy statements. I take these in reverse order. The first purpose of the NPSs is to set out the Government's policy, which they do at some length, and the second is to give the IPC detailed guidance on the handling of planning applications for major infrastructure projects that are put forward by developers. The 2008 Act defined "major projects" that fall within the scope of these NPSs; other projects, mostly minor, will be handled by the amended town and country planning system and will not go to the IPC. The role of the IPC is to examine the projects, conduct local inquiries, assess any adverse impacts and then reach a decision on whether the application should be approved.

The Motions today deal with national policy statements. The Act requires both public consultation and parliamentary scrutiny by both Houses—I emphasise both Houses. Some of the volumes have been amended, while others have not. It was originally said that this would be done by the House of Commons, for which the noble Lord, Lord Hunt, apologised generously and profusely.

The two Houses have adopted different processes. In another place there are departmental Select Committees, so the six energy national policy statements have been the subject of detailed scrutiny by the Select Committee on Energy and Climate Change. It heard evidence over many weeks; indeed, I sat in on many days to listen to what was going on. Its report—an interesting document—was published last week.

In this House we do not have departmental Select Committees, so an entirely different procedure had to be—well, "invented" is not too strong a word. It was to be based on debates in Grand Committee. We had three debates, which took place in the Moses Room on 23 February, 9 March and 11 March. The procedure also envisaged that there could be resolutions to amend the national policy statements, which could be debated on the Floor of the House. We had undertakings from the Leader of the House that time would be provided. As noble Lords will have seen, and as I have mentioned, there are five Motions tabled: the first three are in my name, while my noble friend and the noble Lord, Lord Teverson, have the other two.

I should perhaps mention one matter. The Government are obliged to consider all the issues raised, both in public consultation and parliamentary scrutiny, before finally designating the national policy statements in their final form. The noble Lord, Lord Hunt of Kings Heath, indicated when he gave oral evidence to the Select Committee at the other end that he hoped that the designation would be complete by the Summer Recess—his people need a lot of time to examine all the representations—but he warned that it might have to be delayed until the autumn. My only point on that is that it will fall to the Government elected after the general election to handle those matters. That is the new system and I hope that that explains why we are here this afternoon.

[Lord Jenkin of Roding]

The first Motion in my name deals with the definition of "need" for new investment. On page 14 of the draft overarching statement there is a paragraph that summarises the recommendations on need under the heading "Conclusion on need". I shall read just two or three lines:

"Government has therefore concluded that there is a significant need"—

those words are significant—

"for new major energy infrastructure which will have to be met by projects coming through quickly given that developments such as nuclear power stations have very long lead in times".

The Government's lengthy analysis in the national policy statements demonstrates beyond doubt that, in order to ensure continued security of the UK's energy supplies, there has to be a sustained, multibillion pound investment programme, most of which will fall to the industries, for investment in new electricity generation and networks, and in gas terminals, gas storage and pipelines. With more than a quarter of the country's existing power generation needing to be replaced within the next 10 to 15 years, and with the UK expected to be dependent on imported gas for up to 80 per cent of its supply within a decade, the UK simply must have a diverse portfolio of extensive investment in all types of sustainable energies, technologies and networks up to 2050. We were hoping for a road map at the time of the Budget but I have not seen it yet. It may exist but I have not found it.

Many witnesses have argued that in these rather grim circumstances the word "significant" to describe the need is much too weak and must be strengthened. I shall cite just one authority for that—the United Kingdom Business Council for Sustainable Energy, a body formed in 2002 to support the fastest possible transition to a low-carbon economy consistent with maintaining secure and affordable energy supplies. I hope that it will be appropriate if I read what it said in written evidence to the Select Committee on Energy and Climate Change in another place. Paragraphs 2.6 and 2.7 on page 339 of the evidence—it is a very substantial volume—say:

"Equally, NPSs must clearly spell out the urgent need case, both overall and for each technology/infrastructure. The suite of energy NPSs set out in general terms the need case for the different technologies. This is vital, but UKBCSE/Industry believes that, given the potential major concerns over security of supply, the NPSs need to be realistic about the scale of the need for each technology and the networks necessary to bring energy to market".

Paragraph 2.7 reads:

"The need cases should therefore be strengthened from 'significant' to emphasising the critical importance of delivering investment in each technology, and should provide clarity over the weight that the IPC should give to the respective need cases".

That is why in my Motion I am proposing that the words "being of critical importance" should be substituted for "significant". This view was supported by a number of other witnesses to the Energy and Climate Change Committee but I do not think that I need to quote them.

The second Motion calls for the Government to amend the overarching national policy statement by spelling out their environmental targets to mitigate climate change. To achieve these targets, whether by 2025, which is the date on which they tended to concentrate in the statements, or by 2050, which I think is more realistic, we must have more low-carbon generation. Of course, much of that will be nuclear and wind power.

There is now a legally binding target to deliver an 80 per cent reduction in carbon emissions by 2050. This will mean the almost complete decarbonisation of electricity generation. The date given in the national policy statement is 2025, but this is simply a milestone on the path towards the longer-term objectives. Yet nowhere in the six volumes are these environmental targets expressly spelt out. There is much anxiety that there will be pressure to go for more fossil fuel generation and that the low-carbon alternatives of renewables and nuclear might well be given a lower priority. If the Government's specific, longer-term environmental commitments are spelt out in the NPSs, the IPC will be given a clear steer to give priority to these low-carbon applications.

I have been in communication with the right reverend Prelate the Bishop of Liverpool, who apologises profusely that he is unable to be here today. He did, however, specifically ask me to point out that he is in full support of the first two Motions. I am most grateful for that.

The third Motion says that EN-6, the volume dealing with nuclear power, should be amended to include Dungeness as one of the sites for nuclear development, on the grounds that it is premature for the Government to exclude it from the list and effectively preclude any developer from making proposals relating to that site. There are currently two nuclear power stations there—Dungeness A is being decommissioned and Dungeness B has a very short life.

EN-6 is the only NPS to spell out a spatial policy for future investment in the new nuclear power stations. Ten sites are designated: eight are close to existing plants and two are new greenfield sites in Cumbria. The Government cannot possibly guarantee that all 10 sites will attract development applications. Even if they do, some may be rejected by the IPC following examination of local issues or for technical reasons. We need, therefore, as many designated sites as possible.

The reasons for excluding Dungeness are spelt out not in EN-6 but in another document—the consultation paper that was published at the same time as the six energy statements. The reasons are to be found in Annexe F of this consultation paper, summarised on page 71. Paragraph 6 says:

"Dungeness is both a unique coastal system and an internationally important shingle site. The area has a number of internationally designated sites including a Special Area of Conservation (SAC) and Special Protection Area (SPA) which are part of the Natura 2000 network. There is also a proposed Ramsar site".

That final point is a reference to the potential loss of wetlands.

Elsewhere in this section of the report is a reference to the vegetated shingle beaches to the seaward side of Romney and Denge marshes. We aired this argument in Grand Committee on 9 March, when the noble Baroness, Lady Young of Old Scone, whom I am pleased to see in her place this afternoon, spoke eloquently about these shingle beaches. I want to be fair to her and it is worth citing some of her words; I

will not read the whole speech, but I will quote a short passage from it. The noble Baroness referred to the famous horticulturalist Derek Jarman and his wonderful book about the very special garden that he created in the shingle environment. She said:

"It is absolutely beautiful and I urge noble Lords to see the garden and to read the book. An example of its weirdness is: were you to put your finger in a pool in the shingle banks at Dungeness on the site of special scientific interest and linger for a while, you would probably find that you are in close fleshy personal communication with the medicinal leech".—[*Official Report*, 9/3/10; cols. GC 61-62.]

She went on to talk about the spiritual value of such experiences.

I have no doubt that the potential adverse impact of a third nuclear power station at Dungeness has to be taken very seriously, but I contend that the IPC should have the opportunity to assess that against the strong arguments for including Dungeness in the list. It ought not to be for the Government to do that; it should be for the commission. However, the commission can deal with that only if it has an application and the site is on the list.

I briefly remind the House of the arguments in favour of Dungeness. First, there is already complete access to the national grid. This does not apply to a number of the other sites, so Dungeness could be one of the very earliest sites to have a new nuclear power station up and running on it. Secondly, it is a fact that the local community and Shepway and Hastings councils are overwhelmingly in support of having a nuclear power station at Dungeness. Thirdly, there is a need for more base-load power generation in the south of England to avoid the ever increasing transmission of power over long distances from the north. Finally, the Government have repeatedly emphasised, as part of their action against climate change, the need,

"to maximise the contribution of nuclear as soon as possible".

That is the Government's argument. I say that these are compelling arguments for adding Dungeness to the list.

I come back to the consultation paper and to paragraph 9, at which the Government say that the strategic site assessment, which is the basis on which they have drawn up their list,

"is conducted at an early stage in the planning process, and does not include an analysis of detailed plans and proposals".

I repeat that it must be for the IPC, with a detailed plan and proposal before it, to assess the balance of benefits and adverse consequences. It is the one that should weigh all the arguments and it can do so only when it has had a specific application. That is why it is premature for Ministers to take Dungeness out of the frame.

I end by quoting the recommendation of the Select Committee in another place, which was quite clear about what it was putting forward. At paragraph 78, it says:

"We note the reasons for the Government's exclusion of Dungeness from the draft nuclear NPS and the arguments against this decision put by the industry and the local community. We recommend the Department maintains an open mind throughout the current consultation, that it considers carefully the evidence submitted to the Committee by Shepway District Council and any other evidence submitted during the consultation and, if necessary, reconsiders its position".

I am happy to adopt those words, with the added hope that the Government will reconsider their decision. I beg to move.

European Council

Statement

3.45 pm

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): My Lords, with the leave of the House I shall repeat a Statement made in the other place by my right honourable friend the Prime Minister. The Statement is as follows:

"With permission, Mr Speaker, I would like to make a Statement on the European Council held in Brussels last Thursday and Friday.

First, I am sure the whole House will join me in paying tribute to Lance Corporal of Horse Jonathan Woodgate from the Household Cavalry Regiment and Rifleman Daniel Holkham from 3rd Battalion The Rifles, who lost their lives fighting in Afghanistan. We owe them the greatest debt of gratitude for their courage and their service.

I know also that the thoughts of the House, and indeed the whole country, are with the Russian people today after this morning's terrorist attack on the Moscow transport network. I have written to President Medvedev this morning to send our condolences to the victims and their families. I pay tribute to the Russian emergency services and the people of Moscow as they respond to this appalling attack. Terrorism is an ever present danger which requires vigilance and the willingness to take tough action in all areas where terrorist groups operate.

The focus of the European Council was on the actions needed to secure growth for the future and on Europe's determination to bring new impetus and momentum to the international negotiations on climate change.

Last week's Budget set out our proposals for the next stage of economic recovery. First, it made clear that the risks to recovery remain real and that we must avoid a premature withdrawal of stimulus measures, instead seeing through our commitment to halve the deficit over four years without choking off the recovery itself. The Council agreed that:

'The economic situation is improving, but the recovery is still fragile',

and concluded that, while the deficit reduction plans must go ahead, measures to reduce the stimulus should be taken only,

'once recovery is fully secured'.

This is the position we will continue to follow.

In our Budget, we also set out the actions we must now take to secure jobs and growth by investing in the key growth areas of the future. The Council conclusions agreed that Europe needs,

'to deliver more growth and jobs',

to boost Europe's competitiveness and productivity. Before the financial crisis the imbalances within Europe were at an all-time high. The Council agreed that:

'The EU needs to focus on the pressing challenges of competitiveness and balance of payments developments'.

[Baroness Royall of Blaisdon]

The Council also agreed to develop a new strategy to deliver higher levels of long-term growth and recognised that the key elements of increasing productivity and growth include action on employment, on research and development, on reducing greenhouse gases to boost low-carbon industries, on education and on social inclusion. The European Council will now, once a year and through a leaders' annual economic summit, assess the progress achieved at both national and EU level in delivering on these objectives.

The Council also discussed the economic situation in Greece. Agreement has now been reached by the euro area member states on a set of guidelines for Greece and I am encouraged by the statement from the eurozone leaders that the eurozone will meet its responsibilities. There was no request for the United Kingdom to make any contribution to this programme and none of the arrangements agreed by the European Union Council will see any powers ceded from Britain to the European Union.

One year on from the G20 summit in London, we also discussed Europe's plans for the next G20 in Toronto. The Council agreed that 'rapid progress' is required on the strengthening of financial regulation and supervision within both the EU and the G20, while ensuring a level playing field worldwide. In particular, we agreed that progress is needed on issues such as capital requirements, systemic institutions, financing instruments for crisis management, transparency on derivative markets and implementation of internationally agreed principles for bonuses in the financial services sector. The Council agreed to make rapid progress on these issues internally, concluding work on the new European supervisory framework and in time for the European systemic risk board and the three European supervisory authorities to begin work in early 2011.

We must also agree in Toronto on a co-ordinated approach to levies on the banks to deliver a fairer balance of risk and reward in the financial system. This is something that I have been advocating for some months, and the Council agreed that as part of the G20's work:

'The Commission will shortly present a report on possible innovative sources of financing such as a global levy on financial transactions',

and that:

'The Council and the Commission will report back on these issues to the June 2010 European Council, ahead of the Toronto Summit'.

The council also discussed climate change ahead of the first meeting of the new advisory group on climate change financing established by the United Nations Secretary-General, which I am co-chairing with Prime Minister Meles of Ethiopia. Our pledge on climate change finance is a vital first test of the commitment of the developed countries to the promises made in Copenhagen. The council concluded that Europe will rapidly and unconditionally implement its commitment to provide €2.4 billion annually for fast-start finance, and to that end the EU,

'will initiate consultations on practical ways to implement fast start funding in specific areas',

presenting a preliminary state of play on its commitments at the Bonn summit. The council confirmed that Europe's objective remains a,

'global and comprehensive legal agreement',

and that Europe 'will strengthen its outreach' to other countries to galvanise negotiations in the coming months.

The euro area's economic growth is predicted to be 0.7 per cent this year and next, recovering to 1.5 per cent in later years. By contrast, world growth is projected to be 3.5 per cent, so we need stronger European growth to help deliver stronger growth and new jobs here in Britain.

Europe is the world's largest trading bloc and the world's largest internal market. It offers 500 million consumers for British companies. With 3 million UK jobs linked to the EU and over half of our exports going to the EU, Britain's livelihood is inextricably linked to the success of the European economy. Distancing ourselves from Europe makes no sense and would hold us back. It is by working with, not against, our European partners to deliver jobs and growth for Europe that we will help deliver growth and jobs for Britain. I commend this Statement to the House".

My Lords, that concludes the Statement.

3.51 pm

Lord Strathclyde: My Lords, I thank the noble Baroness for repeating the Statement made by the Prime Minister, which follows one of the most difficult summits in the EU for years. I draw her attention to the statement in paragraph 5(h) of the presidency conclusions that the EU strategy needs a strong external dimension. Despite our objection to the creation of what is an artificial post, will she express our sympathy and that, I am sure, of many noble Lords, to the noble Baroness, Lady Ashton, for the deplorable campaign of back-biting, smear and spin which has been made against her on many occasions in recent weeks?

As for the conclusions, incredibly they do not even mention Greece. Can the noble Baroness explain to the House precisely what was agreed, and on what conditions? The German Chancellor has unfairly been painted as the villain of the piece, but was it not quite reasonable for her to take the view that the German people, who have worked hard in the context of a genuinely prudent economic policy, should not be expected to bail out countries such as Greece that overspend wildly? Will the noble Baroness give an assurance that not a penny will go from us to Greece in an EU deal cooked up behind closed doors? Can she say whether the UK Government believe that an intervention from the IMF is required?

Our Chancellor of the Exchequer has recently announced, privately, that we will be borrowing only £330 billion in this year and the next. Given that, how fiercely did the Prime Minister pound the table about the need to go to the IMF? Is not the reason that the summit was at sixes and sevens the inherent contradictions within the eurozone, which has one single currency but two diametrically opposed views of running an economy? On the one hand, there is a potential disaster extending out from states long accustomed to escaping their problems by inflation and devaluation, from

Governments with unsustainable tax rates running bloated and inefficient public sectors and with private industry squeezed out through sclerotic and ever-expanding regulation—states like new Labour's vision for Britain in fact. On the other hand, salvation is sought from well-run countries with strong private sectors and relatively vibrant markets.

Does the noble Baroness agree that there are two ways to deal with this divergence—greater freedom and diversity within the eurozone, which means some countries bearing the consequences of their foolish actions and, if need be, going to the IMF, or yet more integration and a drive to take central powers to control the management of the EU's economies? There is no surprise which way the Commission is pointing. The summit conclusions talk of the need for greater economic co-ordination. How will that work? We even heard talk of a new EU economic government. That, I am sure, would have excited the Liberal Democrats but we on this side are underwhelmed. Will the noble Baroness make clear that a Labour Government would have no truck with a European economic government?

There was some controversy over possible new treaty changes. Will she, as we on this side do, rule out any new treaty change which increases EU control over our economic policy? Does she agree that, following the shameful dropping of their pledge of a referendum on the Lisbon treaty by Labour and the Liberal Democrats, we need a change in the law so that any treaty handing power from Britain to the EU would face a referendum? It is good enough for Ireland so why not for us?

The Commission's *Europe 2020* document states that:

"Sound public finances are critical for restoring the conditions for sustainable growth and jobs".

How does doubling and potentially trebling the national debt measure up to that? Britain is borrowing more as a share of our economy than Greece or Portugal. I wonder whether the other leaders crowded forward to hear the words of our Prime Minister on how to control debt or was Britain relegated to the sidelines, lurking near the tray marked "Problems pending".

The European Commission says "a number of countries" may have to start tackling their deficits this year. Given that Britain and Ireland have the worst budget deficits in the OECD, to which countries could it have been referring? The early-warning systems show that debt is threatening our recovery; sterling has devalued 12 per cent against the dollar since November; Britain has one of the weakest recoveries in the world; and no other European county has more unemployed. New Labour clearly isn't working. With Britain doing so badly, is not the right answer not more central control but the unleashing of enterprise with tax cuts for new businesses, better skills and training and less red tape? Why are the Government raising taxes on small businesses and on 30 million people?

This summit should have marked the stripping-away of illusions within the EU's spendthrift states and centralising bureaucracy. But the line sketched out by the EU and supported by this Government is for more tax, more interference and more central control. That way lies no future for the young unemployed, no prospect for the small business, and no reward for those who work hard and ask only for a fair reward. This summit had no answers relevant to the economic future of our country. It is time for change in Europe and change at home. I hope that the noble Baroness as Leader of the House and her colleague, the noble Lord, Lord Mandelson, will tell the Prime Minister to get on with it and let the British people have their say on the most wasteful Government in modern times.

3.58 pm

Lord McNally: My goodness, "New Labour isn't working"—the Saatchis are back in business quicker than any of us thought. I am pleased that the Prime Minister echoed the condolences for the loss of life by British troops in Afghanistan mentioned at Question Time in this House. We also welcome the message to Moscow. London shares that city's pain. We know that attacks on public transport are a particularly cruel and indiscriminate act of terrorism.

We welcome the fact that Europe has held its nerve at this summit in terms of the stimulus needed for the economies of member states. Quite clearly a Europe working together to promote more jobs, more growth and more competitiveness is in all our interests. I hear what the noble Lord, Lord Strathclyde, says about the eurozone agreement on Greece, but we cannot on the one hand be outside the eurozone and on the other be too picky about how it deals with the problem. It is clear that it has acted in a co-ordinated way. It would not be in Britain's national interest for there to be a collapse of the eurozone. While acknowledging that we are on the outside, we welcome the fact that it has been able to act in such a co-ordinated manner. Although I concur that it may not be the right time to enter the eurozone, I find it a bit rum that the party that was once of "sound money" now seems to think that there is some merit in a 25 per cent devaluation as a means of economic policy.

We welcome the commitment to low-carbon industries, but I again express concern that British investment may be too little, too late, and that we might end up being dependent on Chinese, German, Danish and American technologies to deliver our green economy. We welcome co-ordination of plans for the next G20. It is essential that we use a united European muscle to achieve global agreements on policing of the financial services industries. We need the strength and co-ordination of Europe if we are to have proper, verifiable agreements on climate change.

I endorse what the noble Lord, Lord Strathclyde, said about some of comments that have been made about the noble Baroness, Lady Ashton. However, congratulations should be offered to Mr Van Rompuy. As a *Financial Times* headline said:

"Van Rompuy emerges with his reputation enhanced".

Rushing to judgment on some of those appointments may prove to be wrong.

I congratulate the Prime Minister on pointing out quite firmly, as did many of us on these Benches during the passage of the Lisbon treaty, that the great opportunity offered by the Lisbon treaty was to bring closure to a process of constitutional and rulebook change that had gone on for almost a decade. It would

[Lord McNally]
have been absurd if we had listened to the siren voices from the Conservative Benches, who would have left Europe rudderless and still debating the rulebook, when, as the summit has demonstrated, it needs to get on with dealing the practical problems facing both the Community as a whole and the individual countries.

Perhaps I may respond to a remark that the noble Lord, Lord Strathclyde, always makes. I usually sit here patiently without responding, but since we are getting to the end of this Parliament, I should make it clear that the Liberal Democrat commitment was to a vote on a new constitution. If a new constitution had been presented, we would have supported a supported a referendum. However, the Lisbon treaty was treated as every other amending treaty under Conservative and Labour Governments since we joined the European Community. Let us have an end to that canard; I know that it will be used on the doorstep. What we did by getting the European treaty through was put Europe in the right shape to deal with climate change, the recession and the management of financial services industries. We do not regret it, because the alternative would have been a Conservative strategy which would have left Europe in disarray.

The House, and the country, should ask what disarray Europe would find itself in if, by some misfortune, a Conservative Prime Minister were at the next summit, throwing his weight around to disrupt Europe. At a time when Europe needs a co-ordinated effort to face global problems, a new Conservative Government would be unable even to sit in the same group as the Conservative Governments of France and Germany. The country should pause for thought before electing a party which seems set on marginalising itself in the councils of Europe at a time when we need European unity. We should ask whether that is the kind of Government we want to send. I ask the Conservatives whether we will have to go again through the long, painful learning curve, with Conservative Ministers going across to Europe as a kind of bovver boys and then having to learn that British interests need them to co-operate within Europe. All these bellicose statements from the Conservatives would not wash for one minute in Brussels, and they no it. It is time that they faced up to this and, instead of trying to mislead the country about where our interests lie in Europe, stood up to their responsibilities there.

4.05 pm

Baroness Royall of Blaisdon: My Lords, I am grateful to both noble Lords for their general support for this Statement. Like the noble Lord, Lord McNally, I thank the noble Lord, Lord Strathclyde, for what he said about the deplorable campaign of back-biting and spin against my noble friend Lady Ashton. We as a House and Members of this Parliament should be proud of what she is doing in the European Union. She is one of us, and we are very proud of that.

It is entirely sensible that the issue of Greece was dealt with by the euro area and not the European Council as a whole, and the euro area itself put out a very clear, firm statement. I do not think that we can read anything into the fact that there was no mention of it in the Statement. As the euro area statement makes clear, there has been no request from Greece for financial support; we welcome the euro area's clear restatement of its willingness to take determined and co-ordinated action if needed to safeguard financial stability in the euro area as a whole. There have certainly been no requests for any contribution from the UK and all these things are a matter for the euro group.

The euro area member states reaffirmed their willingness to take determined and co-ordinated action if needed as part of a package involving substantial IMF financing and a majority of European financing. The IMF is therefore a matter for them, not us.

The noble Lord, Lord Strathclyde, suggested that the problems of the euro zone were similar to those of the UK and that the euro zone was sclerotic, et cetera. I firmly reject the criticisms of what is happening in the UK. The Chancellor last week set out very clearly his plans for debt reduction in the UK, and when the Prime Minister was in Brussels last week I am sure that he was warmly congratulated on the action that we are taking. I point out to the noble Lord that in this country our unemployment rate is 7.8 per cent whereas in the rest of the euro area it is well over 9 per cent. That would suggest that we are doing something right in this country.

The noble Lord asked about greater economic co-ordination. As the conclusions state, the primary vehicle for better co-ordination should be an annual economic summit that looks at macroeconomic, microeconomic and financial service issues in the round. That is why we think that greater economic co-ordination is necessary. We need more growth in the euro area, because we are part of the European Union and most of our trade is with the European Union, so we need a healthy, growing European Union.

Any treaty change would need to be unanimous; I respectfully point that out. The noble Lord, Lord McNally, was right to suggest that Europe is working together, and that it is in all our interests. I noted with interest what he said about the prospect of a Conservative Government and their workings in the European Union. It is interesting that, in relation to European proposals which have an effect on hedge funds, the Prime Minister was able to ring up the Prime Minister of Spain and other Prime Ministers to say, "We need more thought and discussion in this area before we can reach an agreement". That is testament to the good relationships that we in this country have with our European partners.

The noble Lord, Lord McNally, is right about the need for more European consensus within the G20 to ensure a more level playing field globally, and that we need to strengthen and co-ordinate what we do within the European Union to progress the agreements that have already been reached on climate change.

It was a very good and successful summit, not just in terms of what happened in the euro group in relation to Greece, but in terms of the strategy for jobs and growth. As I said, I think that most people in the European Union agree with the action that we in this country are taking. The statement also agreed that the exit from the exceptional support measures adopted to combat the crisis will be important, once fully secured, but that the path we are currently taking in the UK is the right one.

4.12 pm

Lord Waddington: Does the Minister agree that Britain's contribution to the EU in 2010 will be double what it was in 2009? What proportion of the increase is due to the sacrifice by the Government of part of our rebate and, as it was sacrificed in return for a promise of reform of the common agricultural policy and no such reform has taken place, did the Prime Minister take any steps to secure the return of our rebate? If not, why not?

Baroness Royall of Blaisdon: My Lords, I do not think that reform of the budget was on the agenda for this Council, but it is clear that the Commission has been asked to produce a paper—before the autumn, so that it can be discussed by the Heads of State and Heads of Government before the December Council—on the future budget, which will include CAP reform.

Lord Lea of Crondall: Does my noble friend agree that the enlargement of the European Union, supported by the party opposite, has some consequences for net contributions of the richer countries? Therefore, it is about time that that is acknowledged by people who wish to make that point. I am among those who strongly welcome the arrangements made on future financial co-ordination and, indeed, on Greece. I notice that the noble Lord, Lord Strathclyde, described the deal as being "cooked up behind closed doors". In the spirit of consensus, will my noble friend go outside after this, along with the noble Lord, Lord McNally, and agree that the wash-up next week will be conducted in full view of everybody, including the television cameras, in Westminster Hall? If not, why not?

Baroness Royall of Blaisdon: My Lords, I agree with my noble friend about the advantages we all draw, within the European Union, from enlargement. We are all agreed on that, but of course it has budgetary implications. I do not think that there was a deal "cooked up behind closed doors". There were discussions at the European Council, and the agreements made by the European Council are clearly on paper before us today in the statement and the conclusions of the Council. As for the wash-up, it is a tried and trusted process which has served Parliament well in the past and I am confident that it will serve Parliament well in the future.

Lord Hannay of Chiswick: My Lords, will the Minister forgive me for saying that I find it fairly distasteful that the Government and the Opposition are vying for the role in the biblical parable of those who pass by on the other side? I do not see why we cannot say now that we support the solution reached by the European Council under which Greece will, if necessary, go to the IMF and receive support from its European partners. Can we not say that that was a good solution, as I believe it was?

I welcome the conclusions on climate change. Does the rather obscure reference in the conclusions to using other fora than the full 192-nation forum for the preparation for Cancun include the G20 meetings that will take place before then? Will the Government make the most use of them to try to achieve something better than the Copenhagen accord? Will the Government be putting in ideas of their own on the verification and monitoring of commitments entered into for climate control? There is a paucity of such proposals on the table at the moment but, without them, sustainability of any agreements reached is unlikely to be achievable.

Baroness Royall of Blaisdon: My Lords, with regard to Greece, I was not seeking to suggest that we were just passing by on the other side of the road. This is a matter for the eurozone. I said earlier, although I cannot find my note at this moment, that we thought that the agreement on Greece that was reached was a good thing but, as Greece is a member of the eurozone and we are not, it was more appropriate for that agreement to be made by the members of the eurozone.

There is a lot more to be done on climate change. I draw noble Lords' attention to the meeting that the Prime Minister is jointly chairing with Prime Minister Meles later this week. I pay tribute to the work that the noble Lord himself has done in the area of verification and monitoring and I confirm that the Government will be putting our own ideas into the process.

Lord Ryder of Wensum: My Lords, will the Leader of the House please take this opportunity to compliment Mrs Merkel on the robust attitude that she has taken to the financial plight of Greece during the past few weeks? If she is not prepared to do so, why not?

Baroness Royall of Blaisdon: My Lords, Chancellor Merkel was doing exactly what the Chancellor of Germany should be doing: as a member of the euro group and as Chancellor of Germany, she was looking for the best possible outcome for Germany and for the euro group. I think that she did a splendid job in both cases.

Lord Foster of Bishop Auckland: My Lords, does my noble friend share my delight that a deal was cooked up behind closed doors on behalf of Greece, since the alternative might have been the collapse of the single currency?

Baroness Royall of Blaisdon: Indeed, my Lords, and it is in no one's interest for either Greece or the single currency to collapse. As my noble friend says, we are delighted that some agreement has been reached.

Lord Teverson: My Lords, the very last conclusion in the conclusions document, point 15, says that there will be a special meeting of the European Council in September to discuss how the European Union can better engage with its strategic partners on global issues. That suggests to me that the European Council felt that there were a number of challenges in certain areas. Climate change is clearly one of those and we need a better performance on that than we had at Copenhagen. What are the others that the council is concerned about?

Baroness Royall of Blaisdon: My Lords, it is cross-cutting issues such as climate change and international terrorism that we need to discuss with our partners in, say, China and the Middle East. The noble Lord mentioned climate change. One of the important agreements reached at the summit last week was that

[Baroness Royall of Blaisdon]
not only we as the European Union but individual member states should be doing more to engage with developing countries on that issue.

Lord Lawson of Blaby: The noble Lord the leader of the Liberal Democrats, with his customary clarity, has cut through the fudge of his party leader's reactions as to what the Liberal Democrats would do in the event of a hung Parliament. He made it absolutely clear that they would unhesitatingly throw their weight behind the continuation of a Labour Government.

May I ask the Leader of the House two things? First, did the Prime Minister make it absolutely clear that the strength of the City of London as a major, global financial centre is a fundamental national interest? While he can have discussions with the Prime Minster of Spain and others about the new regulations, the new system of bank supervision and the structural changes, which undoubtedly are required, nevertheless anything that is put forward that would damage the City of London as a global financial centre is unacceptable to us. In the best Gaullist way, we would not abide by it.

Secondly, on the question of Greece, the unanimous view of the eurozone—I think that it is the view of the Greek Prime Minister, too—is that the Greeks must put their fiscal house in order without delay. This has been agreed whether Greece needs help from the IMF or from other eurozone countries, but it must be done without delay. Does the Prime Minister agree with that? If so, why does he think that in the case of the United Kingdom, which has an even bigger percentage deficit than Greece, there must be a delay?

Baroness Royall of Blaisdon: My Lords, there are two points. On the City of London being of fundamental national importance, I am confident that every time the Prime Minister speaks of global financial issues, he makes the case that we have a jewel in the crown in the City of London and that we have to do everything that we can to preserve it, but in a regulated way. We are in favour of financial regulation but not financial protectionism. That is the basis of everything that we say and agree to. At the moment, he is working with our European partners to find the best way forward.

In respect of reducing the deficit, the Chancellor provided us last week in the Budget with a clear route map. We have said on hundreds of occasions that we are going to reduce the deficit and that, in four years, we are going to halve it. This is what we are going to do, but we also recognise that, if we were to cut immediately, as the noble Lord's party would wish to, we would endanger many livelihoods and jobs and many people would have their houses repossessed. We cannot put at risk the recovery and we are not prepared to do that.

Lord Soley: I cannot imagine many actions that would damage the City of London much more than imposing a tax on banks unless it was shadowed by a tax on banks in other countries. That brings me to my question to the Leader of the House. The preparations for G20 are important, none more so, perhaps, than those on the regulation of international financial markets, which would help enormously to prevent some of the troubles that we have had in the last year or two. If we can get as much agreement as possible, as we seem to be getting within the EU, we shall go into those negotiations with a much better chance of enhancing and improving on the old Bretton Woods agreement in a way that recognises the global market in which we now operate. That progress is important; in a sense it is one of the most important things in this Statement today.

Baroness Royall of Blaisdon: I certainly agree with my noble friend that we need a strong European position that we can take to the G20, because what we must eventually do is adopt a globally co-ordinated position. If we were to tax banks just in this country, that would be detrimental to us, so we need a globally co-ordinated agreement.

Lord Stoddart of Swindon: My Lords, I was pleased to hear the Leader of the House say how much better Britain had done outside the eurozone than those countries that are in the eurozone. That confirms what many of us who were in favour of retaining the pound and our economic independence have been saying. The noble Baroness glossed over the question of economic governance, or government. The President of the Council, Mr van Rompuy, as well as representatives from Germany and France, have all referred to the need for European economic government. We already have to make a return of our financial and economic situation every year; indeed, we had interference from the European Commission over our deficit. I would like the assurance that we will not go any further into economic government, which is the aim of so many other countries in the European Union.

Baroness Royall of Blaisdon: My Lords, there are two points. I spoke of how successful we in this country are in terms of unemployment, contrasting that with what is happening in the eurozone. Economic governance—there has been some dispute about this, but in English we talk about economic governance, not economic government—is again an issue for the euro group. There was an agreement to set up a task force within the euro group, not within the EU 27. Our view is that there should be strong economic co-ordinated action but not economic government.

Lord Woolmer of Leeds: My Lords, does my noble friend agree that, in the case of the alternative investment fund managers directive currently under discussion in the European Union, the position of London is not being fully and properly balanced? If the European Union progressed to use a majority voting system to outvote the United Kingdom, that would be a very damaging position for it to take. Secondly, on the G20, does my noble friend recognise that the Americans are also greatly concerned about the potentially protectionist note that the European Union is in danger of taking? That will have an adverse effect on not only the City of London but also international finance.

Baroness Royall of Blaisdon: My Lords, I am aware that this is under the majority voting system; I am also aware of the position of the Americans. That is why, when it comes to these potential regulations for the

City of London, it is important that the key people sitting around the table continue to keep talking. That is exactly what is happening, thanks to the intervention of my right honourable friend the Prime Minister, who has said that we should keep talking about these issues until we can find a solution that is mutually acceptable.

Lord Brooke of Sutton Mandeville: My Lords, I have just spent a long weekend in Toronto. In the context of the next G20 summit, will the Leader of the House accept that, as of now, it is not the case that the people of Toronto can find nothing else to speak about? However, as an admirer of the Canadians, I am confident that they soon will.

Baroness Royall of Blaisdon: I am grateful to the noble Lord for his insight.

Lord Grenfell: My Lords, does my noble friend agree that while it is true that we are not being asked to provide funds for Greece, it is none the less also the case that when people shout that what goes on inside the eurozone is nothing to do with us, they are profoundly misguided and inaccurate? What goes on inside the eurozone affects us very much indeed. A failed Greece will have a very bad impact on those members of the European Union that are not members of the eurozone. Perhaps it would be wiser to take a sympathetic view of what the eurozone is trying to do to save Greece on the understanding that, if it fails, the impact on us will be very unfortunate indeed.

Baroness Royall of Blaisdon: My Lords, those are very wise words. They echo other sentiments that have been expressed around the Chamber today. I hope that I have not taken an unsympathetic view towards what is happening in Greece or the agreement that was made. I merely sought to point out earlier that the agreement was quite properly taken by the members of the euro group. It was a good agreement but we fully understand that what happens in Greece and the rest of the euro group has profound implications for the rest of the EU 27. We need a healthy European Union.

Lord McNally: My Lords, before this session comes to an end, I ask for protection from the Leader of the House. I would ask the Whip not to interfere; this is an important matter. I ask the Leader of the House, in her capacity as Leader of the House, what recourse I have to correct the completely erroneous statement made by the noble Lord, Lord Lawson, that the policy of the Liberal Democrats would be to send Mr Brown to the next European summit. The policy of the Liberal Democrats, in the national interest, would be to send Mr Nick Clegg to the next European summit. In the mean time, our policy is balanced. That is on the record.

Baroness Farrington of Ribbleton: My Lords, it is the job of the Whip on duty to ensure that the rules of the House are kept. In the past I reprimanded the—quite fearsome on occasions—Baroness Blatch, who had sought to speak from the Back Benches, having spoken from the Front. The noble Lord, Lord McNally, knows that, under the rules of the House, his noble friends behind him are the only ones who can defend him.

Draft Overarching National Policy Statement for Energy (EN–1)

Motion to Resolve (Continued)

4.32 pm

Lord Crickhowell: My Lords, from European affairs, we return to planning matters in the United Kingdom. As a preface to my Motion, I completely agree with my noble friend Lord Jenkin of Roding's view that the phrase,

"there is a significant need for new major energy infrastructure",

in the Government's conclusion on need in EN-1 gravely underestimates the critical nature of the situation that we face.

In moving my Motion, I return to a subject that I first raised in an energy debate in this House on 27 October 2005, when I spoke of my anxiety about the way in which the planning applications for two new liquefied natural gas terminals in Milford Haven had been handled. I concluded that speech by saying:

"I pray that no serious accident involving LNG will occur, but it seems clear that the present arrangements, fractured between shore and ship, and with marine controls that are not sufficiently independent, open or subject to second-party review, are seriously flawed. Any major accident would not only have a tragic impact on those directly affected, but would have devastating consequences for LNG operators and British energy policy. Before applications are made for terminals at other places, we need sounder planning and safety management arrangements put in place. Port authorities should be statutory consultees in the planning process. A port authority dealing with safety issues should not be able to plead exemption from the Freedom of Information Act or to withhold information about safety issues on grounds of commercial confidentiality. I question whether a voluntary port safety code is an adequate defence; and surely if a commercial organisation is the policing authority, there should be a process that enables a truly independent body to review its actions and intervene if serious faults are revealed. The case for a review before something goes badly wrong is surely compelling".—[*Official Report*, 27/10/05; cols. 1338-39.]

On 11 March this year in the Grand Committee debate on the draft national policy statements, I repeated many of those arguments and expressed astonishment that the solitary paragraph about safety issues in policy statement EN-4 refers to the Control of Major Accident Hazards—COMAH—regulations and the roles of HSE and the Environment Agency, which apply only to the land-based facilities. There is no mention of maritime risks that arise from LNG shipping operations within a port, believed to be significant by both HSE and the Society of International Gas Tanker and Terminal Operators. In the Grand Committee debate, I quoted from the recommendations issued by SIGTTO. The operators' exemplary record has been due to strict adherence to those recommendations. Safety is by far the most important factor on which decisions about the siting and operational rules for LNG marine facilities should be based.

In the draft overarching national policy statement for energy, EN-1, there are just two paragraphs relevant to LNG. Paragraph 4.11 on page 48 states that,

"the IPC should consult with the Health and Safety Executive (HSE) on matters related to safety. HSE is responsible for enforcing a range of health and safety legislation applying to the construction, operation and decommissioning of energy infrastructure. Compliance with this legislation is not, therefore, likely to be relevant in the determination of development consent by the IPC".

[Lord Crickhowell]

The second paragraph states that some energy infrastructure will be subject to the COMAH regulations enforced by HSE and the Environment Agency. Given more time, I would challenge the dubious assumption that compliance with these aspects of health and safety legislation is not likely to be relevant in the determination of development consent. The COMAH regulations and the work of HSE and the Environment Agency do not cover the marine port risks.

The noble Lord, Lord Hunt of Kings Heath, like his noble friend the noble Lord, Lord Sainsbury of Turville, in the 2005 debate, confessed to ignorance of what he said was rather a new issue to him. I do not blame him for that. He referred me to page 13 of the appraisal of sustainability document, which—it is my turn to make a confession—was new to me. It said that,

"the safety of shipping and navigation is an important issue for all shipping, especially LNG tanker shipments. The existing legal framework and its enforcement will ensure that LNG tanker shipments are safely regulated".

I wish that was true but I fear it is not. The noble Lord, Lord Hunt, went on to quote from the appraisal document's description of the arrangements covering operations at sea and then to the single sentence about port operations, that,

"there are special rules regarding port operations for LNG vessels with detailed procedures set out port by port".

I asked the Minister's private office to send me the document and was grateful to the official who told me that I would find the page numbered 13, rather curiously, on page 311 of the 360-page appraisal. It is also on page XIX of the introduction. The document describes itself as a non-technical summary of the appraisal of sustainability, or AoS, report. I hope that means that the actual report is more impressive than the summary, although the thought that it will be much more than 360 pages is pretty daunting.

The appraisal is primarily directed at environmental and sustainability targets and not at safety issues. One important point is clearly made: the appraisal will not guide the decisions of the IPC. Page III says that,

"for this infrastructure, EN-1 in conjunction with the gas supply infrastructure and pipelines NPS (EN-4) will be the primary basis for IPC decision making".

That being so, safety issues must be adequately dealt with in EN-4.

What happened in Milford Haven provides ample evidence that the existing legal framework is not satisfactory and is incapable of creating the level of public confidence that the Government should be seeking to achieve. It would be shocking if Parliament approved a planning system that encouraged the IPC in England, or the Welsh and Scottish authorities, to take decisions on the basis that the existing legal framework was adequate in its present form. The draft EN-4 must now be amended to include a proper statement of the regime that applies to LNG vessels operating in British ports, and, I hope, of a much-improved regime.

As a start, the IPC should be required to consider—as is the case in some other countries—whether these facilities should ever be placed in close proximity to large centres of population. There needs to be guidance about the desirability of using offshore systems which allow regasification and delivery at sea. The Energy Act 2008 established licensing arrangements for offshore facilities, yet there is no reference to them in EN-1. In EN-4, there is a statement that the IPC should note that the Secretary of State for Energy and Climate Change will be responsible for licensing offshore facilities.

Paragraph 2.7.5 states that,

"There are some important siting considerations which will affect the choice of LNG import and storage facility sites",

but the following paragraph mentions only conventional land-based terminals. It then goes on to state:

"Safety considerations and proximity to dwellings, workplaces and other buildings … used by the public, will be relevant factors",

as well as pipeline access. If they are relevant factors, and I believe that they certainly are, in a document that sets out,

"the high level objectives, policy and regulatory framework",

there should surely be a section that indicates the potential importance of offshore terminals. Among the advantages that they may offer is safety, because they can be sited well away from centres of population. They can be positioned to avoid the need to construct lengthy pipelines. In the case of Milford Haven, the pipeline crosses the whole of Wales and part of England, and includes a section through a national park. It may be possible to use existing pipelines and offshore facilities that are no longer fully being used, as has happened in the Gulf of Mexico. Offshore terminals can be sited close to offshore salt caverns that can be used for storage, and to existing shore-based gas reception terminals.

Offshore terminals are varied in type. The terminal operated by Adriatic LNG which is 17 kilometres offshore near Venice, uses an artificial island gravity-based structure with a large concrete box on the sea bed housing LNG storage tanks. Excelerate Energy's floating terminal, which opened in 2005, and is 116 miles off the south coast of Louisiana in the Gulf of Mexico, houses purpose-built regasification vessels. Just as the US gulf coast hosts an extensive natural gas pipeline network, so does the North Sea.

My objective today is not to produce a final wording for inclusion in EN-4. To do that is not possible within the constraints of a Motion that has to be brief, and I am not a legal draftsman. My Motion stands on its own, but is primarily a prompt to the Government for further thought and action. It has been suggested to me that my Motion would be clearer if, before the reference to a quantitative risk assessment, it had some words added about the "specific duties required of a statutory harbour authority regarding the assessment of maritime risks in relation to natural gas terminals and facilities". I hope that that suggestion, given that it comes from an expert source, will be looked at by the department.

As I said in my 2005 speech, new rules are needed for port authorities. The authorities vary in size; they may vary in relevant experience and competence; and they may, and probably will, have a strong financial interest in securing a terminal and the connected shipping movements for their port. We probably need

a statutory rather than a voluntary code. There needs to be a process that ensures that an independent body reviews the actions of the port authority and can intervene if it judges that to be necessary. The Maritime and Coastguard Agency is an executive agency of the Department for Transport and already has the responsibility for ensuring the safety of LNG tankers at sea. At present, because the port marine safety code is voluntary, the MCA is not empowered to ensure compliance. The COMAH rules are enforced jointly in England by HSE and the Environment Agency. I see no good reason why the maritime risks within ports should not be handled in a similar way. It is important that there is no exemption for port authorities from the Freedom of Information Act, and that comprehensive information about risk assessments and measures taken to ensure operational safety are made available to the public. In Grand Committee, I quoted SIGTTO's strong and wise words on that subject.

The current arrangements should be reviewed urgently—all the more urgently because it is already four and a half years since I first asked for a review, and we now have to ensure that the safety provisions are suitable and adequate- for the underpinning of a completely new planning regime in which safety must be a paramount consideration.

4.45 pm

Lord Teverson: My Lords, I have been instructed by the Government Whips to say that I do not beg to move my Motion at this point, but I am going to talk to it at this stage. In fact, I am not going to talk at great length because we have been through this issue a number of other times and I am sure the House does not want me to go through all the same points.

The document itself had a very important section specifically around government policy criteria for fossil fuel-generating stations and that is why I put this Motion forward. I put it forward again at this stage because emission performance standards are an important and fundamental part of management of carbon emissions from the United Kingdom. I make the point again that when we are able to set performance standards for fridges, homes and vehicles, I do not understand why we cannot set them for the most carbon intensive of operations outside maybe cement production: power stations themselves.

I have mentioned to the House before, while trying to get my words right, the large combustion plant directive; I think I have it right this time. The directive talks about SO2—sulphur dioxide, nitrous oxides, particulates and other types of emissions, but not carbon dioxide, which is very much the matter of the moment in terms of climate change, although those other gases are important. In the past the Government went through and said they were incompatible with emissions trading schemes. That is not at all true. American states certainly use both types of policy instrument. Again, the Government talk regularly, and rightly, about using various approaches to climate change in terms of carbon reduction instruments. This is another one which would clearly make sense.

That is my case. I will not keep the Government Whips on the edge of their seats; I am not going to put this to a vote when I am finally asked whether I am going to move it. I am aware that this is a little like a debate on Devon and Norfolk that I sat through. After four hours there was a Motion to ask the Government to do something, but on these occasions the Government tend not to take much notice. However, this is an important point and I wish to register it again. We feel this is an important instrument for the future. I thank the noble Baroness, Lady Wilcox, as I know she supports us in this area. I will not test it but I hope the Minister will listen.

Finally, I do not know what the protocol for this is but I should like to thank the Minister for his clear dedication to this area, his quick learning and his very positive responses to me throughout all the debates in which I have been involved since being spokesman for the Liberal Democrats on energy and climate change. I do not agree with all the Government's climate change policy but it has certainly moved forward. Whether it is enough or whether it is quick enough are matters for big debate for us all, but under his guidance and work from the government Benches in this House we have had very good debates and very good sessions, and again I compliment his dedication to, and belief in, this subject.

Lord Woolmer of Leeds: My Lords, on an equally optimistic note I should like to say how thorough a job the Government have done and how thorough a service they have provided in setting out the background to major infrastructure and planning decisions in the energy area, because that is what this is all about.

Today and on other occasions, a number of noble Lords, and of course Members of the other place, have raised some important issues that the Government will no doubt reflect on carefully before coming to final views. However, setting out the policy background within which major planning decisions will be taken in the future is enormously important. The careful consultation processes that the Government have been through, spanning two or three years and probably even longer in some respects, has been painstaking but extremely worth while and will, I hope, be of benefit when the Infrastructure Planning Commission, or whatever it may be called in future, makes its decisions.

If I understood our discussions correctly, essentially over the next 10 years a number of our energy-generating plants will close, particularly coal-fired and nuclear, being replaced overwhelmingly by more gas-fired power stations and onshore and offshore wind. However, what happens beyond 2020 is still a matter of considerable uncertainty. The *Energy Market Assessment* document, which the Government published at the same time as the Budget and which looks at the whole question of the financial, regulatory and pricing backgrounds and frameworks within which energy policy will develop beyond this decade, will be as important as these energy planning documents.

The one word of caution that I would give to people reading these documents is that they should understand that, looking ahead to 2020 and 2030 through to 2050, the precise way in which our energy requirements will be met is by no means set in stone. When reading documents such as these, there is a temptation to think that they set out how the world

[Lord Woolmer of Leeds]
will be. However, saying that there are uncertainties and that technology, pricing, market effectiveness and the consumer will all play their part is not to gainsay the importance of having a clear statement now of government policy that will be a guide to important planning decisions over the next few years. At the same time, it is important to say to the public, "Don't think that this is a simple matter that remains fixed or easy to predict in the years ahead".

I look forward, as I am sure do many other noble Lords, to discussing the outcome of the consultations on this latest document. The decisions that follow from those recommendations and the White Paper will be very much more difficult than planning decisions. Creating the financial, fiscal and regulatory framework that will result in the best outcomes for nuclear, wind, biomass and other forms of energy will, in many respects, be much more difficult. I suspect that it will certainly be much more difficult to get consensus across the political parties. So far there has been a great deal of consensus in this area—something on which the Government and all parties are to be congratulated. That has been very important and I hope that consensus can be found on pricing and regulation, although, as the noble Lord, Lord Teverson, has already demonstrated, that may not be as easy as this stage has been.

Baroness Young of Old Scone: My Lords, I shall speak to two of these Motions. The Motion of the noble Lord, Lord Teverson, goes slightly further than I would, so I support its sentiment if not its actual wording. It would make it conditional that fossil fuel power stations approved by the IPC met CO_2 emission performance standards as laid down by the Secretary of State, but we need some understanding about timescales. Fossil fuel power stations will simply not meet these standards if they are being approved in the next, short period; we need an expectation and a timescale for emission performance standards to be met by these stations.

It made my brain hurt to think this through, because the risk of laying emission performance standards on developers of fossil fuel generation capacity is that they will simply stop investing. They will say either that it is too uncertain or that when there has to be retrofitting of abatement technology—carbon capture and storage, or whatever—it will be too expensive, so will be a barrier to investment by these companies. What, though, is the alternative? Is it to say, "We will build a few coal or gas—or both—generating stations and if they happen to be rather heavy in carbon emissions and we cannot find an economic or practical way to abate that in the future, well, you win some, you lose some"? This does not seem to be entirely in accord with the Government's climate change policies or with the advice they are receiving from the climate change committee. The answer must be to promote speedy piloting of carbon capture and storage and bring that—if it can be done—to marketability standards. At the same time, we must give developers of power generation a degree of clarity by laying down a date and a standard for EPS to ensure we achieve the decarbonisation of the power sector by 2013 in line with the spirit, if not the exact words, of the recommendations of the Committee on Climate Change.

You could say that the new reporting clause in the Energy Bill on more regular reporting on decarbonisation of the power sector and commercialisation of carbon capture and storage might be a driver in itself; we know how government, with great cheerfulness, can continue to report on failure in other fields. You could say that the EU Emissions Trading Scheme will drive decarbonisation, but the noble Lord, Lord Teverson, has already said that it is not doing enough to tighten the cap on emissions. Were the EU Emissions Trading Scheme to really be a powerful driver in forcing down and capping emissions, the developers of these stations would be in the same position—they would still have to find one means or another of decarbonising on a retrofitting basis or of reducing the hours of generation of these stations. There is a real conundrum here.

An amendment to the Energy Bill, tabled in another place, proposed a timescale for the Government to come forward with a suitable framework set at a manageable level, taking account of the needs for energy security. If that were to be built into the policies we are looking at today, it would give clarity to investors, instead of the current position—that we will try to pilot carbon capture and storage and, if by 2018 it is not working, we will scratch our heads and think of something else. That is a thoroughly unsatisfactory proposition for developers in an area where we need the pace to be maintained if we are to meet the challenge of climate change. As I said, I support the sentiments behind the Motion in the name of the noble Lord, Lord Teverson, although I would like an element of timescale to be built into it.

5 pm

I now turn to the second battle of Dungeness and to the proposal by the noble Lord, Lord Jenkin, that Dungeness should come back on to the list of sites that are suitable for the development of new nuclear power on the basis that it would be premature to exclude it. It is clear that he was not impressed by my arguments about spirituality and medicinal leeches, so I shall now try to impress the House with arguments that are based on hard-nosed science, the might of the law and the fear of European fines.

This site should be excluded at this point, as even very preliminary analysis at this stage shows that it is patently not suitable. First, it should be excluded on the grounds of flooding and coastal erosion. The Environment Agency hedged its bets a bit and said that you could protect the site against flooding and coastal erosion, but because it sits on an eroding frontage it will also be subject to a rise in sea level. In the agency's view, therefore, it will face significant difficulties. The best that the agency was prepared to say was that it will have to be further considered. Simply defending the site and holding the line would give rise to issues of habitat regulation, since it would prevent the coastline from changing and adapting naturally. Increased wave heights and increased wave energy as a result of climate change have not yet been assessed at all, so the Environment Agency's proposition on coastal erosion might have to be considerably changed.

Protection from marine flooding relies on an existing seaward shingle embankment and is replenished, not quite daily but almost daily, with fresh shingle to shore it up. The Environment Agency said that it was concerned that it might be increasingly problematic to use present shingling recycling methods and that there is a risk of increasing the complexity of sourcing additional shingle material for beach recharge. Flood protection is a kind of treadmill process.

The most important issues for me are not coastal erosion and flood protection but the nature conservation value of Dungeness in its geomorphology, its plant and invertebrate communities and its bird life. It is protected by every designation in the alphabet soup of designations. Under the habitat regulations, it is a Natura 2000 site, a special area of conversation, a special protection area, a Ramsar site as an internationally important wetland, a site of special scientific interest and a national nature reserve. If you can find me another designation of protection, I would be vitally, wonderfully pleased, but I do not think that there are any apart from those.

The Government's decision to drop Dungeness as a potential site for further nuclear development was based primarily on Natural England's advice on the ability to compensate for the loss of the shingle habitat. This site is highly protected. It is one of the jewels in nature conservation in this country and one of the internationally important sites. It is not just some spare bit of shingle; it is a vitally protected international site. The habitat regulations require that a project that will have an adverse effect on a Natura 2000 site must go ahead only if three conditions are met: there are no alternative solutions; there are imperative reasons of overriding public interest; and compensatory habitat can be provided before the damage occurs.

The Dungeness nuclear proposal satisfies none of these conditions. There are alternatives; more than one power station could be built on several sites on the long list of sites, and we could jack up our activities on energy conversation, which would help as well. Secondly, if there are alternatives, almost by definition you cannot say that there is the imperative reason of overriding public interest that we damage this site. Thirdly—this is the killer blow—habitat compensation is not simply about finding more bits of shingle somewhere; it entails finding and establishing shingle with the appropriate vegetation communities. At Dungeness, these shingle and vegetation communities have developed over 5,000 years, and reflect the ridge structure and the way in which the pebbles and sediments have been formed within them. The vegetation is linked to the way in which each ridge has been deposited over history, and there have been successive waves of vegetation colonisation. Even if a fit place for compensatory habitat could be found, the very long timescale—up to 5,000 years for it to form geomorphologically and for similar vegetation to come in—would mean that we might be waiting a long time to build the nuclear power station there.

Dungeness is also an important international site with a long and detailed history of scientific study into its geomorphology and vegetation, as well as into its coastal processes. It represents over two-thirds of the exposed shingle habitat in the UK—an internationally protected habitat. The noble Lord, Lord Jenkin, might say that the nuclear power station proposal only impacts on about 50 hectares, but we do not want to return to the ways of old, which I mentioned when we debated this in the past. It was a kind of axiomatic truth that, if you were going to build a big piece of public infrastructure in the past, you appeared to look for an SSSI to build it on, and we had many public protests as a result.

I hope that we have come beyond that and that roads, airports and other strategic developments are not going to be built at the expense of some of these very important habitats directive sites. That was why the habitats directive was invented, and I was proud to play a part in its invention. Surely we can find ways to direct strategic infrastructure—no matter how important for climate change—away from sites of international importance. I was looking for an analogy, and it is a bit like saying that we are going to put advertising hoardings on Westminster Abbey because it happens to have a set of rather well sited walls.

The noble Lord, Lord Jenkin, said that the appropriate place for this to be considered would be at the IPC and that it was wrong for the Government to drop this site. The IPC should be given the opportunity to consider it, but when a decision like this is clearly going to be in breach of European law—where the Government get fined, not the IPC, and the fines are substantial and daily—the Government would be well advised not to place Dungeness in harm's way, as it were, with the risk that the IPC makes the wrong decision and that then the Government get it in the neck from European law and from European fining. We do not need a detailed plan to know that it transgresses European law, even with the high level of initial assessment that has been revealed.

I am encouraged rather than deterred by the DECC committee's mealy-mouthed way of putting its recommendation. The DECC committee's report on the policy statements asked the Government to keep an open mind and to consider the Shepway District Council evidence. It did not come out and say, "We think Dungeness should be on the list"; it simply hedged its recommendation. I believe that Dungeness is in the right place in not being on the list, and I hope the Minister will continue to support that.

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): My Lords, I thank noble Lords who have enabled us to have a further discussion about the national policy statements as a result of the Motions before us. I thought that the noble Lord, Lord Jenkin, explained well in his introductory remarks the role of this debate and of parliamentary scrutiny. I do not intend to repeat myself, but I would echo my noble friend Lord Woolmer in paying tribute to the thoroughness with which the whole process is being developed. I assure noble Lords that in responding to the Motions before us, and to the parliamentary scrutiny in general, we will take careful note of all that has been said. There is a lot of work before us, as the noble Lord, Lord Jenkin, implied, before we come to a decision about adoption of the national policy statements. What is

[LORD HUNT OF KINGS HEATH]
not in doubt is that there has been extensive consultation and that parliamentary scrutiny has proven to be effective and detailed, as it ought to be.

On the first Motion, I say to the noble Lord, Lord Jenkin, that my noble friend really answered the point, which is that, as far as the 2050 road map is concerned, a report by the Treasury and my department, the *Energy Market Assessment*, has been published alongside the Budget. At the back of that report there is a succinct reference to the work in relation to the 2050 road map. As my noble friend Lord Woolmer suggested, while the pathway to 2020 is clear, the initial conclusion of the assessment is that the current market framework will need further reform if it is to deliver the necessary investment beyond 2020. The report seeks to set out a number and variety of policy levers with which it could influence the outcomes delivered by the electricity market. I have no doubt that, after the election, there will need to be extensive debates on this, which I would welcome—as I would welcome standing here at the Dispatch Box responding to those debates on behalf of the Government. I do not believe that what is in the report impacts on the national policy statements before us, because it sets the context for immediate decisions to be made by the Infrastructure Planning Commission when it receives consents for infrastructure. However, it will prove to be an interesting debate in the future.

The noble Lord, Lord Jenkin, believes that the case in the overarching energy NPS should be strengthened from being of "significant" to "critical" importance. I do not think that we need another debate on the challenges that we face in moving to a low-carbon economy or on the fact that much of our current generation capacity—about 25 per cent over the next 10 to 15 years—is due to go out of business. However, I make it clear that the Government are not complacent. A large amount of generating capacity is in construction or has received consent and our modelling shows that, for most of the current decade, the derated electricity capacity margin will be around 15 per cent.

I recognise that there is a right balance to be struck between consenting and building new energy infrastructure and the importance of protecting the environment. That is why, advisedly, we use the word "significant" rather than "critical". That does not seek to undermine the importance of energy infrastructure in the future—the fact that we are here is a visible sign of that importance—but we have to strike the right balance between consenting and building new energy infrastructure and the importance of protecting the environment, as well as the right balance between the importance of our national energy needs and security and protecting the quality of the lives of those who live in the communities where the infrastructure is located. That is why we think that the word "significant" takes into account the challenges that we face in a more appropriate way than the wording suggested in the Motion.

The second Motion proposes that EN-1 should spell out the Government's environmental targets to mitigate climate change. The noble Lord, Lord Jenkin, referred to the absence of the right reverend Prelate the Bishop of Liverpool, who I know takes a close interest in these matters and supports the noble Lord in this regard. This is an interesting matter. In writing the NPS, we have attempted to balance information on our overall energy policy with the detailed information that the IPC needs to take into account when it is examining and consenting nationally significant energy infrastructure projects.

The suite of draft energy national policy statements already runs to many hundreds of pages. We have tried to ensure that each NPS is no longer than it really needs to be. We also wanted to avoid unnecessary repetition, so where detailed information is available elsewhere, such as in the *Low Carbon Transition Plan*, we have not quoted it chapter and verse in EN-1. Our intention is for EN-1 to provide the necessary background information so that the reader understands the context of our energy policy and to set out where further information can be found in more detail. In the light of tonight's debate, I will certainly look at whether we need to have a more comprehensive system of cross-referencing to other government documents and legislation.

5.15 pm

National policy statements are not the right place for all the Government's environmental targets to mitigate climate change to be set out in detail. We have to be clear on the roles of the IPC and the national policy statements. The IPC is there to examine and make decisions on nationally significant infrastructure projects. Consideration of the potential impacts—both positive and negative—of projects on the environment will be a central consideration for the IPC. It is not the role of the IPC to be responsible for all aspects of the Government's climate change and environmental policy or to meet the targets that we have set to safeguard our environment. That responsibility clearly falls on the Government. We have established other organisations, such as the independent Committee on Climate Change, with a specific remit to scrutinise and hold the Government to account on meeting these targets.

We recognise that the IPC has an important role to play. That is why the national policy statements set out a detailed framework for decision-making, providing the IPC with information on how the environmental aspects of an application can be mitigated during the construction, operation and decommissioning phases. These are vital details that commissioners will need to take into account during their examination and decision-making. Parliamentary scrutiny is vital in the process of designating national policy statements. We will take into account many of the issues raised during that scrutiny where they directly concern the work of the IPC. While we want to avoid unnecessary repetition, we have set out clearly in the overarching energy NPS the Government's commitment to tackling climate change, but we feel that including the extensive information envisaged by the amendment would lead to both repetition and an NPS containing detailed specific information that can more readily and more properly be found elsewhere.

The third Motion relates to Dungeness. We have already had an extensive debate on this matter in Grand Committee, which will be very helpful when we come to make a final decision on the designation of the national policy statements. We have also had the

recommendation of the Select Committee in the House of Commons. As the noble Lord, Lord Jenkin, and the noble Baroness, Lady Young, suggested, the Select Committee recommended that we maintain an open mind throughout the current consultation, that we consider carefully the evidence submitted to the committee by Shepway District Council and any other evidence submitted during the consultation and that, if necessary, we reconsider our position. It was a very statesman-like recommendation and we will certainly give due consideration to considering whether we should consider it.

Let me come to the nub of the point. We have assessed the site against objective criteria, on which we consulted. We said in 2006 in relation to nuclear development that we would produce a list of potentially suitable sites because we wanted to avoid long-term blight as far as possible. That is why we have gone through this special process for new nuclear sites. We have undertaken an appraisal of sustainability and a habitats regulations assessment and we have sought the advice of the Government's statutory advisers. We excluded Dungeness because we do not believe that a new nuclear power station could be built there without causing adverse impacts on the integrity of the Dungeness special area of conservation, or that adverse impacts could be avoided or mitigated. As has been pointed out, Dungeness is the only nominated site that overlaps with a European site to such an extent that avoidance of adverse effects is not possible and mitigation of the effects of direct land take is assessed as being unlikely to be successful.

As the noble Baroness said, the Dungeness special area of conservation is considered to be the most important shingle site in the UK and Europe; indeed, it is one of the largest shingle expanses in the world. The pattern of shingle ridges at this site has built up during 5,000 years. The shingle also supports fen and open-water communities and a large and viable population of great crested newts, which form part of the special area of conservation designation. The site is considered to be one of the best shingle areas in the UK and one of the most diverse and extensive examples of stable vegetated shingle in Europe.

The imperative reasons of overriding public interest do not extend to Dungeness because of the alternatives available; that is, the other 10 sites listed in the draft nuclear NPS. The noble Lord, Lord Jenkin, said that it could well be that not all the sites eventually go forward. He must be right, because even if we were to confirm those 10 sites and applications were put forward, the decision would be down entirely to the Infrastructure Planning Commission. It is my understanding that developers have already proposed 16 gigawatts of development on sites not including Dungeness. We should not discount the opportunity of either twin or triple reactors on each site. Therefore, because of the alternatives available, we do not think that the imperative reason of overriding public interest extends to Dungeness.

Lord Jenkin of Roding: This is a hugely important point. How few sites will there have to be before the imperative overriding reason, which is allowed under the European habitats directive, is activated? Does it have to go down to there being no sites left at all? The Government need to make it much clearer, so that people know where they stand.

Lord Hunt of Kings Heath: My Lords, I am sure that the noble Lord will forgive me if I do not give a precise answer, because I am not in a position to say, for example, "You reach two or three sites". He will know that we have said that we reckon that, by 2025, we will need about 25 gigawatts of electricity generation which is low-carbon but non-renewable, and that nuclear developers should be enabled to make applications for consent up to that point. As it is possible for there to be multiple reactors on a particular site, it is not possible for me at this stage to say that, if one comes down to four sites, for example, the imperative reasons of overriding interest can be applied. I shall take the point that the noble Lord has raised and see whether any further advice needs to be given. At this stage, I need to be assured that enough sites for potential development are available which do not hit the problems that we see in relation to Dungeness. I stress to him and other noble Lords that I do not have a closed mind on Dungeness; we are seriously considering those points. Equally, I should not underestimate the real difficulties that we see in relation to Dungeness as a new site. The noble Baroness, Lady Young, was right to raise flood risk and coastal erosion.

At this point, therefore, we thought it right not to list Dungeness as being a potentially suitable site when producing the national policy statements. We will listen to the arguments and take into account the recommendation of the Select Committee, but we should not underestimate the problems that arise with Dungeness.

Lord Woolmer of Leeds: My noble friend's words might be misinterpreted on nuclear energy. He may have said that applications that took generation up to 25 gigawatts should be considered. I understood the Government's policy to be that there would be no artificial limits set to nuclear energy so applications for nuclear energy that went beyond that would also be considered. Am I correct in my assumption?

Lord Hunt of Kings Heath: My Lords, if I have confused the House, I apologise. With the kind of capacity that we think needs to be available by 2025, we believe that around 25 gigawatts of low-carbon non-renewable energy are likely to be required. The nuclear industry is very welcome to make applications for new nuclear power stations in that context. I do not believe that we have placed any arbitrary limit; equally, we were being helpful in describing the kind of scenario that we thought would be required going up to 2025 in relation to both renewable and non-renewable energy. In the end, it will be up to the developer to put forward the application and for the IPC to come to a view on it. Essentially what we are signalling is that nuclear energy has a very important role to play in future. If the noble Lord invites me to say that again from the Dispatch Box, I am only too willing to do that.

[Lord Hunt of Kings Heath]

I turn to the very interesting point raised by the noble Lord, Lord Crickhowell, on the duties of statutory harbour authorities. Clearly one issue is the respective responsibilities of the IPC in relation to planning consent and other statutory bodies in relation to safety issues, both inland and on the sea. It is clear that the noble Lord, Lord Crickhowell, is not satisfied with the current regulatory regime in relation to tanker movements and the role of the port authorities. I shall come on to that. Since I have had a little time to discover a little more about the subject, I shall point out what action can be taken by government.

On planning, the IPC is responsible for determining development consent for an LNG facility in England, although that is slightly different in Wales and Scotland. I take the English situation as an example, however. LNG import facilities are most likely to be sited on the coast; they will have unloading facilities including a jetty, onshore storage capacity for the LNG and regasification plant. The safety of installation in such cases is enforced jointly by the HSE and the Environment Agency under the COMAH regulations. This enforcement continues throughout the life cycle of the installation from the design and build stage through to decommissioning. Under these arrangements applicants will need to assess the safety risks and how to control or mitigate them. The IPC will consult the HSE about the applicant's compliance—

Lord Crickhowell: We know all that. We have both said that repeatedly in both debates. I am not concerned with those facilities; the whole subject that I have raised is with the marine operation not the shore-based operation.

Lord Hunt of Kings Heath: For the benefit of the House, I thought that I would clarify that we are talking about two different regimes. Encouraged by noble Lords, I come to the issue of marine safety.

Regulation for safety of LNG tanker movements is a separate matter for the harbour authority. Specific duties apply to all statutory harbour authorities, which are set out in the port marine safety code. It is not a mandatory code, but there is a very strong expectation by the Government and by other regulatory authorities that harbour authorities will comply with it. Failure to comply with the code may be relevant in determining whether the harbour authority is in breach of certain legal duties. In order to comply with the code, harbour authorities must have an effective marine safety management system which employs formal risk assessment techniques to manage their marine operations. The system should ensure that there is proper control of ship movements within harbour waters, should protect the general public from danger arising from marine activities within the harbour and prevent accidents or emissions that may cause personal injury to employees or others.

My understanding is that LNG shipping has an exemplary safety record. In more than 44,000 loaded voyages, there has never been an incident that has resulted in the loss of containment of LNG cargo. The noble Lord mentioned the Marine and Coastguard Agency. That monitors and enforces the certification regime and international standards apply to ships used to transport LNG into the UK. While all UK harbours have a duty to maintain an open port, the port authority has duties to direct vessels and to prohibit entry of vessels which are dangerous or which are carrying dangerous goods. The master of the vessel is responsible for the safety of the vessel. In the case of Milford Haven, Milford Haven Port Authority is responsible for managing operations within the port safely and efficiently. The Secretary of State can intervene if an accident occurs and there is a risk to safety or a risk of pollution by hazardous substance. Harbour authorities are accountable for safety in their waters; they have a duty to conserve and facilitate the safe use of their harbour and powers to direct vessels. Ultimately, of course, anyone can challenge the decision of the harbour authority by judicial review.

The Secretary of State's representative can intervene if there is a significant incident which risks significant pollution or threatens safety. In future it is possible, of course, that the Secretary of State may have powers of intervention to direct a port if it is acting unsafely. It is one of the proposals on which we consulted for the draft marine navigation Bill. The intention, if that Bill is brought before a future Parliament, is that the power would be used only in exceptional circumstances and after first consulting the harbour authority.

There is clearly a combination of national and local legislation which affects the movement of vessels in harbour waters, especially those which carry dangerous cargo. I am sure that this is not going to satisfy the noble Lord, Lord Crickhowell, but I have tried to set out how we see statutory regulation applying. I know that he is suggesting that we, at the very least, give minimal signposts in the NPS to this position. While I cannot see a case for making these requirements part of the national policy statement, I have taken his point about the need for there to be a clear signpost to where the duties, for instance, of the harbour authority are set out. I assure him that I will consider that and see how that might be done.

Lord Crickhowell: I am not going to delay the House by moving my Motion but perhaps I may ask the noble Lord to draw the attention of the Department for Transport to these points? I am sorry that he has made no mention of the very real alternative of the offshore facilities, about which I spoke, and which are now in use in a number of other countries, of which I gave two examples. I hope that he will consider all these points very carefully before we have an accident with disastrous consequences.

Lord Hunt of Kings Heath: My Lords, I have discussed this matter with Department for Transport officials and I will ensure that the point raised by the noble Lord is communicated to them.

On the Motion of the noble Lord, Lord Teverson, first, I thank him for his kind remarks. It felt a bit like an obituary, but I hope it is not so. Energy is a fascinating brief, it has been a great privilege to debate these matters and I hope that I will be able to do so in the future. The emissions performance standard is a difficult issue. As the noble Baroness, Lady Young,

suggested, that is why we are having this debate. Of course, we have to reduce emissions from our fossil fuel power stations. We already have the EU Emissions Trading Scheme, but I recognise that it is not, on its own, sufficient to reduce emissions from the power sector to the extent required. That is why we have the policy of developing renewables and new nuclear and clean coal. In order to develop clean coal, we have introduced the most environmentally ambitious standards for new coal-fired power stations anywhere in the world.

Of course, with the full chain of CCS processes still not proven at a commercial scale on a power station, we know that legislation and planning frameworks are not enough. That is why we are providing crucial practical assistance. We debated some of this during the Second Reading debate on the Energy Bill only last week. We have made it clear that we expect participants in the CCS demonstration programme to retrofit CCS to the full capacity of the power station by 2025 and our aim is that coal-fired power stations built after 2020 are fully CCS from day one.

I come to the point raised by the noble Baroness, Lady Young. The time to consider measures such as an emissions performance standard is when the technology has either been proven at commercial scale or has been found not to work. Our worry is that to set a standard now, or at any time before we have seen results from the demonstration programme, is really not the way to go. Accordingly, we are committed to a rolling review process, which will report by 2018, to consider the appropriate regulatory and financial framework required to facilitate the full transition to clean coal.

As the noble Baroness said, the new reporting measures in the Energy Bill will inform this process, as will the future reports of the Committee on Climate Change. The new reporting regime guarantees that Parliament has the opportunity to challenge the Government on delivery of CCS. Our real concern is that the introduction of an emissions performance standard would create a level of uncertainty in the industry that would significantly undermine plans for investment in new fossil fuel generation plant. That would put at risk the demonstration of CCS and any delay in investment in gas-fired power stations will pose significant risks to our security of supply.

I know that there are concerns at what has been described as a potential dash for gas. This is not the intention of our low-carbon strategy, nor do we believe that it will be an outcome. The low-carbon transition plan sets out policies to deliver 40 per cent of our electricity from low-carbon sources by 2020. The energy market assessment, to which I have already referred, is concerned with ensuring that we have the right market mechanisms to get the right balance between the different energy technologies and to meet our emission reduction targets. The investment issue is therefore a very serious one. The energy industry, the CBI and the TUC have made it clear that it would have an adverse impact on investment in new power generation. The Committee on Climate Change did not recommend the introduction of an EPS at present.

We think that the introduction of an EPS at the moment would be premature, but we will listen to this very carefully and as the years go by, as we see the outcome of the CCS, we might have to come back to the point. I do not disagree with the noble Lord's reasons for wishing to pursue this, but we have a real concern about a hiatus on investment. We need to see how the CCS scaled-up projects develop before we come back to the point.

This has been a very interesting debate; I think that parliamentary scrutiny of the national policy statements has been very effective. My department now has a great deal of work to do in order to come to a final view, but I have no doubt that it has been very valuably informed by our debates in your Lordships' House.

Lord Jenkin of Roding: My Lords, I promised that I would not exercise my right of reply at any length, and I will not. On the Minister's final point, I am not satisfied that the way that we have dealt with this has been the best one. The right answer—I said this during our debates on the Planning Bill—would have been to have had a Joint Committee of both Houses so that this House as well as the other place could have listened to the evidence and had the chance of examining witnesses. We did not have that; instead, we had what I might call unilateral debates in the Moses Room. I want to put that on the record. There will be further national policy statements, and it would behove whichever Government were in office after the election to have another look at that.

Lord Hunt of Kings Heath: It would be sensible, once we have gone through the initial national policy statements, for there to be an opportunity for a discussion, perhaps in a debate or through the usual channels, about how we felt the current process worked and what improvements could be made. I agree with the noble Lord on that.

Lord Jenkin of Roding: The Minister has also indicated that he is going to take "careful note" and that he has considered everything that has been said—I have taken all his words down—so it would be entirely otiose if I were to go on any longer. I beg leave to withdraw the Motion.

Motion withdrawn.

Draft Overarching National Policy Statement for Energy (EN–1)

Motion to Resolve

5.42 pm

Tabled by ***Lord Jenkin of Roding***

That this House calls on Her Majesty's Government to amend the Draft Overarching National Policy Statement for Energy (EN–1) to spell out specifically the Government's environmental targets to mitigate climate change. *Considered in Grand Committee on 23 February*

Motion not moved.

Draft National Policy Statement for Nuclear Power Generation (EN–6)

Motion to Resolve

Tabled by ***Lord Jenkin of Roding***

That this House calls on Her Majesty's Government to amend the Draft National Policy Statement for Nuclear Power Generation (EN–6) to include in Part 5 the Dungeness site as suitable for nuclear development as it is premature at this stage to exclude Dungeness as a potential site for such development. *Considered in Grand Committee on 9 March*

Motion not moved.

Draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN–4)

Motion to Resolve

Tabled by ***Lord Crickhowell***

That this House calls on Her Majesty's Government to amend the Draft National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN–4) to spell out the specific duties required of a statutory harbour authority to carry out a quantitative risk assessment and to make public the conclusions of that assessment and the safety measures that will be required throughout the life cycle of the facility before consent is granted for a liquefied natural gas terminal in any port or harbour for which the authority is responsible. *Considered in Grand Committee on 11 March*

Motion not moved.

Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN–2)

Motion to Resolve

Tabled by ***Lord Teverson***

That this House calls on Her Majesty's Government to amend section 2.3 of the Draft National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN–2) to include a provision that the approval of any fossil fuel power station by the Infrastructure Planning Commission will be conditional upon it meeting emission performance standards for carbon dioxide laid down by the Secretary of State. *Considered in Grand Committee on 11 March*

Motion not moved.

Crime and Security Bill

Second Reading

5.43 pm

Moved by ***Lord West of Spithead***

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My Lords, we live in a country where crime is falling, and I glad to say that perception is slowly beginning to reflect that reality. Since 1997, overall crime as measured by the British Crime Survey has fallen by 36 per cent, including a 41 per cent fall in overall violence and a 54 per cent fall in domestic burglary. Confidence in the police at local level is rising, with half of people saying that the police and local councils are dealing with the anti-social behaviour and crime issues that matter in their area.

This is testament to the significant achievements that this Government have made in tackling crime since 1997: an overhaul of the youth justice system, the adoption of a multi-agency approach to crime and a specific emphasis on anti-social behaviour where there was none before. We have provided record levels of funding, more police and a comprehensive approach to violent crime, drugs and the reduction of reoffending. It is in this context that I ask noble Lords to consider the Crime and Security Bill. This is a wide-ranging Bill with one area of particular controversy, DNA retention, at its centre.

I am proud to serve in a Government who have consistently provided the police with the tools and support that they need to protect our communities. British policing is the envy of the world, and nowhere is this more apparent than in our use of DNA in investigations. Pioneered in Britain, DNA profiling is one of the breakthroughs of modern policing. It not only provides crucial leads on many crimes, it also eliminates individuals from inquiries. In a world without DNA evidence, thousands of crimes would go unsolved, more dangerous criminals would be walking our streets and victims would be denied the justice that they deserve.

The retention of an individual's DNA profile is not a punishment. Being on the database does not mean that someone is a criminal. Indeed, the fact that your DNA is on the database is effectively not known by anyone. A profile on the DNA database, derived from a DNA sample, consists of 10 pairs of numbers and a genetic sex marker. It does not contain any other personal information.

The DNA database exists to provide justice for victims of crime. That is why we have placed the rights of victims at the heart of the DNA proposals in the Crime and Security Bill. Of course, we must be careful to strike the right balance between collective security and personal rights to privacy. I think that all sides of this House agree that we should retain the DNA profiles of those who have been convicted of a recordable offence. That is why the Bill includes powers to take DNA from those convicted of the most serious offences in the days before DNA was routinely taken in inquiries. These powers will apply to those convicted in the United Kingdom or overseas, but will be available only where a senior police officer judges that the taking of DNA is necessary to assist in the prevention or detection of crime.

While we all want to ensure that the convicted are all on the database, I do not think that a universal database would be proportionate or practical. That leaves us with three questions. First, should we retain the DNA profiles of individuals who are arrested but not convicted? Secondly, if we do retain such profiles, should we differentiate between those arrested for serious and less serious offences? Thirdly, how long

should we retain these profiles on the database? The answer to these questions is, ultimately, a matter of judgment, but that judgment must be informed by evidence. One should not simply pluck an answer out of the air because it sounds about right, yet this appears to be some people's approach.

Those on the opposite Benches—although I am a little confused about the exact Lib Dem position—would have us adopt the Scottish DNA retention model, which was based on no research whatever. Indeed, the Scottish police do not agree with their own retention model; I refer noble Lords to the statement from ACPOS Scotland of 23 February 2008. The evidence base that we have now developed did not exist when our colleagues in Scotland were setting retention periods. Evidence, not assumptions, should be our guide on an issue of such importance to public protection.

The Opposition's proposals, like ours, recognise that those who are arrested for an offence, even if they are not convicted, pose a higher risk of offending in future, but in other areas I am afraid that they have simply got it wrong. The Opposition would retain the DNA profiles of those arrested but not convicted only where that arrest was for a serious crime, yet the evidence shows that the seriousness of the offence for which someone is initially arrested has no bearing on the likelihood of re-arrest or the seriousness of any subsequent offence.

The Opposition would retain the DNA of those arrested for serious crimes but not convicted only for an initial period of three years, yet the evidence shows that six years is more appropriate. Those who have been arrested but not convicted have a higher risk of offending, as measured by re-arrest, than the general population for six years following the first arrest.

I am aware that the Constitution Committee of your Lordships' House and the Joint Committee on Human Rights are concerned that our proposal to retain the DNA profiles of those arrested but not convicted for six years is liable to be ruled disproportionate when this issue returns to the courts. The Information Commissioner expressed similar concerns in an appendix to the Constitution Committee's report on the Bill. My right honourable friend the Home Secretary wrote to the Information Commissioner on 19 February setting out our response to those concerns, and I am happy to place a copy of that letter in the Library of the House if it would assist your Lordships' consideration of the Bill.

The concerns of these various bodies can be boiled down to a single sentence: our proposals are not compatible with the European convention, and a retention period of six years is too long. Noble Lords will be unsurprised to learn that neither I nor the Home Secretary agrees, and that is why we have both made statements of compatibility under Section 19(1)(a) of the Human Rights Act. In his letter the Home Secretary said,

"Our research suggests that we would expect most of the benefits of DNA retention to occur in the first two or three years following an initial arrest. But there are still benefits to be gained from retention beyond that point, to six years and possibly significantly longer. If there is still a greater risk of offending within that time period, I could not justify a murder or rape case not being brought to justice because an offender had had his DNA removed earlier. Our approach ensures that DNA profiles are only retained where evidence indicates it will have an added value".

There has been some discussion in the press of late about the overuse of cautions. I do not intend to get into that debate this afternoon, except to point out to your Lordships that all individuals who are given an official police caution in lieu of court proceedings have admitted that they have broken the law. Yet the DNA retention model proposed by the Opposition would put those who have been cautioned in the same position as those who are innocent of all charges. Such a policy, I believe, is fundamentally misguided.

An appalling recent example shows us why. During 1989, two women in their mid-thirties were raped in south London, some five months and a couple of miles apart. In both cases, the victims went on to suffer emotional breakdowns soon after the attacks. Tragically, the second victim committed suicide. Forensic samples taken from both the victims provided the DNA profile which linked the attacks but no suspect could be identified. With no other witnesses or leads the trail went cold and the investigations were brought to a close.

Some 12 years later, Andrew Thompson was arrested and subsequently cautioned for a minor drugs offence. His DNA was taken when he was arrested and retained on the National DNA Database. In 2008, the rape files were reviewed by the Metropolitan Police Sapphire Cold Case team. The forensic samples were upgraded and searched on the National DNA Database where they matched Thompson's profile. Thompson was arrested on 18 May 2009, charged with both rapes which he denied. However on 5 November, four days before the scheduled start of his trial, he pleaded guilty to both rapes and was sentenced to 11 years on each count of rape. His name was placed on the sex offenders register for life.

Under the Opposition's proposals Thompson's DNA would have been destroyed as soon as he was cautioned. Without this crucial DNA match, Thompson, who had already escaped justice for more than 20 years, would still be free while his victims and their families live with the horror of the events of 1989. Surely that cannot be right?

So what would the Opposition's proposals mean in practice? Put simply, if we adopt the Opposition's proposals we would be failing victims of serious crime. Under their model, at least 23 victims of the most serious crimes could have been denied justice in the last year alone, and that is 23 victims too many. We are not prepared to expose the public to that kind of risk.

However, we recognise the concerns expressed in the other place and elsewhere when DNA profiles have been retained on the database in clearly inappropriate circumstances. My honourable friend Diane Abbott MP spoke in Westminster Hall last December about a constituent who had been arrested for shop lifting when she was just trying to return a jumper she had bought the day before. That is why Clause 14 of the Bill includes some objective circumstances where the police will be required to destroy DNA profiles without the need for an application. Clause 23 will put in place binding guidance to ensure that all police forces deal

[LORD WEST OF SPITHEAD]
with applications to destroy profiles in a consistent manner. From that the bar for destruction will be lowered significantly from the current exceptional-circumstances test.

I am aware that DNA retention is a contentious issue and I suspect that, regrettably, some of you may not be persuaded by my arguments. However, I would remind your Lordships that the proposals in the Bill on DNA retention are designed to comply with the judgment of the European Court of Human Rights in December 2008. The Government brought forward proposals in the Policing and Crime Bill last Session, which we withdrew when your Lordships expressed reservations over our proposed use of secondary legislation. If the Government's proposals are rejected again, we would have to legislate early in the next Parliament to comply with the European Court's judgment. Pragmatically it is very unlikely to reach the statute books until December and I believe that will cause us some problems with Europe.

Our proposals are proportionate and strike the right balance between the rights of the individual and collective security. Indeed, we are going further than required by the Court in proposing the destruction of all DNA samples within six months of a sample being taken. But this Bill is not just about DNA. It is about protecting our communities, preventing crime and providing justice for victims.

There are other measures in the Crime and Security Bill that deserve your consideration and, I hope, your support. It is a sad fact that many women in this country have experienced the devastating effects of domestic violence. Although domestic violence rates are falling, we believe there is more that can be done to help. That's why this Bill will enable the police to apply for a Domestic Violence Protection Order. DVPOs—I hate acronyms but that is the one for this—will enable the victim and their children to stay in the family home rather than seek help from a refuge. It will give them the breathing space and support they need to consider their options. DVPOs have received widespread support from leading women's groups such as Refuge as well as the Home Affairs Select Committee.

During debate in the other place, some Members raised concerns about the practicality of an application for a DVPO being heard by the magistrates' court within 48 hours. The Ministry of Justice and Her Majesty's Court Service have consulted magistrates' courts across the country and are confident that the courts will be able to hear applications within this period. DVPOs would be used like other emergency protection orders, where it is already common practice to seek an urgent magistrates' hearing. Furthermore, the 48-hour period would exclude all Sundays and public holidays.

Unscrupulous individuals and businesses are always looking for ways to exploit our hard-working citizens. The economic downturn has served to amplify the effects of this exploitation. One area of particular concern to the public is the often exorbitant fines imposed by many wheel-clamping businesses. This Bill will introduce compulsory licensing to regulate the practices of wheel-clamping businesses on private land, including a code of practice with criminal penalties for breach, and a fair and independent appeals process for motorists.

I turn now to a topic which I know is of particular interest to this House. I am sure your Lordships will be aware of the very good work of my noble friend Lord Brennan in highlighting the plight of British victims of overseas terrorism. It is sadly the case that in recent years there have been a number of terrorist attacks abroad where British citizens and other westerners have been targeted simply because of their nationality.

Terrorist acts are intended as a political statement and an attack on society as a whole. I believe it is right that as a tangible expression of sympathy, society should compensate the victims of terrorist attacks abroad in recognition of the injuries suffered. By introducing a new Victims of Overseas Terrorism Compensation scheme, this Bill will help the innocent victims of these despicable acts to rebuild their lives. I sincerely hope that all sides of this House will unite behind this important measure.

Some noble Lords are concerned that the Bill has revisited legislation that has been recently enacted, but we have a very good reason for doing this. The majority of violent gang members are over 18, and that is why we brought forward provisions in the Policing and Crime Act 2008 to create a new civil power to manage violent adult gang members. Unfortunately, it is a sad fact that under-18s can perpetrate the same horrendous gang violence as their adult peers, and the news is full of such an event as I speak. It has always been our intention to apply gang injunctions to under-18s but we wanted to be absolutely sure that we created a tool with the necessary safeguards for youth justice. To that end we have worked closely with the Ministry of Justice, the Youth Justice Board and the Department for Children, Schools and Families to create the new power in this Bill; a power which contains those necessary safeguards.

Independent evidence shows that anti-social behaviour orders are effective when used appropriately. That means making well-informed decisions. Parenting-needs assessments help target the root causes of a young person's bad behaviour. This means that if the court issues an ASBO, agencies can ensure that the right support package is in place to nip that anti-social behaviour in the bud. We think that parenting needs assessments should not be optional. This Bill will ensure that all agencies thoroughly investigate a young person's family circumstances when considering them for an ASBO.

Parenting orders direct parents who lack the skills to control their child's behaviour to parenting programmes. They are an effective tool in tackling anti-social behaviour, but are not being used often enough. Mandatory parenting orders when a child breaches an ASBO will ensure that parents are fully engaged with the authorities in the actions to stop their child reoffending.

We made it clear when we introduced 24-hour licensing in 2003 that we would keep the new licensing regime under careful review. In many places, the new licensing regime has been successful, but the position is not the same everywhere. Evidence has shown that

there has been an increase in alcohol-related violence in the early hours of the morning. That is why we have introduced provisions in this Bill which will empower licensing authorities to restrict the sale of alcohol in problem areas between 3 am and 6 am.

The Government are committed to cutting police bureaucracy so they can spend more time driving down crime. We have removed police targets and replaced them with a single top-down target on public confidence. We have invested in mobile data devices for the police to send and receive information on the beat, and we have removed the lengthy stop and account form. This Bill will further reduce police time spent on paperwork by reducing the information requirements when the police carry out a stop and search. When used with mobile devices, officers will only need to manually record two pieces of information.

The Bill will also make it an offence not to keep an air weapon under lock and key and well out of the reach of children. It will also make it an offence to possess a mobile phone in prison without authorisation. Currently, only taking a mobile phone into a prison is an offence.

This is the Bill of a Government, I believe, with a strong track record on crime. The Crime and Security Bill will bring greater protection and peace of mind to the public and make our streets safer. I beg to move.

6 pm

Baroness Neville-Jones: My Lords, I thank the Minister for his explanation of the Bill. I wish that I shared his enthusiasm for some of its provisions.

This Home Office Bill, like some others, is a jumble of unconnected items, some of them barely different from legislation passed in the past Session, the effects of which, whether good or bad, can scarcely yet be known. The Government have already come back with further legal elaborations on such areas as gangs. It would be nice to have Bills that took strategic steps forward on the basis of well thought through policy objectives instead of being faced with successive pieces of proposed legislation with untidy little zigzag steps, without clear direction. Indeed, in this Bill we have the spectacle of laws passed in quick succession reversing provisions that were previously whipped through. I shall come back to that.

Legislating in this way reduces the chances of effective implementation, since those who are called on to implement do not know what they are really being asked to achieve. The result is a vicious circle, whereby poor legislation leads to poor implementation, which is responded to by yet more legislation. We have seen that in successive Bills. It does not result in good policy. No wonder the quantity of laws passed seems to have so little deterrent effect on what actually happens on the streets of Britain. A Conservative Government will do better.

These strictures characterise this Bill. Let me say straightaway that we are not critical of the aims of the Government in all areas, nor do we disagree with them. I cite one that has our wholehearted support. The compensation for victims of terrorism overseas has cross-party support, and putting right this anomaly is long overdue. But other areas, such as restrictions on the sale and supply of alcohol, represent a pretty strong reversal of one of the Government's hallmark policies of earlier years. Their previous policy was nothing if not short-sighted and pretty damaging. It was pushed through despite the warnings. We on these Benches said at the time that the claimed reduction in alcohol-related disorder would not materialise and called for decisions about late licensing to be made locally by those who knew local conditions, not dictated from Whitehall. The Minister claims that this policy has been successful in many places. One would like to know where. In our view, the result of the Government's policy has been the very opposite of the reduction of all the things that we have been seeking to reduce; indeed, one has seen an increase in binge drinking.

Then there are the tinkering provisions. The whole House wants to see a reduction in anti-social behaviour, binge drinking, gang violence, the scourge of domestic violence and out-of-control wheel clamping. Indeed, these are all things that make daily life a misery for a good many people across the country. Our aim should be not reduction but abolition.

The Minister started out by making a rather self-congratulatory statement on how crime has been reduced in this country. He cited the British Crime Survey, which is not a reliable measure of what actually happens regarding crime in this country. A survey that excludes juveniles, even if they have committed murder, does not form a good evidential basis for what is actually happening. The evidence—certainly anecdotal evidence—is that there is a rise, particularly in juvenile violent crime.

So how do these tinkering provisions improve what has already been put in place in the recent Policing and Crime Act? The 2009 Act resulted in many questions, not least about the practicality of some of the clauses. The proposals in this Bill are really no different. My noble friend Lord Skelmersdale will focus on this in his winding-up speech. He will also look at DVPOs; questions arise out of the Government's proposals that need clarification, although we are in favour of this issue being tackled.

In other areas of the Bill, I question whether primary legislation is needed. A lot of it should be common sense. That is certainly true of Clause 45, which creates a new criminal offence of possessing an unauthorised mobile phone and other data devices in prison. It has for many years been an offence to take a mobile phone into prison. How, therefore, can it not be an offence to possess these devices when in prison? It seems to me that this is legislative nonsense. I come back to implementation—the real problem is a failure to implement existing law, as a result of which there is a problem of significant scale.

Between 2006 and 2008, there was a 350 per cent increase in the number of phones and SIM cards found in prisons; during the same period, the number of phones and SIM cards found in high-security prisons doubled. In December, the noble Lord, Lord Bach, said that these figures,

"understate the actual number of finds".—[*Official Report*, 14/12/09; col. *WA 186*.]

[Baroness Neville-Jones]

Can the noble Lord, Lord West, say what is meant by this? Presumably the actual number of finds, in turn, understates the actual number of still undiscovered mobile phones and other devices in prison. The Government seem to think that by finding more phones they are solving the problem. But what about parts of phones? These things are easily dismantled and put together and they can be easily hidden. Will the possession of part of a device also be an offence? What will be the penalties for possession? Can the noble Lord expand on the Government's strategy for countering the difficulty of finding little pieces? There is a genuine problem, but in legislating for an offence and making it yet more detailed the Government have a duty to tell us how it will be made an effective piece of law and not something else that simply sits on the statute book and is abused by those who evade it.

If a good many parts of the Bill could be described as common sense, others do not go far enough. Over the years, we have seen our police spending more and more time on process rather than on policing. The latest measures on stop and search are certainly a step in the right direction after many years of pressure from these Benches among others, but frankly they do not go far enough. They reduce the recording requirements for each stop and search incident from 10 to seven items. The noble Lord said that only two of them need to be recorded manually but, for goodness' sake, the forms and the manual stuff should be scrapped entirely and replaced by an officer radioing in the basic details of the search. Our task, surely, is to simplify the work of professionals, not just to fiddle with the level of the burden on them.

The Government have also had the opportunity in the Bill to address other problems connected with stop and search. I raise here an important issue. The case of Gillan and Quinton has seen the Government on the wrong side of the law. Rather than implementing the judgment by enacting provisions that would give clarity to the limits of the powers and the safeguards against abuse of them, the Government have said that they will appeal, even though there are doubts about whether there are grounds available for this to be done. This leaves the police in considerable uncertainty for an indefinite period. That is deeply unsatisfactory and not calculated to improve relations between the police and the local communities. I hope that the Government, in winding up, will address themselves to this important point.

If more evidence of a lack of common sense were needed, one has to look only at the Government's approach to control orders. There is a search provision in the Bill, presumably responding to the two court judgments that found that the legislation as currently drafted was insufficient to authorise such a power and obligation. The Joint Committee on Human Rights has said:

> "If we are keeping control orders, do we need to change the legislative framework to reflect more accurately the way the courts require the system to be operated?".

Is this not the point? The Government are tinkering again, instead of acknowledging that, if the control order regime is to continue to exist, it cannot be in its present form. If the Government can respond to one ruling, they can surely respond to another. Why, if they can do so in relation to powers of search and seizure, do they still decline to act in relation to the special advocates system, disclosure of information following the case of AF and the need to keep the prospect of prosecution continuously under review at an appropriate level? The scale is tipped further in the direction of security, without even acknowledgment of the existence of issues relating to fundamental freedoms. Security is very important but we have always to balance it with the freedoms that we want to preserve.

Just as the control orders demonstrate the Government's tendency to focus on security at the expense of freedom, so does the sorry history of the DNA database. I am aware of what the Minister has just told us—appealing, at last in this game, to the question of what the evidence shows. The UK has, for years, been storing the DNA of innocent people on a national database. People who go into a police station voluntarily to help with an inquiry find themselves on it. People who are briefly questioned in a police station may also find themselves on it. There is also, as we know, a difficulty about getting off the database. People mistakenly arrested can find themselves on it. There remains an issue of what this database is for and who should be on it.

The House knows that, following an ECHR ruling, the Government have accepted that the current system of keeping innocent people's DNA indefinitely is illegal. They tell us that the proposals before us meet the requirements of the ruling. The Minister criticised the system that prevails in Scotland. I cannot remember the words that he used, but he suggested that it was not based on evidence—that it had been put together without any due regard to what the evidence might show. I cannot remember his exact phrase but it was not complimentary. In the absence of a much better put together case than the assertions that we heard this afternoon, the Scottish system has shown that it is capable of delivering. It is the reason why we on these Benches prefer that model. We believe that the state should not retain the DNA profiles of those not convicted of an offence, except in circumstances where the charges relate to a crime of violence or of a sexual nature.

Rather than keeping the profiles of those who should not be on the database, the Government should focus on other avenues. The Minister cited some of the cases of people whose offences were 20 years old, many of whom are not on the database. I agree that the Government should focus on those avenues. They should focus on maintaining DNA from crime scenes to help to solve cold cases. Adding those persons who have been previously convicted or are in prison but are not on the database is another area where the Government should focus their energies. Because of recidivism and because DNA is a useful detection tool, we on these Benches certainly agree that retrospective powers would be right in this instance. They would deal with many of the points that the Minister made.

We do not need a system that is outside the rulings of the ECHR to achieve an effective database for the prosecution of criminal offences. Can the Minister say

how, in proposing retrospective powers, these will be implemented? I understand that implementation and the decisions that the police will take will be based on tests of necessity and proportionality. Those are two very general terms. It would be very helpful to know—and I hope that the Minister can be specific on this—how such tests would be defined and what guidance would be given to the police. These are important details and could certainly lead, in the absence of tight guidance, to huge variations in the interpretation of what constitutes necessity and proportionality.

We also need to improve the accountability of the DNA database. The Minister did not mention this point, but giving the National DNA Database Strategy Board a central decision-making role on the removal of samples is certainly welcome. Again, can the Minister assure the House that the guidance and decisions of the board will be binding on chief constables, so that we put an end to what is otherwise a form of postcode lottery? It would also be helpful to know what the timescale will be for the production of this guidance. Is the Minister confident that the board will produce appropriate guidance and make appropriate decisions? The board has existed for many years but so far has not done so. That is why we are glad that the Government have accepted our proposals to improve the accountability of the board to Parliament. That will spur the board into rather greater activity.

The overwhelming impression that one gets from the Bill is that the Home Office has little vision and no strategy. The Bill identifies a Government who are out of gas—a Government who are grinding to a halt. The country needs a more purposive and vigorous approach to the challenges of crime and security.

6.17 pm

Baroness Hamwee: My Lords, I first read the Bill in its original form as it started in the Commons. What struck me most, as I said to the Minister a week or two ago, was that there are so many alterations to recent legislation in it, including to some which is not yet in force. I read it as having a rather panicky tone. It asks what can be thrown into the pot of the criminal justice system and called "security" to give it some gravitas. It is ironic that the panic now in the Home Office must be over how much of the Bill can be saved.

I thank the Minister for his explanations of the Bill and congratulate him on sailing along the surface so serenely; he must have been paddling very hard beneath it. I do not want to describe the Bill as a ragbag. The issues it covers are serious, though it is not obvious that there is a common thread, except that many are subjects where the Government think they can show some muscle in a slightly populist way, or where they have been told by the courts that the current arrangements just will not do.

Having started on a negative note—and I will return to some negativity—I acknowledge some positives. I welcome the provisions on domestic violence. I declare an interest, having for many years been on the board—and indeed chair—of the charity Refuge. I learnt then that one woman in four experiences domestic violence. Men can be victims too, but statistically there are far more women in this situation. I learnt that two women a week are killed by their current or former partner in England and Wales. I will not spend time on the numbers but domestic violence is a crime. It is caused by the abuser's desire for control; it can be physical, emotional, financial and psychological; and it is not a private matter—it is a social issue.

I know that refuges have been a lifeline, but it is too easy to say that they are the solution. None of us would like to have to leave our own home for whatever reason. I cannot imagine what it must be like to face the need to find a way out of an abusive situation and pluck up the courage to leave. A refuge, good as it may be, is not home. The person at fault should leave, not the victim or the children of the relationship. A third of the residents in a refuge are children, almost always having witnessed violence. The impact on them is long-lasting and damaging. There are complicated emotions in all of this. Home, which is familiar, should be the haven.

I welcome these provisions while worrying a little whether they are necessary. I understand that the relevant provisions of the Family Law Act 1996 are not yet in force. They might have addressed some of the points. Violence and abuse is an offence. Something in what are called go orders hints at a mindset that this is not really like other breaches of the law. A go order is not a substitute for arrest and charge. I reassure myself that these provisions are pragmatic, though it is not obvious that all the ancillary provisions are appropriate.

Still on the theme of children, on ASBOs, I do not deny the importance of good parenting but I am doubtful that the intervention of the court—or the threat of intervention, as the Minister might say that these provisions are a deterrent—is appropriate or likely to be effective. We seem almost to be using the civil courts to criminalise people. These provisions do not suggest that that will be productive.

On gangs, again we are opposed to criminalising children through the extension to under-18s of gang-related injunctions, the breach of which takes us into criminal law. These have been described as a means to circumvent the protective guarantees of the criminal justice system by using the civil courts. As was said in evidence to the Commons, they would be a measure of last resort. None of the range of interventions for young people is any use unless used properly. The concern here is that this is a shortcut, bypassing the youth justice system and should be a last resort. The provisions amend the 2009 Act regarding over-18s. What assessment has there been of those provisions? The Minister referred a good deal to evidence in other contexts. What evidence do we have of the use of these provisions as they apply to the older age group?

Quickly on other provisions before returning to the largest rag in the ragbag, on stop and search, will reducing the number of items to be recorded from 10 to seven make much difference in the time that is taken? We do not oppose these provisions but they do not address the issues of huge disproportionality between different ethnic groups or the stop and search of young people and so on. They may make it more difficult to make an effective complaint or bring a civil

[Baroness Hamwee]

suit in the case of unlawful stop and search. Form-filling is not necessarily needless bureaucracy. It is certainly not needless if it supports accountability.

Searching a person subject to a control order seems an example of the obvious. On these Benches we do not support control orders but, as we have them, it is reasonable to correct the oversight in the regulations. Much the same may be said about mobile phones in prisons. If the advances in technology mean that there is a technical loophole then we accept that a new provision is needed. Unlike the noble Baroness, I can see that there is a difference between taking a mobile phone into a prison and having one. Different people will commit those offences—or would-be offences.

We do not think the clauses on the private security industry are in any way adequate but they are not harmful. On air weapons, many of your Lordships will have received a letter from the Home Office preceding this Second Reading which, among other matters, talks of,

"ensuring that air weapons are safely locked up".

Legislation does not ensure anything. It creates an offence and that is different. The extension of the alcohol restriction orders seems more populist than relevant.

We welcome the scheme for those affected by terrorism overseas and congratulate the noble Lord, Lord Brennan, on his work. The Home Office letter I mentioned talks of overcoming the trauma of attack. I would not claim that money can ever do that but these provisions are more about fairness wherever the attack took place. The big "but" here is that, as the Delegated Powers and Regulatory Reform Committee pointed out, there is no commitment to implement the scheme.

The largest rags in the ragbag are DNA and the taking and retention of fingerprints and samples. I was chided by the Minister on a previous occasion when I said that the Government's approach to legislation seemed to be to push at the boundaries and wait to see if they are not knocked back. In this area, the Government have been knocked back. Importantly, apart from the merits, are the Government confident that they will not be knocked back again? The proposals in the Bill may be a little less "blanket and indiscriminate"—to use the ECHR's phrase—but there is widespread doubt that they are proportionate as regards the data retained and the length of the retention. There is a widespread view that the provisions for removal from the database are inadequate; among other things, there is no independent appeal mechanism. The Minister refers to the Government's evidence but such evidence is small and fairly thin.

Another widespread view is that the National DNA Database can and should play an essential role in operational policing. I fear the Government jeopardise that if they fail to apply the proper criteria and safeguards. The Minister will say that he cannot guarantee the outcome of any court case but can he say that the Government have had as unequivocal advice as it is reasonable to expect that what they propose will not be found wanting? I ask this as a serious question. Or, are the Government cynically trying to buy themselves a few years of illegal powers before there is another court case?

Clearly, the Government cannot leave things as they are after Marper. It is also clear that neither we nor the Tories are prepared to accept what this Bill proposes. My party starts from the point that DNA should not be retained on a database unless the person has been convicted. In our technically advanced world, the presumption of innocence over guilt should still hold and arrest should not be confused with conviction. It is argued that one has nothing to fear if one has done nothing wrong. You have something to fear as your DNA could be matched to DNA found at a crime scene because you have been there at an earlier date. It begins to look like you need to prove that you are innocent, not that the prosecution needs to prove guilt. Undoubtedly, there is a stigma. People feel there is a stigma—an implication of criminality. That is a serious point. The Grand Chamber thought so even if the Government do not.

Innocent people who may not feel stigmatised certainly feel aggrieved. Intellectually, it is more coherent to say that the database should include the DNA of every citizen rather than that of some who have been convicted and some who have been in the frame, but I accept that that is not a widely held view. Public support is essential. I do not believe that the Government have general public support for what they propose with regard to the blanket six-year retention period. Indeed, the Police Federation said that it was unsure whether public confidence could be achieved by retaining the DNA of innocent people. I have often thought that Scotland is a more advanced and civilised nation than England and, as the Government know, we would be prepared to accept the Scottish model as a compromise.

In conclusion, we have, as ever, been much assisted by the committees of this House and Parliament, by the memorandum of the Information Committee to our Constitution Committee, and by outside organisations—especially Liberty and Justice, which I thank. This Second Reading has an air of artificiality, given its place in the timetable. Certainly, it is no way to legislate, and I do not suppose that the next few days will do much to reassure anyone that the details and subtleties of the Bill are being considered as they should be.

6.31 pm

Lord Lloyd of Berwick: My Lords, in his opening speech, the Minister dealt at length with fingerprints and the retention of DNA samples, covered by Clauses 1 to 28 of the Bill. He was right to do so because they are clearly matters of great importance. However, I will confine myself to two matters at the other end of the Bill—gang violence and control orders. Before doing so, since this is the very last piece of legislation to come before us during this Parliament, it is tempting to look back a little. That, with the permission of the House, is what I propose to do. Here follows my end-of-term report on the Government, covering the past five years. I promise the House that it will be brief.

Future historians will look back on these past five years and identify two main areas of criticism—the way that the Government have dealt, first, with constitutional reform and, secondly, with the criminal law. I will say very little about the constitution, because

we had a full debate on it only last week, in which many remarkable speeches were made. However, I should like to add just one small footnote.

As I listened to that debate, my mind was inevitably taken back five years to the end of the previous Parliament, when we passed the Prevention of Terrorism Act in 2005. It took me back to the announcement, which I am sure we all remember, in a press release from Downing Street, in which it was stated that the office of the Lord Chancellor would be abolished and the Law Lords would be removed from the House of Lords. We were told that there would be consultation on the details of that, but that there would be no consultation on the policy; the policy decisions had already been taken, and that was that. In other words, we were faced with an exercise of executive power at its most presumptuous.

Needless to say, as it turned out, the Government soon came unstuck. They found that it was simply not possible to abolish the office of Lord Chancellor. Instead, the Long Title of the Bill was amended to state that the office would be only modified. But the Lord Chancellor is still with us; he still presides over the Lord Chancellor's Department—exactly in the same way that he always did—except that the department is now called the Ministry of Justice. Indeed, the Lord Chancellor is enjoying something of a renaissance. I refer to the office, rather than to the Lord Chancellor himself. In the recent Constitutional Reform and Governance Bill, I see that he, instead of the Prime Minister, is to take charge of recommending judicial appointments. That is of course exactly what he always used to do. One might even imagine that one day he will return to this House—again I refer to the office rather than the incumbent—and we might find him sitting next to the noble Lords, Lord Mandelson and Lord Adonis. In one dream I thought that the noble Lord, Lord Mandelson, and Mr Jack Straw might even change places—but that was only in a dream.

What I have said about the Lord Chancellor is equally true of the Supreme Court. We have exactly the same people doing exactly the same job. No one suggests that they are any more independent than they ever were, or that the separation of powers—the theoretical idea on which the whole exercise was based—has bought us any tangible benefit. What has been objectionable in all of this has surely been the arrogance, the cavalier attitude, of this Government to constitutional reform. The constitution is not a plaything at the disposal of the Executive. The whole point of a constitution, whether written or unwritten, is that it acts as a brake. The whole point of a constitution is that it should not be changed too easily, and certainly not at the whim of the Prime Minister of the day. In that connection, I should like to quote from the remarkable speech of the right reverend Prelate the Bishop of Durham last week when he said:

"I end by re-emphasising the two basic points. First, any and all constitutional reforms should be undertaken only in the light of a full top-to-bottom constitutional review. Secondly, elected politicians are the last people who ought to be in charge of such a review".—[*Official Report*, 24/3/10; col. 975.]

That may seem to be paradoxical, but it contains a profound truth.

If we have done harm to the constitution over the past five years, as I believe we have, we have done even more harm to the criminal law. I am not thinking of the obvious things—the fact that we have more people in prison than ever before, or that we have created more new offences than any previous Government—as if these were things of which any Government could be proud. I am thinking of something much more insidious and, in the long run, much more dangerous. We have created a parallel system of criminal justice alongside the existing criminal law, using the civil courts instead of the criminal courts, a point on which the noble Baroness, Lady Hamwee, touched.

The first step is to obtain an injunction in the civil courts. The second step is to punish the defendant for breaching the injunction as if he had committed a criminal offence, which of course he has not. If he had committed a criminal offence, the facts would have had to be subject to the criminal standard of proof, but in applying only for an injunction, all that is necessary to be satisfied is the civil standard of proof—on a balance of probabilities. This confusion of civil and criminal remedies is novel and is a serious misuse of civil process. I am not alone in taking that view. In its as always very helpful briefing paper, Liberty states that this,

"constant blurring of the criminal and civil law is changing the very nature of the system of trial and punishment developed over centuries".

That may seem like an exaggeration, but I doubt whether it is. We will come, in a few moments, to a good example of that in the Bill.

It all started, as these things often do, in a rather a small way, one might think, with the non-molestation orders in domestic proceedings under the 1996 Act. Next came anti-social behaviour orders; then came drinking banning orders in 2006. I confess that if I ever knew about drinking banning orders, I have entirely forgotten them—I do not know whether they have been in any way effective. Thereafter, things became much more serious. We had the serious crime prevention orders in 2008, at the very serious end of the criminal process. Most recently, as has already been mentioned, we have had gang-related violence orders in the Policing and Crime Act 2009.

Why is this approach, which has now obviously become the custom, so wrong? The reason is quite simply this: the criminal law is meant to apply universally, to all alike. The new approach is creating little bits of criminal law which will apply only to the individual who is the subject of the injunction, and for which, if he breaches the injunction, he will go to prison—in the most recent example for up to five years.

It is not just that. It is also that these little bits of criminal law are created not by Parliament but by magistrates and judges, all of whom will be sitting in a civil court and may have very little idea of how what the injunction says relates to the criminal law as a whole. I regard this development—these new little bits of criminal law as I call them—as being wholly inconsistent with what I understand by the rule of law. We should stop the rot before it spreads any further.

I return to gang-related violence which is a very good example of what has been going on. The provisions in the 2009 Act did not apply to under-18s. The reason

[Lord Lloyd of Berwick]
given by the Minister was very clear. He said that to have extended the 2009 Act to children would have involved,

"a major change in how civil law interacts with minors".—[*Official Report*, Commons, Policing and Crime Bill Committee, 26/2/09; col. 566.]

That was in 2009, yet here we are in 2010 being asked to accept this major change before the ink is even dry on the 2009 Act without consultation of any kind. If Clauses 34 to 39 become law, a child of 15 could be made subject first to a wide-ranging injunction in a civil court. If he breaches the injunction, he could be made subject to a supervision order for up to six months, with a curfew requirement for eight hours a day and an electronic tag. If he then fails to comply with his supervision order in any respect, he could be sentenced to three months in a young offender institution. These are matters on which the House would, I am sure, have views which it would want to be able to express. The Government could have introduced these provisions relating to under-18s in the 2009 Act. They missed that opportunity, and it would be quite wrong to let them have a second bite at the cherry now.

I come lastly to control orders. When future historians look back on the history of terrorism, they will be impressed with the way we dealt with it in Northern Ireland during the last 30 years of the 20th century. We made a mistake in trying to impose internment, but we soon abandoned that; we realised it would not work. Future historians will be much less impressed by the way we have dealt with international terrorism in the 21st century. We have had a mass of legislation, much of which they will regard as counter-productive. Control orders they will regard simply as an aberration. We all know that whoever wins the election will review control orders: both major parties have promised a review. What conceivable purpose is served by considering an amendment to the 2005 Act now?

The Security Service and the police say that the absence of the power to search is causing them operational difficulties. I am not quite sure what those difficulties are, but in any event they have had to put up with them since July last year, when the Court of Appeal held that searching those subject to control orders was not covered by the 2005 Act and was therefore unlawful. In paragraph 90 of his fifth report, the noble Lord, Lord Carlile, says in a single sentence that we need powers of search. We all owe the noble Lord a very great debt of gratitude for the work he has done in relation to terrorism, but he is not a one-man legislature.

If we allow this bit of the Bill relating to control orders to become law we will be going against the Motion which this House passed only three weeks ago, in which we said that the Government ought long ago to have replaced control orders with something better. It would be quite wrong now, therefore, pragmatically and morally, to add to the agony.

6.46 pm

The Lord Bishop of Lincoln: My Lords, as the progress of this Bill has adequately demonstrated, legislating in the realms of crime and security can be a hazardous business at the best of times. In Holy Week, when Christians follow the fortunes of probably the most famous victim of injustice in the history of the world, I am emboldened to intervene where angels, let alone bishops, might fear to tread.

Why is crime and security such a difficult area in which to legislate? First, in relation to crime and law enforcement, feelings seem to have an ambiguous relationship with facts. It has often been observed that even where there is clear evidence to indicate that crimes such as burglary or muggings on the street have significantly reduced in number, people's anxieties and fear of crime simply go on rising.

Secondly, and linked to this, is the very emotive nature of crime and punishment in the public imagination. We want felons to be apprehended and punished, but we are not always sure exactly how and why. Even when we know that punishments meted out on a routine basis seem to have little or no effect in terms of deterrence and reducing recidivism, we still want the police and judiciary to go on meting them out nevertheless.

Thirdly, and more philosophically or even theologically, this is an area of governance where the subtle art, as we have heard this afternoon, of balancing the competing demands of liberty on the one hand and security on the other requires at least the wisdom of Solomon and calls on us to be, as Jesus put it, as wary as serpents and as innocent as doves.

I am sure that your Lordships will agree that it would be ironic if Parliament, which legislates to protect the liberty of the citizen, became the legislature from which the citizen needed to be liberated. It would indeed be ironic if a Government who have done so much to promote racial equality ended up giving comfort to the evil agents of racial discrimination. It would indeed be ironic if the state, which has a duty to protect children, became the threat from which children needed to be protected.

None of these would be the intended consequences of any Bill before our Parliament, but they could be the consequences that matter most to some of the most vulnerable people in our society. That is certainly the case with this Bill. Its good intentions are beyond dispute, but they may not be sufficient to mitigate its parlous unintended consequences.

Let me return again to the cause of the liberty and rights of the individual citizen. Such liberty and such rights are not absolute. Law-abiding citizens must submit to certain constraints on their liberty in return for protection from those of a criminal tendency. However, as the noble Baroness said, such personal liberty must not be relinquished lightly. Presumption of innocence unless proven guilty is one such right that I am sure all of us here would hold to be sacrosanct and all but non-negotiable.

I heard what the Minister said about the retention of DNA from those who have not been found guilty of a crime not being a punishment or a presumption of guilt. However, it does not feel that way. I declare an interest. A member of my extended family was arrested. After significant examination and, of course, after the taking of a DNA sample, it was discovered that it was a case of mistaken identity. She holds a strong sense of grievance against the system that retained her DNA. It will take a long time for her and those who supported

her during that ordeal to feel any confidence in a system that has left her feeling punished and that a presumption of guilt is now obtaining against her.

The retention of the DNA of people who have been arrested but not convicted is an issue that goes to the heart of our legal system, as has been said often enough. For all sorts of reasons that have been well rehearsed by the Information Commissioner, the European Court of Human Rights and organisations such as Liberty and Justice, the retention of such DNA for as long as six years seriously undermines the presumption of innocence as a fundamental principle of natural justice and it must be looked at again. Many of us will find it difficult to vote for this Bill if that clause stands part of it. I repeat: it would be ironic if Parliament, which legislated to protect the liberty of the citizen, itself became a legislature from which the citizen needed to be protected.

Next, and related to the issue of the retention of DNA and fingerprint evidence, even from those against whom no conviction has been secured, there is clear evidence that black and Asian citizens are far more likely to be arrested than white people and that a greater proportion of those arrests result in a non-conviction than is the case for those not from minority ethnic backgrounds. This means that, for so long as this state of affairs obtains, the DNA profiles of minority ethnic people arrested but not convicted will feature to a disproportionate extent when statistics detailing such retentions are published and analysed. There will be no shortage of those anxious to use such statistics to generate hostility against ethnic minority groups, even though of course—it has been confirmed to us by the Minister today—these data will relate to the non-commitment rather than the commitment of crime. This cannot be the intended consequence of this legislation and it therefore needs to be looked at again. It would indeed be ironic if a Government who have done so much to promote racial equality ended up giving comfort to the agents of racial discrimination.

By no means least, let us look at the impact of this Bill as drafted on children and young people. There is much to welcome here, especially Clause 24, which extends domestic violence protection notices and orders to include,

"the welfare of any person under the age of 18".

However, when it comes to the clauses on gang-related violence, to which the noble and learned Lord, Lord Lloyd, referred, there is a significant shift towards the criminalisation of minors. That will turn out to be too high a price to pay for tackling the very real problems consequent on the growth of gang culture in our cities and towns—and even across rural Lincolnshire. As with the presumption of innocence, so with the distinction between civil and criminal law: there is something here that sits at the heart of our legal system and, as we have heard from the noble and learned Lord, Lord Lloyd, to blur that distinction, especially in relation to minors, is a very serious matter indeed. The way in which anti-social behaviour orders operate has tended in that direction, and Clause 34 pushes us even further towards minors being exposed to forensic procedures which might be appropriate for adults but which fall well short of what our duty of care to children and young people requires of us. I repeat: it would indeed be ironic if the state, which has a duty to protect children, itself became the threat from which children needed to be protected.

This Bill addresses major concerns relating to crime and disorder in our society and I am alert to the sense of urgency on the part of the Government to see measures enacted that will tackle criminal behaviour that threatens the security and well-being of our citizens. With some amendments along the lines that I have indicated in relation to presumption of innocence and the protection of children and ethnic minority groups, it can become a Bill fit for purpose. However, without such amendments, it will remain flawed and could ultimately prove self-defeating.

6.56 pm

Lord Brennan: My Lords, when I first came to the Bar, I thought of practising in the Chancery Division until a practitioner in it said to me, "Intellect is favoured; audibility is frowned upon". I hope that this evening I can ask for your Lordships' patience while I muster such resources in my intellect as I can to outweigh my reduced audibility.

Thus far, victims of terrorism abroad have not received compensation in this country. For those killed or injured by terrorism abroad, there has usually been no insurance—most insurance policies exclude liability for terrorist acts abroad. This means that bereaved families and seriously injured victims in a foreign land suffer severe emotional stress, as well as significant injury on many occasions. However, in this country such victims are compensated. This disparity was, and is, unjust. The Bill seeks to remedy that injustice—at least for the future, its starting date being January this year. It proposes a statutory scheme, the detail of which is to be approved by Parliament. We will then join those countries—seven or eight of them—that already provide such compensation. The French do it by a levy of a euro or two on every travel insurance policy. The Americans just do it out of national duty and honour.

When, three years ago, I introduced to your Lordships' House a Bill dealing with such compensation, noble Lords thought fit to pass it without opposition or Division. Since that time, we have had the Mumbai disaster, in which our people were either killed or injured. The necessity for this part of the Bill is obvious. The generosity of your Lordships towards me thus far for proposing it and working on this topic is misdirected. It should go to the victims and their families whose energies have been directed at achieving this change in the law; it should go to their lawyers—Jill Greenfield, Yasmin Lalljee and the pro bono unit at Lovells—it should include the right honourable Tessa Jowell, whose survival and success as a Minister is matched only by her endurance in having kept this topic on the Cabinet table for the past three years; and it should include the right honourable Ian McCartney, who, following the Bill in this House, took up the struggle and has done noble work. All of us in Parliament have, however, been mere mechanics looking for tools to rectify an injustice. Clauses 47 to 54 of and Schedule 2 to this Bill provide such a tool.

[LORD BRENNAN]

The statutory commencement under Clause 59 reassures me that the noble Baroness, Lady Hamwee, may be wrong in saying there is no provision for introducing this compensation scheme. The power to produce such a scheme will come into law when this Bill becomes law. I cannot imagine any competent Minister running the risk of the political fiasco in which he would find himself if he had failed to enact the scheme and another disaster such as Mumbai occurred.

We have made provision for the future—we have done right by people—but what about the past? By adopting January 2010 as its commencement date in terms of relevant incidents, the Bill excludes the past—Bali in 2002, Turkey and Sharm el-Sheikh in 2005, Mumbai in 2008. One hopes it will stop, but reality suggests it will not. What do we do about the 44 dead and the less than 50 seriously injured from those past incidents? They are conscripts on the front line of terrorism without wanting to be so. Do we give them nothing or recognise our duty to them as our fellow citizens?

I mention this topic because the Minister in the other place thought it appropriate to do so in February when introducing the scheme by amendment to this Bill. The Secretary of State for Justice, Jack Straw, has written to Ian McCartney and me, adopting the Minister's comments in the Commons about how the scheme might be adapted for the past. What have they suggested? When will we look after those from the past? It will be after the introduction of the scheme for the future. So be it. What will be the nature of the scheme? It will be an ex gratia scheme, which has two consequences. First, an ex gratia scheme represents that which is morally appropriate but for which there is no legal requirement; it is what we ought to do. Secondly, it does not involve any legal concept of retrospectivity; we can dismiss that consideration. What will the scheme provide? For the dead and their families—nothing. For those who were injured but have recovered—nothing. For those who suffered loss of earnings or medical expenses—nothing.

However, a payment—unidentified and undefined—may be made to those who have an ongoing disability. Will Pike, who tied sheets together so that he and his girlfriend could escape the gunfire from the hotel in Mumbai, suffered the break of those sheets—a fall to the ground and he sits in that wheelchair at the Bar of this House, permanently paralysed. We give him something, but not what he deserves.

If we asked the country what they thought of this, they would say, "Pay people involved in past incidents the same as you will in the future. They are small in number, the incidents are clearly defined and the cost might be a few million pounds. It's the right thing to do". Yet, in the outline scheme I have just given you, the full might of the machinery of the state has ground down to make sure that the victims get a few hundred thousand—maybe. Is that the right thing to do?

At the end of this particular Bill, at the end of this Parliament, I invite the Government of the day and the one who follow them to do the following: first, make no decision about the past until after the election; secondly, review this issue through the new Minister, whoever that might be; thirdly, listen to representations and recommendations by the victims and their families; and fourthly, listen to public opinion.

The Minister used words eloquently in describing the value of the scheme for the future, saying that it represented a "tangible expression of sympathy"; I agree. It represents help to those who need to rebuild their lives; I agree. Let us do it for the past as well as for the future. For once, let us do the right thing.

7.06 pm

The Earl of Shrewsbury: My Lords, I welcome the opportunity to speak briefly on this important Bill and in doing so I declare an interest as honorary president of both the Gun Trade Association and the British Shooting Sports Council. I am also a member of the Countryside Alliance. You will be delighted to hear that I intend to restrict my comments to matters in this Bill that I know about—those concerning air weapons.

I and the organisations with which I am connected have always supported the aim of Her Majesty's Government to address the misuse of firearms, including air weapons. However, I am very much of the opinion that legislation should target criminal and malicious misuse, rather than those members of society who are both law-abiding and responsible. The users of legally held guns for sporting, target or vermin-control purposes are widely considered to be among the most law-abiding and responsible members of the community.

The Anti-social Behaviour Act 2003 made it an offence to have an airgun in a public place without lawful authority or reasonable excuse. The Violent Crime Reduction Act 2006 made obligatory the sale of airguns, by way of trade or business, through a registered firearms dealer, and raised the age for the purchase and acquisition of such an airgun to 18 years of age. Both Acts have had an influence on the reduction in offences involving airguns.

It is a well known fact that the very considerable majority of airgun users are responsible adults who already take reasonable precautions to prevent any person under the age of 18 having the weapon with them. This Bill will reinforce the legislation already in place and should, if properly administered, not hamper the legitimate user of an airgun.

So, while giving the Bill a cautious welcome, I have only one criticism. Should the Government not have waited a while longer to assess further the beneficial effects of the two previous Acts before proceeding with the air weapon part of this Bill? It seems to me that it should be rather unnecessary and produce yet more red tape for the gun industry to bear.

7.08 pm

Baroness Harris of Richmond: My Lords, this is a very strange Bill which appears to have lots of incidental measures in it and my contribution to Second Reading will be fairly brief. I intend to restrict my remarks to those about stop and search, but first I must declare my interest. I chaired a police authority for a number of years and dealt with complaints against police

officers. I was also a deputy chair of the Association of Police Authorities for a number of years and this august body was the first to publish a really excellent document to be used by the general public, explaining how stop and search worked. It was widely distributed and very well received throughout the country.

In every debate on a police Bill in which we have discussed this matter, and there have been many police Bills over the years, I have made clear our view on these Benches that the police must carry out these duties proportionately and reasonably. We know that since this legislation was enacted, and particularly under the terrorism legislation, black people have been almost eight times more likely, and Asian people twice as likely, to have been stopped than have white people, as the right reverend Prelate the Bishop of Lincoln acknowledged. We also know how this has affected many young people—they have become distrustful of the police—and, once lost, that trust is incredibly difficult to regain. Minority communities will think twice about helping the police. They will not give crucial information to help clear up crime, and they will decline to appear as witnesses to secure convictions. It is so important for the police to deal fairly and to be seen to deal fairly with all our communities, whatever their ethnicity, but particularly when such disproportionality is evident, as my noble friend Lady Hamwee reminded us.

This Bill does not address the problems of stop and search under Sections 44 and 45 of the Terrorism Act 2000. Will the Minister address this in his response? He will know that the European Court of Human Rights has concerns about the disproportionate use of this legislation. Why have the Government not taken the opportunity in this Bill to address those concerns? It would have been an opportune time to tackle the ECHR's unease about these matters. Why was there so little consultation on reducing the burden of bureaucracy, welcome though such consultation is? Of course we would all support a less bureaucratic process, but that must not be at the expense of losing valuable and often crucial intelligence from the minority communities.

The original form of these stops and searches was ridiculously long and took ages to complete. I remember being stopped in a car that was bringing me back to Westminster after a speaking engagement. The driver was pulled over and questioned by not just one, not just two, but four police officers as I sat in the back of the car wondering what was happening. The whole thing took about 15 minutes. The car was a limousine, and it just so happened that the driver was black. No doubt the police had a good reason to stop him, but when I asked them they told me that it was a routine stop and that I should get back in the car. The driver, having been allowed to continue our journey, told me that this happened all the time to him, especially when he drove that car. I wonder why.

The form of stops and searches that is now envisaged appears to be going in the other direction. Under these proposals, for instance, they will not capture information of age and gender, which might distort proper monitoring and give misleading impressions about how this power is being used. We might need this information to monitor effectively other key diversity information. This may well hinder our ability to check whether stop-and-search powers are being used, for instance, to target particular groups unfairly. As Liberty says in its briefing on the Bill:

> "It is essential that a reduction in red tape translates into improved community engagement. Time saved by the removal of bureaucratic measures should be used to improve the way in which police interact with the people they stop and search (such as clearly explaining why the person has been stopped) and not use counterproductively—for example to carry out even more stops and searches".

In its article on stop and search, the Police Superintendents' Association of England and Wales tells us of the work that is being undertaken by the National Policing Improvement Agency—the NPIA—to develop a diagnostic tool that is based on the knowledge that the vast majority of those in all communities will wish to support the use of the power to stop and search if the forces in this country can demonstrate their effectiveness in tackling criminal activity. This diagnostic tool is called Next Steps, and it has been designed,

> "to improve community confidence in a force's use of The Police and Criminal Evidence Act 1984 (PACE) Stop and Search powers. It looks at the building blocks of the successful use of the power through accurate data, effective use of intelligence, good quality encounters, clearer definition of 'reasonable suspicion' and effective scrutiny. The work, which will be piloted in three forces later this year, also includes an operation to focus the use of Stop and Search as a Neighbourhood Policing priority".

Will the Minister assure us that the pilot forces will have sufficient resources to undertake this interesting and important project?

Finally, if we get this wrong, it could have a great impact on confidence in this area. Going from the ridiculously long form to one that asks, well, not much actually, is a step too far, and I urge the Minister to look at the problems that I have mentioned and to consider whether it might be sensible to put in slightly more pertinent information to enable these powers to be scrutinised better.

7.16 pm

Baroness Meacher: My Lords, my contribution to this debate will be short. I do not plan make a typical Second Reading speech, considering the broad span of the Bill, but in view of the time constraints and special circumstances of this Second Reading, I propose to focus exclusively on Clauses 42 to 44.

I speak as a former chairman of the regulator for the security industry, the Security Industry Authority, at its inception some 10 years ago. Despite having held positions on several regulatory authorities, I generally take the view that this country is excessively regulated. I suppose that anyone who works in the National Health Service these days, with its 52 regulators, is likely to take that view. My instinct, therefore, is generally to oppose any extension of regulation. However, each case has to be considered on its merits. The case for extending the regulatory framework to include wheel clamping businesses that work on private land is overwhelming. Individuals who undertake this work on private land must have a licence, but unscrupulous operators can avoid the regulatory controls simply by turning themselves into businesses, and it seems that they have no great problem doing just that.

[Baroness Meacher]

When I was chairman of the Security Industry Authority, I received pleas from across the country on this issue from members of the public who had suffered at the hands of these unscrupulous wheel clampers on private land. The typical experience was of a pensioner or a housewife who had for years parked on a little piece of land. One day, they came back to find that their car had been clamped, or worse still towed away, and they had no idea why. They had had no idea that they could not park on that particular piece of land. The instruction on their vehicle tended simply to give a mobile phone number, and they had to hunt around this piece of land just to find information.

Wheel clamping companies are particularly careful to hide their identities. The only way to retrieve your car, once you have tracked down the information and contacted the mobile phone number, is to pay a fine. Even 10 years on, I remember that the fine could be £500 or more. If the poor individual finds it difficult to pay that fine and does not pay it over a period of perhaps two weeks, they find that the sum increases—and so it goes on. If the vehicle owner denies that he has parked on a private piece of land, he has no complaints or appeals system to which to turn; they are completely helpless.

How could this come about? Outside the regulatory system, there is no specification about signage. You can have a little piece of paper behind a tree, and no one will interfere. That really is not uncommon. Again, there should be a land line; you should be able to know with whom you are dealing, but this simply does not happen. Under regulation, a code of practice would specify the size and positioning of signs. That is a No. 1 priority. If people know that they are doing something that they should not be doing, they have a choice, but if they do not know, they certainly have problems.

The provision in this Bill for fines to be capped to a reasonable sum is also important, as is the stipulation of a time limit before which you really cannot just towusb away a vehicle. I was told about people who would hide behind a wall or literally behind a tree, wait for the poor person to park and drift off, and immediately out they would come and whip the car away; and again there are no controls. I strongly support the complaints-handling provision and the harsh penalties for any business operating without a business licence.

This clause would be self-financing. It would bring great relief and prevent considerable stress and financial hardship to innocent and often vulnerable individuals. I do not believe that there are any hidden consequences. Landowners would continue to be able to prevent unwanted parking on their land, and they are certainly absolutely entitled to do that. I hope that noble Lords on all sides of the House will be perfectly happy to see this small, but in my view important, set of clauses pass into law.

7.21 pm

Lord Mackenzie of Framwellgate: My Lords, crime and security provisions go to the fundamental duty of any state to protect its citizens and to keep them safe. In my short address this evening, I intend to concentrate on three main areas: the retention of DNA, stop and search measures and, briefly, gang injunctions.

The development of genetic fingerprints or DNA is probably the most important investigative tool in the fight against crime since fingerprints were developed, as the Minister mentioned. In my view, the DNA database exists as a tool for justice. It has resulted in many violent crimes, rapes and burglaries, going back many years, being detected and their perpetrators prevented from preying on innocent victims in the future. It provides the police with an average of about 3,300 DNA matches per month. Between April 1998 and March 2009 there have been 304,000 detections in which DNA was an important factor. In burglaries, where DNA was available it more than doubled the detection rate from 17 per cent to 38 per cent in 2006-07. These numbers are important and no right-thinking citizen can deny their importance in any debate that we have on crime.

That alone would justify such a database in a modern, progressive society. However, it does more—it actually serves justice by eliminating the innocent as suspects, which is why I describe it as a tool for justice, and not just for the prosecution. Of course, the contentious issue is whether, if ever, DNA samples should be kept on people who have not been convicted. Let me make it clear that when we are talking about DNA samples—I think the Minister made this point—we are not talking about keeping spots of blood, hair or tissue, but about information on a barcode, rather like a supermarket price label. The information is of no use to anyone, other than to match it against another sample found at the scene of a crime or at a fatal air or train crash and the like.

I know that I am certainly a minority, if not a total exception, in this House and I will nail my colours to the mast. I would retain the DNA of every child born in this country. It sounds fanciful, and probably is in the light of the decision of the European Court of Human Rights, but it is not as difficult as it sounds. I am told that DNA samples are now routinely taken from all babies to check for genetic diseases and medical conditions, and I imagine that it would be relatively easy to process and transfer the data, but perhaps I am being too adventurous. As members of the public continue to tell me when I raise this at meetings and in discussions, "What has an innocent person got to fear?" Perhaps those opposing the extension or even proposing a reduction in the DNA register could explain that to the House.

For example, if we had not retained any data from unconvicted people in 2008-09, the police would have lost some 10 per cent of matches for rape and homicide cases, a total of 79 of these serious cases. This is extremely important, not just for the victims and their friends and families, but for society as a whole because they continue to reoffend. I speak as a student of victims, if you like, with 35 years of policing—dealing with the victims of crime—and I know how important it is for them to get closure by having their day in court. It is no good noble Lords criticising police performance if we do not give them the tools to do the job on our behalf.

It was mentioned earlier that Scotland has a more restricted retention policy than England, but in my experience chief officers there are certainly in favour of moving to the English model. As the ACPO lead on DNA and chief constable of the West Midlands said in September last year:

"There are 40,000 crimes matched every year; it is helping us to keep safe. Reducing the numbers on the database will tip the balance towards making people less safe".

Is that what your Lordships really want?

I fully support retaining DNA lawfully in the possession of the police for a proportionate amount of time permissible under the law, and I think that is what the Minister is proposing. It also makes a lot of sense to allow the police retrospectively to collect DNA samples from serious, violent and sexual offenders returning to the UK following convictions overseas. It is a simple proposition—the greater the database, the greater chance to do justice for victims of serious crime. We should support the police in their relentless battle to reduce the number of these serious offences.

I will turn briefly to the bureaucracy involved in stop and search. In my view, as a working policeman with more than 30 years' experience, one of the best deterrents to carrying illicit articles, such as weapons, drugs or explosives, is the fear of being stopped and searched by the police. It is fairly obvious; it works at airports and at football matches, and we do not use it sufficiently. On the streets, we tend to burden police officers with mountains of paperwork. The noble Baroness, Lady Harris, who is not in her place, referred to that. Therefore, I welcome the provisions in the Bill to reduce the time spent on this task. A record of the stop and search will still have to be kept, quite rightly, and this will still include details such as ethnicity. It is anticipated that the reduction in time per encounter would be about 12 minutes per stop and search, or about 200,000 hours per year, which is quite a saving. This has to be good for the police and for the public of this country.

In concluding, I make a plea for the application of common sense in supporting citizens who intervene to prevent anti-social behaviour and crime. We hear too often of decent, law-abiding people confronting yobbish behaviour in the streets and on public transport, who find themselves hauled into police stations to be questioned or even charged with over-stepping the mark. We need the police, together with the crown prosecutors, to exercise common sense and discretion more. However, if the police do not pass the case on to the crown prosecutors in the first place, then that would be the end of the matter.

I will give a brief example because it touches on what I have talked about on stop and search. Two weeks ago I was travelling on a bus with my wife and I had occasion to challenge a youth in a hood, who had his feet on the seat in front of him, which was where I was sitting. I remonstrated with him and an altercation took place, which resulted in him saying at the end of it, "I have a good mind to cut you up". That caused me to suspect that he might be carrying a knife. The youth continued to mutter and I was very cautious, obviously, of taking any further action. Two things prevented me from taking the matter further: one was the presence of my wife, who, I am sure, would have severely reprimanded me; and the second, which is just as important, was that if the situation became physical and they youth was not armed but got injured, I would be the one in the dock. My point is that I should have had full confidence in the judicial system to support me doing the right thing in difficult circumstances. It is a sad reflection that I did not. Making it easier for the police to stop and search in a fair and proportionate manner, which is important, will reduce the chances of people carrying offensive weapons on public transport and on the streets.

We have recently seen in London one or two gang-related stabbings. I therefore fully support the provisions in the Bill to allow injunctions to be taken out against 14 to 17 year-olds. I spent some time training with the FBI and I have seen the use of injunctions in the USA reduce gang culture and gang-related violence. I look forward to seeing how the decision to pilot the introduction of this measure works. Anything which can be done to make the streets of Britain safer has to be a vote winner. I support these provisions in the Bill.

7.31 pm

Lord Dear: My Lords, we have yet another Bill dealing with policing, crime, security and the judicial process. With that in mind, I was not surprised to read a letter in the *Times* this morning written by Paul Mendelle QC, the chairman of the Criminal Bar Association. He was talking about the problems of young barristers but he used a phrase which I thought was particularly apposite when he referred to one bloated Bill after another going through the judicial process. He was not, I hasten to add, talking about the matters which concern us today but touched on the generality of more and more legislation coming before us.

I have only four years' experience of speaking from the Cross Benches but I wonder why a Bill of this gravity has been introduced with only five working days of Parliament left. If, as many of us expect, the general election is called on 6 May, the dissolution of Parliament will take place and leave us very little time to consider this matter. Is it to be consigned to the wash-up? I know enough about a wash-up now to know that it is some sort of quasi-judicial mincing machine which disposes of Bills which have run out of time. If I may say so, and not at all in jest, it would be wholly inappropriate for matters contained in this Bill—dealing, as it does, with issues of criminality, freedoms, rights and so on—to be consigned to that process.

Having said that, there is much to applaud in principle within the Bill, as others have mentioned. I shall go quickly through some of the measures because other noble Lords have taken more time over their expositions and have gone into more detail.

On Clause 1, which deals with stop and search, the Explanatory Notes state that the new proposals will cut 15 minutes off the current procedure. Those 15 minutes will give you a rough idea of the amount of bureaucracy loaded on to the police in generality, but particularly in this instance. It is stated that this will save £4.2 million per annum on the police budget. I am not sure where the maths come from—I have not worked it out for

[LORD DEAR]

myself—but clearly something needs to be done to remove that bureaucracy and to reel us back, if you like, from its present levels. Some might say that the Bill does not go far enough, but we are talking, in all sincerity and seriousness, about maintaining a balance and proportionality between law enforcement and stop and search on the one hand, and the exercise of reasonable power on the other. As the noble Baroness, Lady Harris of Richmond, has pointed out—I support very much of what she said—it is a serious matter but it should not become bogged down with unnecessary bureaucracy.

As to Clause 34 and the following clauses on gang injunctions, there is a big problem on the streets with gangs. In the past seven days we have seen reported widely in the national press two devastatingly sad occasions of teenagers being stabbed to death by gangs on the streets of London. It goes on elsewhere, of course, throughout the year. I suspect that the devil is in the detail in these clauses but something needs to be done. We should concern ourselves with a reasonable amount of time within your Lordships' House to look at that problem.

Clauses 40 and 41 require families to take responsibility for the anti-social behaviour of their children. The noble and learned Lord, Lord Lloyd of Berwick, has spoken of his fears about invoking injunctions and bringing that into the criminal law—I agree with his fears on that—but anti-social behaviour by children and families who take no notice of what their children are doing at any hour of the day or night is another matter that we need to consider.

Clause 42 seeks to amend the Private Security Industry Act 2001. The noble Baroness, Lady Meacher, referred to the racket which goes on among licensed wheel-clamping outfits and we are now seeking to encompass businesses within the legal process. As the Security Industry Authority has been in place for seven or eight years already, I wonder why we are only now turning to encompass wheel-clamping businesses rather than the people concerned. Why has it taken so long to get to grips with this? That we must get to grips with it there is no doubt.

Clause 45, which seeks to prevent the use of unauthorised mobile phones in prisons, has already been referred to. Of course we have got to stop leaders of criminal gangs continuing to run their businesses from inside prison while they are serving current sentences—as many of them do—and arranging for drug drops within prison and so on. It has been a matter of concern for those in the criminal justice system for a very long time.

In the main, I wish to speak about the use of DNA. As we already know, this has created a great deal of interest and comment. I declare two interests at this point. First, as some of your Lordships will know, I served in every rank in the Police Service, from constable through to Inspector of Constabulary, for over 30 years. In referring to DNA, I should declare that I am the non-executive chairman of two separate companies which provide laboratory analysis services for exhibits taken from the scene of crime, not only for the police and other law enforcing agencies but also for the defence, both in this country and abroad. It is confidently expected that those two companies will merge very shortly and I may well be the chairman of the newly merged entity. However, I should point out that those companies are not, and will not be, involved in the maintenance of the databases, the issue which concerns us today. I do not have an interest in the mechanics of data collection and recording.

Reference has been made to fingerprints. From the days of Patrick Henry—a colonial police officer in the Middle East and Far East at the end of the 19th century who invented the fingerprint system—fingerprints have been accepted as being 100 per cent accurate. DNA, with its short history of forensic use, is also now regarded as being 100 per cent accurate. DNA is a much more powerful tool than fingerprints for at least two reasons. First, there has to be 16 points of similarity with the fingerprints of an accused person before the print in question can be used in court. It is very difficult to find 16 points of similarity because usually fingerprints are smudged or do not have 16 points present.

Compare that to DNA, where the sophistication of the processes has gone on exponentially, particularly in the past five or six years, to a point where a single flake of dandruff, a single hair, a dot of body fluid not much bigger than a pinhead, saliva on a cigarette butt, and other examples, will provide a 100 per cent DNA match—a powerful tool indeed. It also has within it, and can provide, genetic history. For years fingerprints in the possession of the police were only kept where a conviction had ensued. When DNA came onto the scene, the system quickly eased to a position of "Keep it all". That is what we are considering today, particularly the case of S and Marper v United Kingdom—the European Court of Human Rights case in 2008 which was ruled to be incompatible with the right to respect for private life, contrary to Article 8 of the European Convention on Human Rights. As we already know, the case was particularly concerned with the retention of DNA and fingerprints from persons not convicted of any offence—in other words, from innocent people, arrested on suspicion but not convicted. The Minister talked about the case of Thompson and I understand what he was saying. Two very serious sexual offences were cleared up years later by somebody who was arrested and then cautioned. The case was made by the Minister that a caution does not rate as a conviction. That is a hair to split, if I may put it in those terms. Since the person has already admitted the offence, I see no reason why cautions should not provide DNA for the database.

I take issue with the Government's response to the findings of the European Court of Human Rights. I, too, believe that the retention of DNA for up to six years of those arrested but not convicted is wholly disproportionate. It raises fundamental questions of privacy and individual rights and freedoms set against securing the safety of the state and of individuals. That is a very fine balance that should not be approached timorously but neither should it be approached in an overly zealous manner. As we have heard, the Home Office and at least some of the police argue for change. We have been told by the noble Baroness, Lady Hamwee, that the Police Federation has exercised a note of

caution on this but ACPO is probably pretty full-bodied in its support for the Home Office on this Bill and also for the retrospective collection of DNA in cases of serious violent and sexual assault. I would be interested in the position of the CPS on this. I know it is not exactly within its frame of reference since it considers the evidence put before it by the police, but I would like to know what it thinks about this. Maybe in due course we shall know.

In terms of balance, I acknowledge the desire of those who are in the law-enforcing machine to extend powers. You might say in analogous terms that any craftsman will always accept the offer of a sharper tool if it is made available to him. Powerful arguments in favour of the Bill are mounted by very worthy individuals. I also reflect on the analogy of electricians who deal more with electricity as their skills increase. And as their skills increase, so they seem to gain a greater respect for what it is they are dealing with—the power of the electric current. Anyone involved in the exercise of power and authority, of which I have had my share, should be very conscious of its proper use and not misuse it. I make the plea for a proper balance against the background of what I perceive to be a steady increase in the intervention of the state into human relations of all kinds. The figures are variable. I am told by some that we have created 3,000 new criminal offences in the past 10 or 12 years. Some put the figure as high as 4,000. I am not sure where the arithmetic takes us, but certainly there are a lot more ways of getting into trouble than there were a few years ago.

We have had constant attempts to erode a whole range of fundamental rights. One well remembers the abortive attempt to introduce a limit of 90 days for terrorists to be held without charge. A 56-day limit was talked about. When I had the honour to table the amendment against an extension to 42 days, your Lordships voted overwhelmingly to hold the line at 28 days. Another example against the canvas that we are debating here today is the quite enormous step change that DNA has provided. It is a very powerful tool indeed in the forensic armoury. I, too, as others have mentioned, would be quite happy to consider the Scottish system as a fallback measure. I will not go into that in detail. It has been laid out before your Lordships already.

In short, I have heard nothing to date to cause me to support the proposals concerning the retention of DNA for those who are yet to be proved guilty. I remain totally unconvinced that the gains outweigh the disbenefits, and were there to be a vote today, I would vote against the proposals to retain DNA where no conviction ensues, and I would need a great deal of persuasion to support samples being taken retrospectively.

7.46 pm

Lord Judd: My Lords, as the noble and learned Lord, Lord Lloyd of Berwick, has said, this Second Reading debate, coming when it does, gives us an opportunity to reflect, even though it may not do much else. We come towards the conclusion of a Parliament understandably preoccupied with security. The security of the British people is a fundamental human right, for which all of us in both Houses have a primary responsibility. We should, therefore, take this opportunity firmly to underline our appreciation of the tireless and dedicated work on our behalf by Ministers, officials, the police, the armed services, the security services, the UK Border Authority, and all those authorities which carry on our behalf the burden of constant vigilance at local, national and international levels. Theirs is an exacting task.

Of course the effectiveness of these agencies and those who serve in them is related to their accountability. It is also deeply related to two other crucial principles. First, just as successful policy-making depends on working with the community and not simply controlling it, so the containment of terrorism and related extremism depends on winning hearts and minds and marginalising the irreconcilable fanatics. This can lead to difficult but crucial decisions by Parliament, like that on which this House so firmly spoke to resist the proposal, which came to be seen not just as wrong on human rights' grounds but as counterproductive, to extend the permissible period of detention without charge to 42 days.

As one operational policeman, whose role was central to work with the Islamic community, put it to me at the time, our priority must be to win the confidence of ethnic communities and have them on our side, not to provoke and alienate them. There has to be a deeply rooted realisation among all involved that human rights are an absolutely critical cornerstone of our security and not just a nice idealistic concept about how society might be. It is no exaggeration to emphasise that, where human rights are central to government, administration and front-line security work, the opportunities for the extremist recruiters to get to work will always be smaller. Where human rights are not central, are abused or have lapsed, the opportunities are greatest. It is essential that those of us with legislative responsibilities and with responsibilities for the calling-to-account of the authorities never forget this. We must always support strong, enlightened leadership in the agencies to which I have referred in making a reality of this. Ever to condone, let alone excuse, abuse of human rights or failure constantly to stand by them is not only to undermine committed leadership but to aid and abet those who seek to undermine our society and to play into the hands of those who threaten us. It is literally treacherous.

This weekend, we have had a grim example. The wicked, cruel and indiscriminate bombings on the Moscow underground must be condemned without reservation. But so should the tyranny, disappearances, targeted assassinations, house-burnings, intimidation and torture of the ruthless Kadyrov regime in Chechnya. Apart from being morally reprehensible, those abuses have played directly into the hands of extremist terrorist recruiters. If we take seriously and in a global context our own security here in the United Kingdom, we should leave our Russian friends in no doubt about that.

Justice is central to our human rights. That is the principle; Acts and conventions are about implementation. What, through centuries of hard and sometimes bitter struggle, has emerged as central to our concept of

[LORD JUDD]

quality of justice and its administration? As a layman, perhaps I may put it as I see it. Absolutes must surely include: its transparency—justice being seen to be done; habeas corpus—not just as a restraint on administration but as essential to ensuring transparency and winning hearts and minds; presumption of innocence—as a manifestation of respect for all individuals and their integrity; the principle of no retrospective legislation—people must know the rules and laws of the society in which they are living; total rejection in practice, not simply in sincere rhetoric, of physical coercion and torture in all their forms; and, underlying everything, the crucial principle of proportionality in everything that is done, from investigation to sentencing.

In the inextricably interrelated sphere of penal policy, the key imperatives that should govern all that is done seem to me to be decency and rehabilitation. Without those disciplines, we have little prospect of winning the battle for responsible citizenship and building a sustainable, secure society. We also add to our economic woes by maximising the likelihood of reoffending. Just as we should invariably deny the extremists the satisfaction of seeing us provoked into dismantling what makes our society worth having, so we should also never allow the cynical, calculating or sophisticated criminal to drive us into undermining those invaluable principles.

After the general election, and in one way or another, Parliament will have to give careful consideration to all this. Do we or do we not stand by the principles to which I have referred? How far are they endangered by erosion as a result of tactical expediency? Is it not exactly when the provocation is greatest that our determination to stand firm on what matters must be the most resolute?

Together with the outstanding work of its clerks and advisers, the Joint Committee on Human Rights, on which I was glad to serve for a time, has proved an indispensible praetorian guard of the quality of justice. Under its first two impressive chairmen—the very first was my noble friend Lady Corston, who with great wisdom set it on its influential course—the committee's reports have provided when necessary a constantly helpful discipline for us in our deliberations. Their work on the Bill before us is no exception. My noble friend referred to a letter in the Library, but I hope that he has had time to study the committee's 12th report, published on 2 March. The committee positively commends some important provisions now in the Bill, but it still argues persuasively for changes in several respects. When he comes to wind up, I hope that my noble friend will be able to deal with at least its salient observations, covering the retention of DNA profiles, the reporting requirements on stop-and-search forms, the inappropriate use of stop-and-search powers in relation to children, and the proposed domestic violence protection notices.

On the retention of DNA samples and profiles, the committee commends in its 2 March report the Government's acceptance that the breach of the European Convention identified by the Grand Chamber of the European Court of Human Rights in the Marper case must be removed speedily and welcomes the Government's decision to provide for a full parliamentary debate. This is a serious matter which deserves careful parliamentary scrutiny. In its conclusion, the Grand Chamber had of course found that the blanket retention of DNA samples and profiles of innocent individuals and children on the National DNA Database was disproportionate and in breach of the right to respect for private life guaranteed by Article 8 of the European Convention.

The Joint Committee remains concerned that the Government are on record as wanting to "push the boundary"—the noble Baroness, Lady Hamwee, referred to this—on the Marper judgment to protect the public. In its lifetime, the committee has repeatedly emphasised the responsibility of the Government to protect the public, but it nevertheless underlines that the European Court of Human Rights itself has taken full account of this in arriving at its view of the proportionality of interference with Article 8 rights. After reviewing the matter carefully in its report, the committee concludes:

> "So far, the Government has not provided the evidence we require to be satisfied that the proposals in the Bill are proportionate to the interference with individual rights".

What more my noble friend has to say on this in his wind-up speech will be important for future deliberations on the Bill. So also will be his response to the committee's recommendations on children, including:

> "In particular, we recommend that the Government provide justification for its proposed retention periods and publish its analysis of the compatibility of the proposals with the UN Convention on the Rights of the Child".

It is surely significant that the Select Committee on the Constitution specifically goes out of its way to endorse what the Joint Committee on Human Rights has said. Here I digress for a moment to respond to the interesting speech of my noble friend Lord Mackenzie of Framwellgate, who I am sorry is not in his place. He at least had the honesty to put forward a completely radical and different approach. If we are to debate the matter in the future, we cannot dismiss out of hand the concept of DNA records which cover every citizen, but the point is that they do not do so at the moment. There is therefore a divide between those of us who enjoy absolutely the presumption of innocence, with all the reservations to which I referred earlier, and those who have a conditional presumption, because they are on a record on which no one else has their name.

In introducing the Bill, my noble friend rightly stressed the paradox of the gap between reality and perception—the right reverend Prelate the Bishop of Lincoln underlined it. It is extraordinary that it is not more widely understood how crime rates have fallen. However, whatever the need for and the merits of the Bill, the greatest threats to our society probably lie in the realms of the flaws and materialist preoccupations of our financial system, in natural and man-made disasters and, whatever the stupidities of occasional academic arrogance, in the continuing challenge of climate change. There is an interesting parallel between the vast damage and suffering that can be wrought by a small number of dedicated terrorist extremists and that which can be caused by a relatively small number of greedy financial barons. If we are to succeed in winning against terrorism and crime, we need a recommitment to the values of social responsibility and mutuality throughout our community at all levels.

There is a deep contradiction in a society in which getting to the top of the pile is too often portrayed as the name of the game, irrespective of how it is done, and in which we then tell those who are trampled on or excluded—the casualties at the bottom of the pile—that society's well being depends on them, and then concentrate almost exclusively our legislation on how they should behave. The strength and transparent credibility is just not there and credibility is essential to the success of our justice system.

8 pm

Lord Sheikh: My Lords, this Bill covers many areas of importance that have a significant impact on our civil liberties and our fundamental human rights. These are the very principles on which our democracy was founded. I hope that this legislation will make a contribution to tackling the injustices in our society that it highlights.

Clause 1 relates to the amount of information that officers would be required to record under stop and search powers. I commend the Government for proposing that a number of recording requirements should now be either removed or significantly reduced. Some officers have made reference to a target culture that is prevalent in their everyday duties, so I am grateful that this has been given due consideration. I support measures to reduce bureaucracy and therefore hope that this section significantly reduces the length of the stop and search documentation.

Staffordshire Police successfully reduced the length of administrative time spent on recording information. There is no reason why this good practice cannot be implemented in other police authorities. I am concerned at the stop and search activities undertaken by the police for purposes that are not related to terrorism. I have previously spoken about this issue in your Lordships' House. Since 1997-8, black people have been almost eight times more likely to be stopped and Asian people are twice as likely to be stopped by the police in comparison with their white counterparts. This situation must be addressed as a matter of urgency.

It is important for the police to retain the respect and confidence of minority groups, which can prove vital in solving crimes and gathering intelligence. Sections 44 and 45 of the Terrorism Act 2000 authorise police to stop and search individuals in the absence of reasonable suspicion. I fear that this situation could have disastrous consequences in all our communities. In fact, only 0.6 per cent of the people stopped under Section 44 powers in the second quarter of 2008 were subsequently arrested. The European Court of Human Rights has also raised concerns about the use of stop and search powers under Sections 44 and 45, stating that they should be used in a proportionate manner.

Section 60 of the Criminal Justice and Public Order Act 1994 also does not require police officers to have reasonable suspicion about an individual before they carry out a stop and search operation. The latest figures suggest that 25,294 searches under current legislation were carried out last year in the London Borough of Newham. I was in the area last Saturday and addressed a gathering where there were people of Sri Lankan and Bangladeshi extraction and I spoke to some of them individually. Newham also happens to have one of the largest percentages of ethnic minorities in the country. The activities of the police may send a poor message and possibly breed resentment among the ethnic minorities. Therefore, powers under Sections 44 and 45 of the Terrorism Act and Section 60 of the Criminal Justice and Public Order Act 1994 need further examination and reappraisal.

Clause 14 concerns the retention and use of DNA samples. DNA technology is of high importance in detecting and preventing crime. Making use of this system is a question of finding the right balance between applying the law and not compromising the dignity and rights of individuals. I do not dispute the retention of the DNA of guilty individuals. However, I am concerned about the DNA of innocent people. A transparent and consistent approach to the removal of innocent people's DNA from the database would be most welcome. The current system may cause concern among certain members of our society. For example, 77 per cent of people on the DNA database are black youths, which is disproportionate to the number of convictions brought against this group.

Some police forces refuse to remove DNA samples even when a person is declared innocent once a case has been closed. Research has revealed that only 22 per cent of requests for the removal of DNA samples are granted. Certain police forces agree with the majority of requests, but a large proportion do not. There needs to be consistency and clarity among the processes undertaken in all 43 forces, as the current figures give rise to a postcode lottery. By October 2009, over 5 million DNA samples were on the database. This situation is unnecessary and has rightly drawn criticism from many circles. There is evidence to suggest that less than 1 per cent of crimes are solved due to the DNA database. I would be grateful if the Minister could explain to your Lordships' House why the DNA database has continued to increase while the number of crimes for which a DNA match is available has continued to decline.

The Bill requires all DNA samples to be destroyed after six years. I would like to see the Scottish system adopted, whereby the DNA of innocent people is not retained at all. I am encouraged by the ruling by the European Court of Human Rights that it is illegal to store one's DNA indefinitely. The court stated that our DNA database has,

"a blanket and indiscriminate nature".

That is a criticism of the present system by an institution of great stature. The court also ruled in 2008 that the retention of DNA samples belonging to individuals who had not been convicted of any crime was unlawful and unnecessary in a democratic society.

I welcome Clause 24 and subsequent clauses, as they introduce measures to tackle domestic violence and reinforce the protection of victims after a suspected offence. The subject of domestic violence is something on which I feel strongly and about which I have previously spoken in your Lordships' House. The intentions of the Government are highly admirable on this issue, but I am concerned as to how domestic violence protection notices and orders will work in practice. It is important that they are not used as substitutes for pursuing proper sanctions in the courts

[LORD SHEIKH]
against perpetrators of domestic violence. More police officers should be encouraged to prosecute perpetrators of domestic violence, even in the absence of the victims' testimony, by reasonable use of circumstantial or medical evidence relating to the offence. Research suggests that approximately 3 million British women are victims of domestic abuse each year. Some 14 per cent of violent offences involve domestic violence. The unfortunate reality is that the actual figure is inevitably higher, as a number of victims do not come forward to report such abuses.

The physical and psychological trauma suffered as a result of domestic violence should be assessed immediately after victims are identified. May I ask the Minister what extra assistance will be given to children who have witnessed domestic abuse? Domestic violence is prevalent in all communities and all classes of people. It is an abhorrent practice, which causes untold harm to the victims and their families.

At this juncture I should like to declare an interest. I am the chairman of an insurance broking organisation that has provided specialist insurance to the security industry over many years. My company has acted as insurance brokers to the British Security Industry Association, as well as to the International Professional Security Association. The security industry performs a valuable service and is now very much part of the extended police family.

I have always believed in maintaining and strengthening standards in the security industry and have applied strict criteria to the acceptance of security companies and personnel under our insurance scheme. We welcomed the enactment of the Private Security Industry Act 2001 and the formation of the Security Industry Authority. I welcome Clauses 42 and 43, which amend and extend the Private Security Industry Act 2001 and will introduce a licence requirement for businesses carrying out vehicle immobilisation or restriction and removal of vehicles.

Clause 43 proposes that the approved contractors scheme under Section 15 of the 2001 Act be extended to those persons who carry out in-house security activities. Certain organisations have in-house security arrangements and this proposal will ensure parity with companies providing security under contract. I welcome the establishment of an independent tribunal, or adjudication system, for release fees applied by wheel-clamping companies, as some motorists may feel that they have been badly treated in this regard. At present, the approved contractors scheme, which is supervised and managed by the Security Industry Authority, is voluntary, but I would like to see this scheme become mandatory for all security companies, as that will further regulate the security industry.

I support Clause 47 and subsequent clauses relating to compensation for victims of overseas terrorism. I spoke in your Lordships' House when the noble Lord, Lord Brennan, introduced his Bill. I see that he is not in his place, but I appreciate his perseverance.

We must defend the civil liberties and values that are vital to our society. I am particularly concerned about the collection of DNA samples and the use of stop and search powers in relation to ethnic minorities. The current state of affairs does not bode well for community cohesion. The situation in Newham shows that the facts speak for themselves. It is important to ensure that no group feels as though it is the constant target of discrimination.

Although I welcome any provisions to address domestic violence, I feel that the Bill must gain more clarity. I fear that the Bill is not adequately far-reaching in its present state to have a pivotal impact. I sincerely hope that it will be strengthened in Committee.

8.15 pm

Baroness Stern: My Lords, since Parliament is soon to be dissolved, the Bill will not provide us with many days of sitting here, sometimes until late at night, pressing the Minister on the various clauses and engaging in spirited debate with him. That has been a most enjoyable activity, which we have engaged in, on and off, since 2007—it seems longer—when the noble Lord first joined this House and became a Home Office Minister. It is much to be regretted that that opportunity of many days and nights of debate is to be denied us this time and perhaps—who knows?—for the foreseeable future.

It is also to be regretted that there will not be time for detailed consideration of each of the proposals before us tonight, as there is much to consider. The Bill comes up to the standard of earlier Bills, although I do not think that "up" is the word that I was seeking. As usual, some more imprisonable offences are created. It is not clear to me exactly how many will be created to add to the 1,472 created since 1997.

There are more civil orders, which are complicated and demanding of police time, when what is really needed are local arrangements in place and properly resourced to deal with the problem. There are changes to measures that have only just become law—gang injunctions, for example—and more attempts to deal with social problems through law enforcement measures, such as parenting orders for those facing ASBOs. There are measures relating to DNA, where the evidence to support the Government's proposals is deeply contested and obscure. To use the word "evidence" in this case is stretching its meaning considerably.

It is all rather business as usual. There are, of course, some measures greatly to be welcomed, such as compensation for victims of overseas terrorism, clamping down on car clampers, and measures on domestic violence. At this late stage, I will make only a few comments on those matters affecting children and young people and on gang injunctions on children as young as 14.

No one denies that there are young people caught up in gangs and involved, therefore, in violence. The question is how best to deal with that. The Standing Committee for Youth Justice is critical of these measures. I note that in the Public Bill Committee in the other place the Minister said that at that time—he was speaking on 9 February—not a single injunction on an adult had yet been made. Is that still the case and are we therefore extending a provision that has not so far been used anywhere? On this flimsy basis, the Government are proposing something that has the potential to be a stringent law enforcement measure in the life of a 14 year-old. We understand that the Government expect there to be 80 of these orders in the first year for under-18s.

The illogicality of taking this path becomes apparent when we consider the penalties for breaching the injunction. Normally when an injunction is breached, it is a contempt of court and dealt with accordingly, but apparently this will not work for under-18s, so something else has to be found. The "something else" is a supervision order or a detention order of not more than three months. Since this is not a criminal offence, though, the custodial establishments taking such young people will have to treat them as civil prisoners with separate rules and a separate regime. Perhaps the Minister could confirm that that is the case.

I have gone into a little detail on this matter simply to point out to the Minister that this is not the way to solve serious social problems. The criminal law is there for crime, while social and economic measures are there for social problems. Inserting a hybrid in the middle is not normally a good idea. The noble and learned Lord, Lord Lloyd, made that clear to us earlier today.

Anti-social behaviour orders and parenting orders are another example. Parenting orders are to be imposed when a child breaches an ASBO. The court is going to try to make people good parents under threat of a sanction. Surely support should be delivered in such a way as to enable parents to co-operate, not to feel that they are criminals.

We can but hope that the long period that we have lived through in this House of trying to solve social problems though a mixture of law enforcement, new civil powers and some criminal law has now run its course. It has been a bad time for the rule of law and for social justice. The noble Lord, Lord Judd, expressed that thought better than I ever could in his splendid contribution, for which I thank him.

8.20 pm

Lord Dholakia: My Lords, the Minister said that crime is falling. That is not disputed, but the fact remains that the fear of crime is greater than crime itself. Public perception is shaped by the quality of legislation that we promote and how it is implemented by the criminal justice agencies. It is in this context that we will examine the Bill—and I add that having been burgled twice in six weeks has not in any way influenced my views on this matter.

Let us not forget the point made by the noble and learned Lord, Lord Lloyd of Berwick, and the noble Lord, Lord Dear: this Government have an insatiable appetite for continuing to enact legislation. In many cases it has not even bedded down, and in some cases it has not even been implemented. Parliament has a right to say, "Enough is enough".

We have come to the concluding part of this debate in the knowledge, as many noble Lords have pointed out, that it is at the tail-end of this Parliament. I suspect that, since we are unlikely to complete all stages of the Bill before the general election, the Government's aim is to put essential provisions in statute during the so-called wash-up period, a point that was well taken up by my noble friend Lady Hamwee. It is right to point out that we on these Benches believe that there are serious drawbacks to many of the contents, and we would not allow these to be steamrolled through Parliament. While I appreciate the pointed questions put by the noble Baroness, Lady Neville-Jones, I trust that she will also stand firm on that occasion.

Look at the preamble to the Bill on the European Convention on Human Rights. It is the Minister's view that,

"the provisions of the Crime and Security Bill are compatible with the Convention rights".

In reality, that means that no more will be done than is absolutely necessary for the Bill to be compatible with the Human Rights Act. There are far too many instances in the past where rights and liberties have been sacrificed or diluted by this Government. The Minister, I hope, will take due note of what the right reverend Prelate the Bishop of Lincoln has said. The values we attach to rights and liberties are not negotiable.

Let me give an example. While the Bill contains a number of welcome features, it is blighted by the Government's wholly inadequate response to criticism from the European Court of Human Rights of this country's practice of retaining DNA profiles of people who were never convicted. This point repeatedly arose from almost all noble Lords. This should not be a bargaining issue between political parties, nor should it be allowed to be put in statute until we are absolutely satisfied that no element of such a policy contravenes the rights and liberties we have fought for and cherished for such a long time. We have often seen examples of the assurances given on the face of a Bill being challenged in the courts, including the European Court of Human Rights, and often the Government have been proved wrong.

Of course there are some provisions worthy of our support. The Bill's provision about the new compensation scheme for victims of terrorist actions abroad is unambiguously welcome. I am glad this had the support of the noble Baroness, Lady Neville-Jones, and more importantly the contribution of the noble Lord, Lord Brennan, among others, is most welcome. May I just correct a small point that may have been misunderstood when my noble friend Lady Hamwee commented on that part of this Bill? She was referring to the Delegated Powers and Regulatory Reform Committee. In paragraph 8 on Clauses 47 to 54, its report states:

"The Committee draws to the attention of the House that under the Bill as presently drafted it will be up to the Government whether or not to bring forward a compensation scheme: there is no commitment to do so on the face of the Bill."

She was right to bring that to the attention of the House.

There is a need to congratulate the Government on some aspects of the Bill, although many people who often do not see the reasons why such provisions are justified may need convincing. I am talking about the new restrictions on the sale of alcohol in the early hours of the morning. It will be helpful if the Minister could tell us what research has been produced which will justify this measure; quite simply, that would remove the ambiguity that remains with many politicians.

Let me also congratulate the Government on addressing the issue of domestic violence, so ably explained by the noble Lord, Lord Sheikh. The unremitting violence against women requires new measures. It has taken the police a long time to address this problem, but there

[LORD DHOLAKIA]

has now been a sea change in their policies, and more and more forces now have dedicated units to deal with this matter. They need to ensure that they are not hampered in their task. It is for this reason that I also greatly welcome the provision for domestic violence protection notices and orders. These will provide immediate protection for the victims of domestic violence by requiring perpetrators to leave the premises or to refrain from contacting victims. This is a highly practical means of protecting victims pending a criminal prosecution.

There have been ample discussions in the past on anti-social behaviour. It has blighted many of our urban areas, but situations have also been identified where anti-social behaviour orders are unnecessary or counterproductive. I shall resist the temptation to give examples, but past debates in this House have clearly identified what works and what does not. We do not want ASBOs to be a badge of honour. We want orders to address the offending behaviour. It is for this reason that I welcome the provision for family-circumstance assessments to be carried out when an application for an ASBO is made. At present when ASBOs are imposed on young people, they are often doomed to fail because they are entirely negative measures. They prohibit the young person from carrying out specified actions but they do not provide any positive help or support for the young person to change his or her behaviour. I hope that the provision of family-circumstance assessments will lead courts which consider an ASBO to be necessary to accompany them in more cases with individual support orders, which can provide positive help for young people and their families.

I have repeatedly expressed my concern about the stop-and-search policy carried out by the police. As one who has often been the victim of such a policy, I invite the Minister to discard his admiral's uniform one of these days and come with me to wait on the other side of the Vauxhall Bridge, where he will see the disproportionate impact on the black and minority communities there. There is ample evidence of a difficult relationship between the police and black and ethnic-minority communities. The impact of such action should never be underestimated. There must be something fundamentally wrong when a large number of black and Asian people are stopped but very few feature in the criminal justice process. I am afraid that if we subscribe to the objective of policing by consent, then the consent of the black and Asian community would be withheld because they suspect that the police pick on them.

I thank my noble friend Lady Harris of Richmond for her contribution. I hope that the Minister will take due note of what she has said, because she comes with experience in policing matters. In principle, reducing the number of reporting requirements for the police when they carry out stop and search seems reasonable, particularly as the Bill still requires information on ethnicity to be recorded. But there is a flaw: I believe that the Government are wrong to dispose of the requirement to record whether anything was found as a result of the stop and search. The outcome is more important than simply recording a particular incident. That bears out my noble friend's point.

The disproportionate use of stop-and-search powers against young black and Asian people remains one of the most important issues in reducing the confidence of minority-ethnic communities in the criminal justice process. Information about the proportion of stops which result in anything being found is surely very important in monitoring whether stop-and-search powers are used appropriately. I share the discomfort of successive Ministers on this issue, but the paramount principle of stop and search based on intelligence should never be sacrificed, and these so-called fishing expeditions must stop.

There has been a good contribution on gang-related violence. Last week's incident at Victoria Tube station is one of many examples showing that no one is safe in a public place. We need to ensure a safe and peaceful environment for all our citizens, but we must exercise great care that the legislation we enact is both adequate and proportional. For that reason, I do not believe that the Bill is right to extend gang violence injunctions to young people aged 14 to 17. If young people have been involved in gang-related violence, they should be brought before a court and convicted after a proper criminal process, with appropriate safeguards. It cannot be right to use civil court orders for such young people as a substitute for the criminal process, particularly when the Bill provides severe criminal penalties for breach of an injunction. That amounts to the backdoor criminalisation of young people including, almost certainly, many young people from racial minorities.

Let me come back to DNA. Again, as with the stop-and-search provisions, there is the unwelcome sign that black and ethnic-minority persons are adversely impacted by this measure. Retaining DNA profiles also has serious implications for racial equality. People from minority groups are disproportionately likely to be stopped and searched, more likely to be prosecuted rather than cautioned and more likely to be acquitted at trial. Retaining DNA profiles after an acquittal means that the National DNA Database contains the profiles of a disproportionate number of young black people who have not been convicted of any offence. Yet even after the criticism of the current practice by the European Court of Human Rights in the Marper case, the Bill still enables the DNA data of unconvicted people to be retained for up to six years. I want the Minister to explain why the Government have produced such an anomaly. It is indefensible that the national database contains the DNA profiles—as explained by the noble Lord, Lord Sheikh—of 900,000 people who have not been convicted, and that the number is growing by 30,000 a month. In our view, the database should retain the profiles only of people who are convicted of offences. If the Government are not prepared to accept this, we should adopt something much more like the approach that is prevalent in Scotland, as several noble Lords have suggested.

The noble Lord, Lord Mackenzie, had the courage to say that he would advocate the DNA retention of every child born. I hope the Minister will clarify that this is not the policy of the Labour Party. If that is the case, I trust he will understand that the protest that would be made by the public on this issue would make that of the identity card seem like a tea party. The Joint Committee on Human Rights has criticised the

Bill's provision of six years as disproportionate and arbitrary; as not making any distinction between arrests for serious and less serious offences; and for not taking proper account of the stigmatising effect of the inclusion of DNA samples taken from innocent people on the national database. I entirely share these criticisms and call on the Government to take note of them and amend the Bill on this point.

There will be a lot of electioneering between now and the general election in a few weeks' time. We saw the Conservative poster launch yesterday, with the photograph of Gordon Brown next to the slogan, "I let 80,000 criminals out early". However, we must not forget that when the general election is over, whoever is in charge of the country will face the same problem of overcrowded prisons, a Probation Service at breaking point, and more and more people detained in conditions not fit for human beings. This does not help the rehabilitation process. Unless we get away from the excessive use of prisons, we may find that the new Government are looking at the same picture. We need rational policies based on sound reasons to establish confidence in our criminal justice system. Let us hope that we can support the good that is in the Bill but reject what impacts on the rights and liberties of all our citizens. That is an issue on which we will not compromise.

8.37 pm

Lord Skelmersdale: My Lords, with this Bill we are in a somewhat weird position. The noble Baroness, Lady Harris, regarded it as strange. To use an inelegant phrase that I learnt many years ago: same difference. Any Bill must have a Second Reading in the Second House to have any chance of getting on to the statute book. With no conventional Committee stage, possibly no Report stage at all and no conventional Third Reading, your Lordships are being denied your traditional role of scrutiny, as the noble Baroness, Lady Stern, pointed out, in favour of the so-called wash-up. This is certainly not a process favoured by the noble Lord, Lord Dear. Essentially, the wash-up is an agreement between the Government and the official Opposition.

Possibly like the right reverend Prelate the Bishop of Lincoln, listening to and thinking about this Second Reading debate made me regret that I returned my 3D glasses after I went to the cinema a couple of weeks ago to see "Alice in Wonderland". The Minister will, no doubt, have retained his, given—as he admitted at Starred Questions last week—that he had been a Royal Navy gunnery officer. This is the last Home Office Bill before the imminent general election. I repeat: it will not have a conventional Committee stage at all. Neither the Minister nor I have the slightest idea of how much, if any, of it will get on to the statute book. For once in his life—at least in recent years—the Minister will have to do what he is told. Given that the final result of the Bill is above my pay grade and, I rather suspect, his, neither of us has the slightest idea whether it or any part of it will survive the wash-up. Doubtless, though, he has his suspicions about the fate of the retention of DNA provisions, which have been condemned by almost every speaker in your Lordships' House this evening, with the notable exception of two. My noble friend Lady Neville-Jones dealt with our attitude to these and I will not repeat what she said. Suffice it to note that both the Joint Committee on Human Rights and your Lordships' Constitutional Committee doubt whether Clauses 14 to 21 really are Human-Rights-Act-proof. Like the noble Lord, Lord Dholakia, I share that doubt.

It used to be said that there are lies, damned lies and statistics. Today, I am afraid we have lies, damned lies and Government pronouncements on Conservative policies. I was surprised by the Minister of all people falling into this trap by suggesting that our policy, which includes holding digitised samples in a sex case, would have prevented a rapist from being caught 12 years later. It would not. The right reverend Prelate the Bishop of Lincoln spoke of the presumption of guilt if your DNA is retained indefinitely. He is absolutely spot on. Such presumption will be likely if, for example, a foreign police force or Interpol interrogates the database.

On the point made by the noble Lord, Mackenzie of Framwellgate, what is possible is not always right or legal. The noble Lord, Lord Dear, elaborated on that point. We are entering into something of a legislative Wonderland with a rag-tag, pre-election Bill sweeping up the last gasps of a Home Office that for 13 years has been notoriously ineffective and at times staggeringly incompetent. I am grateful for the support of the noble and learned Lord, Lord Lloyd of Berwick, in saying that, in order to create something for the Lord Chancellor's Ministry of Justice to do, it was necessary to raid the Home Office for suitable subjects. That is no doubt why we have this slide from the criminal to the civil—an example of disjointed government.

Stepping into this Bill, I feel like Alice as she fell into the rabbit hole, having to take in an assortment of proposals from car-clamping to mobile phones in prisons, from domestic violence to the sale and supply of alcohol. I cannot quite remember whether it was the Mad Hatter or the March Hare who was endlessly late for an important date but this applies most pertinently to Clauses 42 to 44 on wheel-clamping. Moans about this have been around from the beginning of the Government's time in office. Wheel-clamping by unscrupulous firms rightly provokes great ire among motorists. While we recognise that clamping has a role to play in traffic management, we are pleased that the Government have finally decided to act on rogue clampers. I add my praises to those of the noble Baroness, Lady Meacher.

Like the noble Baroness, Lady Hamwee, we are pleased, too, that the Government have introduced new proposals to help victims of domestic violence. These so-called "Go" orders will allow the police to issue a domestic violence protection notice which could ban the alleged perpetrator from the neighbourhood for 48 hours and, if extended by a magistrate's court order, by up to four weeks. Noble Lords will note that my right honourable friend Theresa May has committed our party to working with others to do as much as we can for victims of domestic violence but we have worries about the operation of these new orders. The Minister will be aware that the charity Refuge has raised serious concerns. What provision will be made for those excluded from their homes? We have yet to

[LORD SKELMERSDALE]
hear what the Government are planning. Plainly they are not clear on this either, hence the sensible precaution of piloting these orders.

I regret that of less significance are the parenting orders in Clause 41. It is likely that these will apply to only a handful of families every year yet Ministers have trumpeted them as the new solution to anti-social behaviour. We need to take a thorough look at anti-social behaviour, its causes and its cures. After a decade of initiatives, the Government are doing no more than putting a plaster on a festering wound.

Clauses 34 to 39 extent the yet-to-be-enacted provisions of last year's Policing and Crime Act so that 14 year-olds may now receive injunctions for gang-related violence. My honourable friend James Brokenshire pointed out in another place that,

"the youth gang injunctions import a whole new concept—the concept of the civil courts having sanctions, including youth custody, which was previously reserved for the youth courts. That is intended to be tested not through legislation, but through a pilot".—[*Official Report*, Commons, 8/3/10; col. 117.]

That is another new idea, another pilot, but it misses the point.

I agree with those noble Lords who said that the police need to be freed up and given powers to deal immediately and effectively with the gang incidents which increasingly blight our towns and cities. That is why stop-and-search powers are, I regret, needed. However, I agree with my noble friend Lord Sheikh and the noble Lord, Lord Dholakia, that the reporting should be restricted to vital information. I very much regret that we have reached the point where one piece of such vital information is ethnicity—but that is, I regret, necessary. We have almost reached the point where a clip round the ear from a policeman should absolve the latter from prosecution for assault. Perhaps that would help instil into 14 to 18 year-olds the rules that the noble Lord, Lord Judd, and the noble Baroness, Lady Stern, spoke about.

We see the sticking plaster out again with the air gun and alcohol provisions, referred to by my noble friend Lord Shrewsbury. It will now be an offence to fail to take precautions to prevent a minor gaining access to air weapons. That is well and good, but what constitutes a reasonable precaution? The Bill is silent. It is also silent about the real problem—guns that fire live ammunition. The Government seem to have thrown their hands up at that; it will be a new Parliament and a new Government who deal with that scourge. Why, as my noble friend asked, do the Government not wait for the Violent Crime Reduction Act to bed down before deciding that it is not working satisfactorily? The old tag, piling Pelion on Ossa, springs to mind.

There is, too, the notable omission of anything to deal with knife crime, which we are told is much more prevalent. I suppose that the Minister will say that they have dealt with that. The Tackling Knives action plan channelled £7 million into 15 key areas. And what was the result? It did at least hold the numbers of 13 to 24 year olds admitted to hospital with violent assault injuries more or less steady; but outside these 15 areas, such admissions rose by 2.5 per cent. That was hardly a resounding success. We have been there, done that, and failed again. We cannot go on like that.

In Clause 55, there is a backtrack from the 24-hour drinking culture. Indeed, there never will be such a culture if the proposal to prevent the sale of alcohol between 3 am and 6 am is enacted. The much-hoped-for café culture has yet to arrive; but in the mean time those hoary old twins, easy access to alcohol, and crime and disorder, like Tweedledum and Tweedledee, have skipped menacingly along. The Budget last week talked about taxing cider by alcoholic strength, rather than by product description, and we on this side of the House can see the logic of that. But why tax only cider, not beer, of which I should have thought more is sold?

"We done right", as the noble Lord, Lord Brennan, said, regarding Clauses 47 to 54, on his campaign of many years for victims of terrorism to be compensated in the same way that they would be if the offence were to be committed in this country. Over many years, I have seen campaigns of your Lordships' House reach the statute book more often than not. This is an example of that.

We are coming to the end of a debate on what is likely to be the last government Bill to be put before this dying Parliament. It contains some clauses to which we do not object and some which we should have preferred the Government to have kept to themselves. It seems to me, however, that most of the proposals in the Bill are necessary only because the policies enacted by this Government over the past 13 years have not amounted to much and have not solved the problems that they were designed for. We will be left with that legacy of a broken Britain, even as the Labour Administration fade from office, like the Cheshire Cat leaving only his self-satisfied grin behind.

8.49 pm

Lord West of Spithead: My Lords, this has been a very interesting debate and your Lordships' thoughtful contributions have yet again demonstrated the impressive depth of knowledge in this House on a whole raft of important issues. I hope noble Lords will forgive me if in the time available I do not respond to all the points raised. I normally keep a note of how many questions I am asked, but I ran out of space on this occasion so I will not be able to cover them all.

I will start with the noble Baroness, Lady Neville-Jones, and a point which applies to a number of the issues here. Although people might dispute the British Crime Survey or have other disputes, there is no doubt whatever that there has been a dramatic reduction in crime since 1997. What is remarkable about that is that it was perceived wisdom up till then, and certainly from the war onwards, that crime would inexorably rise all the time. That was what everyone said it would do and there was no way of stopping that happening. Actually, we have stopped that happening, and that is an incredible success. Perhaps it is to do with some disjointed bits and pieces of legislation or all sorts of other things, but we have done it and it forms a backdrop to what we are talking about tonight.

The noble Baroness also touched on the business of mobile phones and the fact that they have not been allowed to be taken into prison for sometime. She is absolutely right about that, but it was not an offence to have one. The ways of getting phones in were quite

remarkable so we needed that offence on the statute book. It makes absolute sense. We have also put in hand a mass of things to try and stop parts of phones like SIM cards getting into prisons, looking for example at where they are kept and how they get into prisons. People have to sit on a special chair which checks whether they have inserted these items into any part of their body. We have ways of identifying when a phone transmits. We put a lot of work into the science and technology strategy to be able to pinpoint to a matter of feet where a phone is when someone uses it. We have done a great deal here, but it is absolutely right that we should make this a crime, and therefore I do not apologise for that at all. The noble Baroness also asked about the legislation to bring terrorism stop and search provisions into conformance with the ECHR. We are seeking to appeal the decision to the Grand Chamber of the European Court of Human Rights and we will consider our response in the light of the outcome of that appeal.

On stop and search, there was talk about why information could not just be radioed into control. The stop and search record is an important safeguard if we are really going to monitor things—a number of speakers touched on this. By trying to do this it has been found that it takes longer to transfer these data this way than mobile data or manual form. We have looked into it and we are trying to find ways of doing these things better. It is absolutely right that we try to continue to reduce bureaucracy. We have been trying to do that and we have a reasonably good track record, certainly over the last three years or so.

In reference to DNA and people voluntarily going to a police station and ending up on the database, a person has to be arrested for a recordable offence before DNA can be taken; if they go voluntarily it is not kept. Also on DNA, I turn to the timescale for guidance to chief officers. The guidance is being developed at the moment and we will seek to introduce it as soon as possible. Although chief constables will still be responsible for the final decision, they must act in accordance with the guidance. We believe their discretion would be very heavily circumscribed. It would be a very bold chief constable who ignored that specific guidance.

Control orders were touched on by a number of other speakers. I know people do not like control orders—I do not think anyone would contest that. Indeed, I have said a number of times on the Floor of the House that when I came into post I did not particularly like them, and I looked in great detail at whether we had to keep them. It has been said that we would look at and review these after the election, and I think the other side of the House would do the same. But they are in existence, and it is right that if the police arrest someone they should be able to search them, particularly if this person is almost by definition extremely dangerous. It is absolutely right therefore that that should be done.

There was a bit of talk about muddled thinking. The quote that I think the noble Baroness was looking for related to the fact that the timing in the Scottish model was based on no research whatever. That is absolutely correct. As I said, the Scottish police were not at all happy about it, as they stated quite clearly. I think it is much better to look at this matter with some sort of evidence, and we have done that.

The noble Baroness, Lady Hamwee, together with a number of other speakers, very kindly supported us on the provisions relating to domestic violence. She is absolutely right: this is a vile and appalling thing. It is something of which I was relatively unaware until I came into this post. I had not realised the immense scale of the violence and the huge damage that it does to so many people. It is quite horrifying, and therefore I am rather pleased that we are trying to move forward on it. Although we do not have details of exactly where the people who are moved out of their homes go, these provisions are based much more on the view that the people who have the violence done to them and their children should stay in the family home rather than the other way round. We will have to look at the detail but I think that we are approaching this issue in the right way.

There was also support for the provisions on compensation for attacks overseas. Although my noble friend Lord Brennan gave plaudits to a number of other people, he has done some remarkable work on this and we all thank him for it. It is definitely needed and I agree that perhaps we should see whether anything can be done retrospectively. However, one has to take things one step at a time.

The noble Baroness touched on the question of Clauses 47 to 54 being permissive. The noble Lord, Lord Dholakia, also referred to this and my noble friend Lord Brennan said that he thought it was pretty certain that we would implement this scheme. I think I can assure the House that we have every intention of establishing it, and it would be extraordinary to find that it did not move forward. However, I take the noble Baroness's point.

The noble and learned Lord, Lord Lloyd, and a number of other speakers mentioned injunctions against gang members under the age of 18. When one looks at the recent case at Victoria Station and at other cases, one cannot help thinking how much better it might have been had these injunctions been in place so that one could have stopped the gangs meeting for their fight. That is what the injunctions are aimed at and, had that been the case, we would not now have a dead child and a murder case. Our criminal system is often extremely good at finding people guilty once there is a body but I would prefer to stop there being a body in the first place. That is one difficulty with attacking issues in this way.

Again on control orders, as I said, it is important that we allow the police to search people. I think that the noble Baroness also felt that to be the case, so I thank her for that.

With regard to DNA, the noble Baroness said that we had been knocked back and she asked whether we were confident that that would not be the case with our new proposals. As I said in my opening speech, I am confident about that; I believe that they are compliant. Much of this is based on judgment, and our judgment is that we have placed this issue at the right level. I admit that we have biased the proposal towards victims of crime but I consider that to be important. People do not need to worry about being on the DNA database,

[LORD WEST OF SPITHEAD]
as that will not be on their record. No one really knows about it. If you are arrested, that is on your record and will become known during a CRB check, but the fact that you are on the DNA database absolutely will not. I do not believe that it is as huge an imposition as people might think, but I understand where people are coming from in that debate.

Clause 14 requires the police to delete the DNA of those who have been arrested in cases of mistaken identity. They have to do that. The right reverend Prelate the Bishop of Lincoln raised that matter and I hope that my response has satisfied him. He also touched on the over-representation of BMEs—black and South Asian people. A number of other speakers, including the noble Lords, Lord Sheikh and Lord Dholakia, touched on this. We are not at all complacent; it is a real problem. We must do more about it. We are trying to do something about it by developing tools to analyse the issue. However, it raises the point that when you need to take data for this analysis you inevitably have more bureaucracy. It is one of those balances. I have no easy answer. Under PSA 24 we have introduced targets for local criminal justice boards to analyse ethnic monitoring data but it is not good and it is not right. This imbalance should not exist and is very unsatisfactory. I was pleased that the right reverend Prelate thanked the Government for the work they have done on racial integration and care for the vulnerable, but it is an area in which we must do more.

My noble friend Lord Brennan gave huge plaudits for others but we understand how much he has done and thank him for that. The retrospective application that he spoke about is an issue I believe we need to look at. I was absolutely delighted when the noble Earl, Lord Shrewsbury, said he intended to talk only about matters that he knows about—I wish I could always say the same thing. Indeed that is what he did. He spoke for only two minutes which I found rather refreshing. To an extent I shared his point that people who have weapons and hold them correctly do normally understand the risks and dangers of them and I had some sympathy with what he was saying.

The noble Baroness, Lady Harris, talked about stop and search and again touched on the BME issue, pointing out what it is not in the Bill. It has been said by a number of people that the Bill is a hotchpotch, but if we had included some of these other things we would have had even more of a hotchpotch, although I would not have described it as that. You cannot have it both ways. The noble Lord, Lord Dholakia, referred to me taking my uniform off and getting searched. I was stopped and searched in Birdcage Walk. When the officers realised who I was they said rapidly they did not want to continue but I told them that they must. The matter went from a constable up to an assistant commissioner in the course of the 20 minutes that we were talking. I therefore know exactly what it is like but I still take the point on the BME issue. I was very impressed that when the noble Baroness was stopped she had a limousine; I have something that I refer to as my up rated roller-skates as a ministerial car.

The noble Baroness, Lady Meacher, spoke very eloquently about wheel clamping. We agree absolutely with her. It is something that we needed to get to grips with. It is easy to say it should have happened ages ago but it is sometimes quite difficult to find parliamentary time to get some things done quickly. I am very glad we are doing it now. It is awful. There was a particularly nasty and unpleasant case in Portsmouth, involving huge amounts of money and people who were very vulnerable. Clamping often involves old people who are visiting relatives. It is very unpleasant and I am pleased there is something in the Bill on this issue.

I was very pleased to have the support on the DNA issue of my noble friend Lord Mackenzie of Framwellgate. He has a great depth of knowledge—35 years or so—and I liked the way he spoke about DNA supporting justice by eliminating innocent people, which of course it does. It is very interesting that there have been a number of people on the sex offenders register who have volunteered to have their DNA on the database so that it quickly clears them when there is a nasty incident in their area. I thought that my noble friend spoke very convincingly and persuasively and I believe that the average man in the street thinks in that light as well.

My noble friend also talked about bureaucracy. As he said, a certain amount of paperwork is needed, but there is also a need to drive this down. I think that we all agree. I have some sympathy for his view of citizens who try to stop anti-social behaviour. I have had experience of incidents that were similar to the ones to which he referred. I stopped a young man who pulled out a knife and stuck it into the seat on the train. I had a bit of a confrontation with him and took the knife off him, but he then climbed off the train. It is quite tricky sometimes to know where one is placed, which is quite worrying, as my noble friend rightly says. It is difficult to judge how to handle the situation, particularly if you have your wife or someone with you when this is going on, and to judge how you will be handled as a result. I agree that this is something that we need to address.

The noble Lord, Lord Dear, touched on the wash-up. I have been here for only two and a half years, so I would be wary of condemning a procedure of this House or of the other place, because it is a procedure. Perhaps he is correct that it should be condemned. The Bill was introduced in the other place in November, so it has been running for some time, but I take his point about where we are now. A number of other speakers touched on that. The noble Lord seemed overall to support some of the other issues to which the Bill relates, but he is one of the people who does not feel that he can support the DNA element of the Bill. Some people say that they are willing to support storage for three years but not six years. Either you do not take DNA from people who have not been found guilty or you do, rather than arguing about keeping it for three years or six years. I find it quite difficult to see the logic of that.

My noble friend Lord Judd spoke eloquently about security. I particularly liked the fact that he thanked all those who often work 24 hours a day to protect the greatest human right that we all have: the right to life. He, as a couple of other speakers did, reminded me of the issue of the 42-day detention, for which I thank him. However, that issue allowed me to get an award

from the *Guinness Book of Records* for the largest defeat in the House of Lords since the hereditary Peers system was changed. I got something out of that and look on it, rather as I do my Blue Peter badge, as some sort of accolade.

In my opening speech, I talked about DNA, the JCHR report and the Constitution Committee, so I do not intend to go over that again. I made clear the position as I see it and it would not be appropriate to go through it again now.

The noble Lord, Lord Sheikh, talked about bureaucracy and the BME issue, on which I have touched already. He was supportive of the domestic violence order but was concerned about some of the details. DVPOs are not a substitute for prosecution. Criminal prosecutions should continue to be brought when there is sufficient evidence. However, as the police and the groups who work on this say, in all too many cases it is quite difficult to get such evidence. I believe that we should be able to proceed against offenders, but normally that is the preferred route.

The noble Baroness, Lady Stern, was, as usual, a stern critic of mine. I always look forward to her interjection in these debates and I will miss that after two and a half years. I will not go through all the points that she made, but she asked in particular about the status of young people who are subject to detention orders. The Policing and Crime Act 2009 sets out their status. It is correct that the position is different from that of young people who are detained under existing criminal legislation. This is appropriate, as the breach of a gang injunction is not a criminal offence, but I understand the noble Baroness's difficulty.

The noble Lord, Lord Dholakia, rightly said that perception is important, but that is to do not so much with our legislation as with the media, more than anything. I can think of certain papers, which I sometimes look at, that almost run an agenda. Perhaps it is not an agenda but it is rather sad. They focus on dreadful things that have happened because dreadful things do happen.

The noble Lord, Lord Skelmersdale, talked about a broken Britain. I do not accept that this is a broken Britain. I do a lot of work with cadet forces and I live in Hackney. It is still a marvellous country, which is why so many people want to be here. I am thinking about those people who say appalling and dreadful things about our country and want to destroy our way of life but, my goodness, as I have said before, when you try to get them out of this country to somewhere else, they stick like bloody limpets. No wonder, because it is a really nice country to be in. Anyway, perception is important and I am afraid that the perception is just beginning to match the reality, which is that there has been a reduction in crime. As I say, I do not believe that we are a broken society. That does not mean that there are not small pockets in this nation that are awful, that one feels desperately worried about and that we need to do something about. I just do not accept that it is all-pervasive around the whole country.

The noble Lord, Lord Dholakia, touched on ASBOs. Where they are applied correctly, they work. I know this just from my own travelling around. In places where they are applied correctly, they work and the local people like them. A couple of noble Lords raised the issue of a total DNA database. As I made clear at the start, that is not appropriate or practical and we could not do it.

On the new licensing rules, I do not believe that we have done a U-turn, as we always said that we would keep this under review and that we would monitor the impact of the Act. Having reviewed it, we found that the introduction of the new rules has not led to widespread problems. Crime and alcohol consumption are down overall, but alcohol-related violence has increased in the early hours of the morning and some communities have seen a rise in disorder at that sort of time. Our main conclusion is that people are using the freedoms but that the local authorities are not sufficiently using the powers to make sure that the Act is enforced properly. It is not the total failure that some people seem to believe it is.

The noble Lord, Lord Skelmersdale, gave a good overview of where he thought we stood. I do not wish to tell the noble Lord what his own party's policy is, but new Clause 1 tabled by Mr Brokenshire on Report in the other place would not allow the retention of DNA taken from a person who is cautioned. That is what I pointed out in the case I gave, where someone had been cautioned and that was when his DNA was taken, so that would not have happened. If that is not true, then I apologise unreservedly, but I understand that that is the proposal. The noble Lord was good enough to say that he thought that wheel clamping and domestic violence, barring some of the details of the provisions there, were valuable, as also is the compensation abroad. There are some good things in the Bill.

We have a very good record on gun violence. What is interesting is that we are discovering from intelligence now that criminals are finding it very hard to get hold of guns; indeed, we are finding that they only have one or two, which are passed around for a crime because there are so few of them. Therefore, we are being successful, but we need to keep that pressure on. In terms of knife crime, we have been more successful than the noble Lord would give us credit for. I do not want to quote figures, as clearly people do not much like figures, but there has been a considerable reduction in knife-related violence for all ages. The key one is a 33 per cent drop in knife-related homicides, from 81 to 54 cases, so we are achieving things in that area.

I have gone on long enough. Overall, I would only say that there are a number of important provisions in this Bill. A lot of them I have heard general support for: the compensation scheme for victims of terrorism and things like wheel clamping and domestic violence. There are other provisions where we are much further apart, and the DNA issue is one of the key ones there. Our position is clear—we believe our proposals on DNA are correct and strike the right balance, but I can understand where other people are coming from.

It is worth saying that one of the most widely welcomed aspects of our proposals is tucked away in Clause 14—namely, our proposal to destroy all biological samples within six months of their being taken, which is more than most countries do. That is important because the keeping of a biological sample is a real

[Lord West of Spithead]
worry, when one looks at what can be done now in the high-tech world of biochemistry and so on. I remind noble Lords that if we do not get this into the wash-up, it is unlikely that the proposal to destroy those samples could survive.

I hope we can continue to work constructively on the Bill. I do not really understand the wash-up process either and so I wait with bated breath until next week. The measures we have introduced will build on our successes over the past 12 years. People might say it has been disjointed but, overall, we have, for the first time ever, driven down crime, and that is a huge success. The Crime and Security Bill will make our streets safer, protect some of the vulnerable and bring justice to victims of crime. Far from being out of steam with no clear focus, we have a very clear focus and other people have muddled thinking.

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

House adjourned at 9.16 pm.

Grand Committee

Monday, 29 March 2010.

3.30 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall): My Lords, it has been agreed that should any of the Questions for Short Debate not run for their allotted hour this afternoon, the Committee will adjourn during pleasure until the end of the allotted hour. Therefore, each of the Questions for Short Debate will start at half past the hour.

If there is a Division in the House, the Committee will adjourn for 10 minutes and, if necessary, time can be added on to the time for the Question for Short Debate so interrupted.

Gulf War: Veterans

Question for Short Debate

3.31 pm

Tabled By ***Lord Morris of Manchester***

To ask Her Majesty's Government what further consideration the Ministry of Defence has given to the implications for British veterans of the 1990-91 Gulf War of the findings of the congressionally mandated and funded United States Research Advisory Committee on Gulf War illnesses on the toxic effects of exposure to organophosphates and of the nerve agent pre-treatment sets (NAPS) tablets given to British troops deployed to the conflict.

Lord Morris of Manchester: My Lords, we are met to debate the importance of the landmark findings of US congressionally-mandated research on Gulf War illnesses for many thousands of British veterans of the conflict now in broken health, many of them terminally ill, who were prepared to lay down their lives in the most toxic war in western military history, and the bereaved families of those who did so.

I have interests to declare, not pecuniary, as honorary parliamentary adviser to the Royal British Legion, the authentic voice of the ex-service community; as vice-president of the War Widows' Association; and, uniquely for a non-American, as a co-opted member of the United States Congressional Committee of Inquiry into Gulf War Illnesses, whose deliberations led to federal funding of the Research Advisory Committee whose findings we are here to debate.

I want also at the outset today to thank most warmly the noble Lords who will follow me in this debate. I know that they share my deep sadness at the passing of Lady Park of Monmouth, who spoke in almost all our debates on Gulf War illnesses before today. We have lost a valiant and much loved friend.

The House knows of my regard for my noble friend Lord Tunnicliffe and for my noble friend Lady Taylor, who would be here but for a ministerial commitment abroad. She was described by veterans as the first Defence Minster ever to make an unreserved apology for unacceptable treatment of a Gulf War veteran after I had put it to her on 10 December 2007:

"Is it not shaming that wrangling with veterans over pensions still drags on, 17 years after the conflict, and that it has now engulfed so grievously Terry Walker, who had his pension cut from 100 per cent to 40 per cent shortly before he died, leaving his two orphaned children in poverty? How can any apology ameliorate the depth of distress caused by the handling of his case?".

My noble friend's response was immediate and forthright. She said,

"no apology can make amends for what happened. Great distress was caused to the family"—[*Official Report*, 10/12/07; cols. 5-6.]—

and she went on to speak of interim help the family could be given, including payment for Terry's funeral expenses.

Yet the anguish and often anger of Gulf War veterans trying to cope with medically unexplained illnesses was not assuaged. A great many of them backed the remonstration of Flight Lieutenant John Nicol, whose bravery under torture in Iraq in 1991 was seen on TV screens across the world when he protested,

"we weren't the enemy but that's exactly how Gulf veterans have been made to feel by the MoD".

Samantha Thompson, the widow of a Gulf War veteran was no less pointed in stating that she and her seven year-old daughter would have been,

"far better treated had her husband been in the United States and not the British Armed Forces",

and she was strongly backed by Brigadier Ian Townsend, the then secretary-general of the Royal British Legion, who told the Legion's annual conference in 2004 that,

"14 years on Gulf veterans with medically unexplained illnesses and the dependants of those who have died are still cruelly locked in a long hard battle with the MoD".

Just as British troops now serving with such valour in Afghanistan knew before they were deployed of the hazards that they would face, so too their predecessors in the Gulf War were aware of dangers facing them in 1990-91. They were the first British troops since 1918 to confront an enemy known not only to possess but to have used chemical weapons, as Saddam Hussein had done both in Iran and against many thousands of his own citizens in the massacre at Halabja.

What our troops deploying to the Gulf did not know was that many thousands of them would be exposed to sarin from the fall-out when Hussein's chemical weapons storage plant at Khamisiyah in southern Iraq was totally destroyed by US bombing in March 1991. Nor did they know the health consequences of the pyridostigmine bromide used in the NAPS tablets they were given as an antidote to biological agents; or of the heavy use of organophosphates in spraying their tents to prevent fly-borne diseases.

Professor Malcolm Cooper, president of the National Gulf Veterans and Families Association, set out in a recent paper hazards faced by our troops deploying to the first Gulf conflict. Time restriction makes it impossible for me to refer to all of them in this debate, but I will copy the paper to my noble friend for a reply in writing to points not addressed this afternoon.

Nor is there time now to quote all the ministerial replies to questions tabled by noble Lords about the MoD's refusal to consider the implications of the RAC's report for British veterans, even its damning

[Lord Morris of Manchester]
findings on the real, serious and potentially deadly effects of neurotoxic exposures. What all the replies amounted to was a claim that in November 2008, the then US Secretary of Veterans Affairs referred the RAC's report to the US Institute of Medicine for peer review; that the IoM would be publishing the outcome of the review in February 2010; and a repetitive insistence that the MoD could not consider any possible implications of the RAC's findings until then.

This was the constant refrain despite my having quoted to Defence Ministers a letter sent to me last June by Roberta Wedge, the IoM's senior programs officer, stating that the Secretary of Veterans Affairs had not referred the RAC's report to the IoM. She has since made this utterly clear also in evidence on the record to the US Congressional Sub-committee on Oversights and Investigations, chaired by Congressman Harry Mitchell, with whom I have corresponded directly.

Roberta Wedge's letter also stated categorically that the IoM had not been, and would not be, peer-reviewing the RAC's report; and that it was grossly misleading to contradict this and to claim that the IoM would be publishing the outcome in February 2010.

What in fact happened in November 2008 was that, while the then Secretary of Veterans Affairs in the Bush Administration announced that he was referring the RAC's report to the IoM for peer review, he did no such thing. In any case, it would have been both absurd and constitutionally highly questionable for the IoM to review a report from the congressionally-mandated committee described on high medical authority as,

"packed with eminent medical scientists, all leaders in their fields, and based on 1,840 scientific communications, the vast majority of which had appeared in peer-reviewed journals, most of the remainder having been included because of the high repute and eminence of their authors".

What is hard for veterans to forgive now is the repetition of errors that a single telephone call could have corrected. Of course, February 2010 has come and gone, and time has falsified the replies given to noble Lords over the 18 months since the RAC's report was published. This is why there is such determination now, all across the ex-service community, to prevent further delay in addressing the implications of the RAC's report for British veterans. Thus, it would be helpful if my noble friend could make a start today by providing the MoD's figures for the number of British veterans exposed to organophosphates and to Sarin from the fall-out at Khamisiyah; how many were given NAPS tablets, and how many in each case have still undiagnosed illnesses.

In sharp contrast to how British veterans fared in striving to have the RAC's findings considered, the new US Administration have taken major initiatives to start giving them effect. General Eric Shinseki, the new Secretary of Veterans Affairs, ordered an urgent review of the files of thousands of Gulf War veterans to see whether their claims for disability pensions were wrongfully decided. He published a statement entitled *Comprehensive Approach to Delivering Care and Benefits for Veterans* and spoke of,

"challenging all the assumptions made for 20 years".

More recently, he announced recognition by the Department of Veterans Affairs of presumptive illnesses and said:

"This will be the beginning of historic change for how the VA considers Gulf War veterans' illnesses".

In an authoritative message from Washington yesterday, I was told that while the IoM will release a comment on 9 April, it will not review the RAC's report, and Secretary Shinseki has made clear that he has not been and is not waiting for any comments from the IoM. Rather, he has carefully studied the RAC's findings and has acted. So must we.

None of us here, least of all my noble friend, wants to see the afflicted and bereaved of the first Gulf conflict made to suffer the strain and hurtful and demeaning indignities of still further delay in reaching closure on their anxious concerns. Of all the duties that fall to parliamentarians, their priority of priorities must be to act justly to those who, alone in this country, contract with the state to lay down their lives in its service. There was no delay in the response of our troops to the call of duty in 1991, nor must there be any further delay now, in this 20th year since the conflict, in discharging in full our debt of honour to them.

No one has done more to honour that debt than James Binns, who chaired the RAC with such humanity, excelling integrity and unswerving dedication. He deserves well of service and ex-service communities everywhere and stands high in my gallery of heroes and heroines, among them my noble and learned friend Lord Lloyd, my noble and gallant friend Lord Craig, and the late Daphne Park.

3.43 pm

Lord Craig of Radley: My Lords, I congratulate the noble Lord, Lord Morris, on obtaining this debate, and I apologise for my momentary absence at the beginning.

The noble Lord, Lord Morris, has been a fine champion of the Armed Forces and a real force for good in their interest. He and I co-chaired a well attended meeting in the Robing Room in March last year, when we were privileged to hear at first hand from the chairman and members of the Research Advisory Committee set up by the United States Congress to examine scientifically the issues of Gulf War illness and the present and future health of affected Gulf War veterans.

Under the inspired leadership of Colonel Binns, this committee of experts established beyond peradventure why so many US and UK service personnel who fought in Gulf War I returned with unexplainable illnesses. That work did much to shed a clear, bright, penetrating light on these issues. When I spoke at that gathering, I had hoped to note and welcome the presence of representatives from the Ministry of Defence, but it seemed that invitations had regrettably arrived too late for any Minister. However, it should still have been possible for one or more officials to attend on Ministers' behalf. That would have helped underline Prime Minister Gordon Brown's personal and explicit promise to treat fairly those who had been prepared to put their lives on the line, as directed by their Government, and who have suffered as a result.

We should never forget that we are concerned about the care and fair treatment of individuals whose illnesses were triggered almost 20 years ago. At various times in the course of this long period attempts have been concentrated on reaching conclusions and closure. It is in no one's interest that it still drags on, causing difficulties on all sides, confrontation and disillusionment rather than co-operation and satisfaction.

In spite of efforts over the years by this Government going back to when they first entered office in 1997, the unfortunate impression has been left with Gulf veterans and their families that while the Government may be fulsome with their praises for veterans, they are unwilling or unable to give greater practical help to those who suffer. The Government's claim is that all who have a recognised incapacity or illness are compensated, but this does not seem to reach over satisfactorily to the many individuals who are clearly unwell but do not have a classified condition of illness.

The fine work of the Research Advisory Committee opens a new door on these poorly defined conditions, so it was a bitter blow when the Government's reaction to the RAC report was to inform this House that, although they had examined the report following its publication on 17 November 2008 because the United States Department of Veterans Affairs had sent the report to the highly respected Institute of Medicine (IoM) for review, Her Majesty's Government would await the outcome of this process before reaching any conclusions on the report. The noble Baroness, Lady Taylor, wrote a letter to me dated 20 May 2009. A copy of the letter is also in the Library. It states:

"The IOM are committed to updating their 2006 report by reviewing newly published research and taking into account the Report submitted by James Binns as chair of the Research Advisory Council".

But has any such reference taken place? Indeed, the noble Lord, Lord Morris, has dealt with that point. The information that I, too, had from Colonel Binns months ago was that no such reference would take place. Has there been any further statement or action on the RAC report from the Government that I may have missed? It seems extraordinary that it takes a further Question for debate in your Lordships' House to get further comment or commitment from the Government even after their deadline of February 2010 had passed. Surely, this is not the sort of treatment that ill veterans should bear.

I finish by quoting from the executive conclusions of the Research Advisory Committee's report. It is a very heavy and thick report, so I have reproduced it in my notes. It states:

"The extensive body of scientific research now available consistently indicates that Gulf War Illness is real, that it is the result of neuro-toxic exposures during Gulf War deployment, and that few veterans have recovered or substantially improved with time. Addressing the persistent health problems affecting Gulf War veterans remains the obligation of government, and all who are indebted to the military men and women who risked their lives in Iraq, Kuwait and Saudi Arabia 17 [now 19] years ago. This obligation is made more urgent by the length of time that Veterans have waited for answers and assistance".

Does that not say it all? I hope that we hear some good news from the Minister when he replies.

3.48 pm

Lord Lloyd of Berwick: My Lords, I put my name down to speak in this debate because Gulf War illness is a subject in which I have had a close interest for a long time. Having heard what the noble Lord, Lord Morris of Manchester, and the noble and gallant Lord, Lord Craig, have said, there is very little, if anything, that I can usefully add. I agree with everything that they have said. Like them, I regard the report of the Research Advisory Committee in the United States as providing the answer for which the Government have been looking for so long—namely, the causes of Gulf War illness of 19 years ago.

That report establishes that there were two causes: NAPS tablets and organophosphates. As for NAPS tablets, they were taken by our forces at the insistence of the Government. As for organophosphates, that was what their tents were sprayed with—again, organophosphates purchased by the Government. These are the facts established by the Research Advisory Committee report, and in my view it is high time that the Government accepted those facts and acted accordingly.

3.50 pm

Lord Tyler: My Lords, I, too, pay tribute to the noble Lord, Lord Morris of Manchester, who has, in his characteristically indomitable way, managed to make sure that this House and, indeed, the wider public have been constantly reminded of the way in which the nation effectively let down those who served on our behalf in the first Gulf War. I pay tribute to him; like him, I have been a member for some years of the Royal British Legion Gulf War group. I pay tribute to the work that the RBL, too, has done over the years to make sure that the veterans, particularly those who have suffered ill health, have been kept constantly in the mind of the Government and of the nation.

Unlike the noble and gallant Lord, Lord Craig, I cannot claim any military expertise, and unlike the noble and learned Lord, Lord Lloyd, I cannot claim any legal expertise. I am the layman—the man of the street—in this issue, but my long-term commitment stems from the fact that I was brought to realise how dangerous organophosphates were many years ago, when I was first elected to the Commons, by sheep farmers in my constituency in Cornwall and more widely throughout Wales and the south-west of England.

It became apparent soon after the invasion in the Gulf War, in 1991-92, that organophosphates had played a role in the problems that subsequently resulted in ill health for our troops. Soon after that war, I questioned the Minister for the Armed Forces, Mr Nicholas Soames—obviously, this was under the previous Government—on what use had been made of OPs. I was told it was minimal. A few Iraqi prisoners of war had been sprayed to delouse them, but that was it. It subsequently became apparent that the Minister had been misinformed. The Ministry of Defence had to admit—and the Minister had to apologise to the House, to me and to other Members of Parliament—that OPs had been very widely used among the Armed Forces who had gone to the Gulf. Indeed, their equipment had been extensively sprayed with OPs obtained

[LORD TYLER]
locally, without proper protection either for those operatives given that responsibility or for the troops themselves.

As has been made apparent this afternoon, and has so often been made apparent, the cocktail of vaccination against the various diseases and infections that were anticipated in the Gulf, with the use of OPs for that extensive delousing operation, has undoubtedly caused a huge problem among our serving personnel. It is estimated that up to a third of those who were deployed into the active area of engagement during those hostilities have suffered from ill health of various types since then. The cocktail of pyridostigmine, the so-called NAPS tablets and the exposure to organophosphates—themselves extremely dangerous chemicals whose origin is in the chemical warfare attempts of the Second World War—clearly has had a very damaging effect on the health of a number of individuals.

That came out strongly in the investigation that was undertaken by an independent tribunal, chaired by the noble and learned Lord, Lord Lloyd of Berwick, which has been the only effective, comprehensive analysis of what went wrong to have taken place in this country. No proper, independent inquiry has covered the whole field, as has happened in the United States.

What is apparent not just from the speech of the noble Lord, Lord Morris, today but from successive exchanges in the House is that we have lagged behind dangerously in the work undertaken both by the US Government and on their behalf. Sadly, we have also not seen an effective response to the 2008 Binns report, which has already been referred to in the debate. Had we done so by now, surely we would have been able to see that the causal connection between the NAPS tablets and OPs was at the root of a considerable number of those suffering with very serious ill health. The latest study, from the American Society of Toxicology, which reported just a few weeks ago, has also been given remarkably little attention in this country, not least by the Government, so far as I can see. It shows indisputably that sick veterans are suffering from organic brain disease as a result of this particular concoction. It is also significant that troops from other nations who were deployed at the same time and did not undergo this programme of vaccinations combined with OPs have not had anything like our levels of ill health thereafter.

The critical issue is that while we understand perfectly well that Ministers are anxious not to replicate the work of US organisations, let alone the government-sponsored research activity that has taken place over the past 15 years, surely that puts a responsibility on the United Kingdom Government to take full advantage of that research. It is the worst of all worlds to say that we will not undertake the research because someone else is doing it, and then not take advantage of the results. That, sadly, has been the long-term complaint of our troops who have been made chronically ill by, as it were, the worst friendly fire incident of modern times. It is not that no research has been done, and not that the Government have attempted to duplicate it, but that they simply have not taken advantage of it. It is also true, sadly, that monitoring the ill health of those who have been the most badly affected has not been as substantial as we would like. Only deaths are recorded, which ignores all the morbidity problems that so many face on a daily basis as a result of their service for their country during the Gulf War.

We still await a reaction—perhaps we will get one from the Minister today—to the question of why we have not seen a full response to the United States Research Advisory Committee report. It is not good enough simply to say, "We are still waiting for the Institute of Medicine review". It has been made only too apparent that that is like waiting for Godot. I believe that the constant experience of those who have been badly affected is that their Government—the Ministry of Defence in particular but more generally as well—have not been as assiduous as the Government of the United States in respect of their ill health. For a whole period, too much emphasis was placed on trying to dispel the idea that there is just one Gulf War syndrome when we all know that a number of specific illnesses seemed to derive from this unfortunate episode.

Nobody is asking for huge sums in compensation at this stage. What we are asking for is for the Government to be as upfront as we can and should expect them to be in taking full advantage of the United States research, making it available to those who are the worst affected, and in the process trying to restore trust among these veterans. Surely it is the prime responsibility of any Government that those who serve the nation in the frontline should expect every consideration and respect. The Government must obtain at least the trust of those who in this particular case have been so badly affected through their service to this country.

3.59 pm

Lord Luke: My Lords, I congratulate the noble Lord, Lord Morris, on securing a debate on this difficult subject, on which we all acknowledge he is an expert.

As we all know, Gulf War syndrome refers to the complex of symptoms which particularly affects the veterans of the 1990-91 Gulf War at significantly excess rates. These symptoms are not explained by established medical diagnoses or standard laboratory tests, but typically include a combination of: memory and concentration problems, persistent headache, unexplained fatigue, widespread pain, and can also include chronic digestive difficulties, respiratory symptoms and skin rashes.

Around 6,000 British service personnel, out of some 55,000 mobilised for the conflict, are still reported to be suffering from the symptoms of Gulf War syndrome. In 1998—as we heard from the noble Lord, Lord Morris, and the noble and gallant Lord, Lord Craig—the US Congress mandated the appointment of a public advisory panel of independent scientists and veterans to advise on federal research studies and programs to address the health consequences of the Gulf War. The panel was directed to evaluate the effectiveness of US government research in addressing central questions on the nature, causes and treatments of Gulf War-related illnesses. This committee published a report in November 2008, which we have heard about this afternoon. The report provides a comprehensive review of information and evidence on topics reviewed by the committee

since its previous, interim report published in 2004, as well as additional information on topics considered in the 2004 report.

In brief, the committee found that veterans who took pyridostigmine bromide—which was used by our soldiers and our allies as a protective measure against possible nerve gas exposure—for longer periods of time, have higher illness rates than veterans who took less PB. The report establishes that the widespread use of multiple types of pesticides and insect repellents—often, as we have heard, containing organophosphates—in the Gulf War theatre supports a consistent and compelling link of being associated with Gulf War illness; that veterans of the Gulf War have developed amyotrophic lateral sclerosis at twice the rate of non-deployed veterans of the same era; and that veterans who were downwind from nerve agent releases resulting from weapons demolitions at Khamisiyah, Iraq, in March 1991 have been found to have twice the rate of death due to brain cancer as other veterans in theatre.

Although studies of Gulf War veterans do not provide consistent evidence that exposure to oil fire smoke is a risk factor for Gulf War illness for most veterans, questions remain about effects for personnel located in close proximity to the burning wells for an extended period. Limited findings from epidemiologic studies indicate that higher-level exposures to smoke from the Kuwaiti oil-well fires may be associated with increased rates of asthma in Gulf War veterans, and that an association with other Gulf War symptoms cannot be ruled out.

These are extremely serious, often sadly fatal, side effects our soldiers and veterans are still suffering from and will have to contend with for as long as they live. They come as a direct result of defending our country, we are for ever indebted to them; therefore it is the least we can do to investigate these illnesses fully and make the lives of these brave people as comfortable as we possibly can.

I have some questions that I would like to put to the Minister. Will he inform the Grand Committee what, if any, purposeful research the Government have commissioned since the publication of the American Research Advisory Committee on Gulf War Veterans' Illnesses report in November 2008? It was published 18 months ago and surely now requires some proper answers. Can he also say whether Her Majesty's Government have any immediate plans to conduct research into the health of veteran's children, and does he agree with me that there is still considerable scope for research into that particular issue?

What consultations have the Government had with their US counterparts relating to the findings of their latest report? Will the Minister inform the Committee what consultations he has had with his ministerial colleagues relating to the findings of the latest report, and what assessment he has made of the cost of compensating those who are suffering illnesses symptomatic of Gulf War syndrome? What assessment has the Minister made of the possible health implications of prolonged exposure to Kuwaiti oil-well fires during the Gulf conflict? Finally, will he give the Committee the Government's assessment of the number of British Gulf war veterans who are said to be suffering from Gulf War syndrome? It is vital that assessments of claims made by veterans of the first Gulf War who have subsequently become ill should continue to be made on a case-by-case basis; and that where a causal link to service can be established, they should then be compensated.

We on these Benches urge the Government to make a Statement without further delay, detailing the action that they will take in the light of the congressional report, since British veterans of the first Gulf War were exposed to the same agents that have been implicated in the US, and many have become ill. I look forward to the Minister's response.

4.06 pm

Lord Tunnicliffe: My Lords, I, too, thank the noble Lord, Lord Morris, for maintaining the Government's alertness to this issue. He has raised it on every possible occasion. He certainly maintains the pressure—particularly on me, since it always seems to come up on my watch. That is a good process, for which we thank him. We thank him also for the tremendous work that he has done on behalf of veterans and the wider disabled community, and for his roles in the Royal British Legion, the Inter-Parliamentary Gulf War Group and as vice-president of the War Widows' Association. I thank other noble Lords—in one case, a noble and gallant Lord—who have taken an interest in this. We, too, miss the noble Baroness, Lady Park.

Many questions have been raised, particularly by the noble Lord, Lord Morris, who was good enough to say that he will give me a series of written questions so that I can complete the spectrum of answers. I shall touch on some of the questions now, and start with the sarin incident which the noble Lord mentioned in his speech. In general, we do not think that it is appropriate to comment on individual cases. However, as he knows, in the case of Terry Walker, the Government have acknowledged the distress that Mr Walker's next of kin have suffered on the issue of his war pension, and have apologised for it. The Government have taken appropriate corrective action.

The noble and gallant Lord, Lord Craig, said something that he has said a number of times before—that he craves closure. The implication is that we have somehow failed to provide appropriate closure. I and the Government cannot see that. Any Government must look at how we treat veterans who suffer as a result of serving their country. This Government—and, I believe, all Governments—have sought to make sure that proper schemes are in place to compensate individuals who suffer as a result of their exposure on behalf of the nation.

It is not about classifications but about compensating for specific disablement. That is the thread that runs through our system, and that is the thread on which the Gulf War veterans are being considered. It is difficult to see what more the Government can do than meet the standards of that scheme. We believe that we have met those standards. We have acknowledged our poor handling early on—at least two Ministers have apologised to the House for our early mishandling—but we go back to the essence of the scheme. The

[Lord Tunnicliffe]
essence of the scheme is not about its title or its classification; it is about the impact that it has on the individuals.

Another question concerned the way in which the Institute of Medicine's report will involve the RAC report. My noble friend Lady Taylor answered a Question on that subject on 27 July. I cannot do better than cite her reply because it clearly states the Government's position. She stated:

"The RAC report represents a body of work whose key findings are inconsistent with numerous previous studies on this subject by the US IOM. It is for this reason that the Department of Veterans Affairs asked the IOM committee to engage with the RAC and to consider the same scientific literature that the RAC used to come to its conclusions.

The IOM committee is expected to report in February 2010".

We expect the report on 8 April. She continued:

"The IOM is an independent scientific body, and the degree to which it will consider the findings of the RAC report remains uncertain at this stage. The British Government's position is that we will not comment on the RAC report until the IOM issues its own report".—[*Official Report*, 21/7/09; col. *WA 337*.]

The noble and learned Lord, Lord Lloyd, said that he had nothing new to add; I thank him for that. He said that the RAC provides the answers. That is not, and consistently has not been, the Government's view. The noble Lord, Lord Tyler, said that, as a layman, it is self-evident. As a layman, I have read at least the executive summary, and it did not seem at all self-evident to me. It is not the Government's view that it is self-evident that there is something in the RAC report that should cause us to take a different view. We believe that our view is sound.

The noble Lord, Lord Tyler, touched on a number of points. He wanted us to hold a public inquiry. We have said that we have not ruled out the possibility of looking at the matter again. However, in the present circumstances, it is research, not any form of public inquiry, that will best allow us to understand and help the veterans. I think that it was the noble Lord who touched on the issue of brain damage. We announced that, based on advice received from the Medical Research Council, we would not pursue neuroimaging studies. However, it was made clear that the MoD would not close off the possibility of looking at that again once ongoing US studies have reported.

On organophosphates, in 1996, the MoD carried out a thorough investigation into the use of OP pesticides in the 1990-91 Gulf conflict. The report found that, in the main, OP pesticides were properly used by personnel who had been carefully trained in the safe use of such products, including the wearing of personal protective equipment. On the vaccine interaction research programme, much has been made of the fact that it is not the one vaccine or the other, it is the interaction of the two. We carried out research into that. The vaccine interaction research was an in-depth examination of the potential adverse effects of the combination of medical countermeasures administered to troops in the 1990-91 Gulf conflict. The overwhelming evidence from the programme was that the combination of vaccine and tablets offered to UK forces at the time would not have had an adverse health effect.

Lord Tyler: I am grateful to the Minister. On that specific point, will he confirm that, as a result of the experience in 1991, there was no repeat of the administration of that cocktail combination when it came to preparing our troops for the invasion of Iraq in 2003?

Lord Tunnicliffe: I can assure the noble Lord that we did learn from the events of 1991, one lesson being the importance of much better record-keeping. I can confirm that Gulf War syndrome inasmuch as it exists—that is, the higher propensity which we acknowledge of the occurrence of a certain range of symptoms—did not recur in subsequent engagements.

There has been a general statement that we have done little research. The MRC has undertaken a lot of research, about £9 million-worth. I was asked if we have done any since the publication of the RAC. No, we have not, because we reached a position where we felt that the only useful ongoing research was that which related to rehabilitation. The suggestion that we have not been concerned to learn from what has been happening in this community is simply not true. The medical assessment programme based at St Thomas's Hospital was open to all service men and women who took part in the Gulf War, and some 3,000 veterans were seen by the MAP as a result. We have been very sensitive to the importance of learning from that and ensuring that any symptoms were tracked.

I was also asked about the number of past cases. In 2007 the Government conducted an exercise looking at some 1,375 claimants of a war pension or a gratuity. The total number of veterans in receipt of disability benefit that is not necessarily anything to do with Gulf War syndrome per se is some 4,600.

The Government's position on Gulf War veterans has been stated on many occasions. Please be assured that we do not ignore our veterans, but I regret that I am unable to comment on the report from the Institute of Medicine because it has not yet been released. However, I understand that work has been concluded and the findings will be published on 8 April. MoD officials will consider any findings carefully. One of the first things that the Government initiated on coming to power was to commission new research into Gulf War-related illness. As I said, we have to date spent some £9 million on that research. This research has arrived at the same conclusions as the independent Medical Research Council report in 2003; namely, that there is no evidence from the UK or international research that a single syndrome is related specifically to service in the Gulf. The anticipated US report is expected to summarise and report on peer-reviewed scientific literature published since the institute's last report in 2006. The Research Advisory Committee report on Gulf veterans' illnesses, which was published in 2008, falls within this time-frame.

Noble Lords will be aware that the Vaccines Interaction Research Programme was an in-depth examination of the potential adverse effects of the combination of medical countermeasures administered to troops during the 1991 Gulf conflict. The overwhelming evidence from the programme was that the combination of vaccines and tablets offered to UK forces would not have had an adverse health effect. I know that exposure

to organophosphate pesticides and the use of nerve agent pre-treatment tablets during the Gulf conflict is of concern to some veterans, and the MoD continues to monitor ongoing research in these areas. However, the overwhelming evidence from scientific literature shows that there were no adverse effects following the administration of NAPS tablets or any evidence of acute exposure to OP pesticides during the deployment of UK troops in the Gulf in 1991.

I turn to the events in Khamisiyah. The accidental release of nerve agents provides clear evidence of why it was so important that the Ministry of Defence provided UK service personnel with NAPS tablets prior to the start of the operation in the Gulf. In January 2005, the Ministry of Defence announced the publication of a paper entitled *Review of Modelling of the Demolitions at Khamisiyah in March 1991 and Implications for UK Personnel.* The purpose of the paper was to evaluate work undertaken by the US Department of Defense which modelled the distribution of nerve agents released by the US demolition of Iraqi chemical weapons at the end of the Gulf conflict and discussed its implications for UK personnel. Approximately 9,000 UK service personnel may have been within the area of possible exposure, with the closest some 130 miles from Khamisiyah. However, the level of nerve agent would have been too low to have any biologically detectable effect.

We are always willing to consider credible new evidence. The overwhelming consensus of the scientific and medical community is that there are too many symptoms for the ill health reported by veterans to be characterised as a syndrome according to the strict medical definition. However, we acknowledge that that the phrase "Gulf War syndrome" has become widespread. We reviewed our position and accepted it as an umbrella term.

Lord Morris of Manchester: It is good of my noble friend to give way, and I am most grateful to all noble Lords who have spoken in the debate. Before the Minister concludes, I must again make it utterly clear that the senior programme officer of the Institute of Medicine in the United States has stated categorically that the RAC's report was not referred to the IoM for peer review, that it has not peer-reviewed the report and that it will not be doing so. There will be no report on 8 April. There will be a statement from the IoM on 9 April, and I cited Secretary Shinseki to the effect that he has not awaited the outcome of the IoM's comments to take his decisions. I hope that noble Lords will look at the statements I made this afternoon because it is important that we should not misrepresent American organisations of high standing. Secretary Shinseki has made important statements about the future and his change of policy. They are easily checkable by telephone and must be heeded in any steps taken here as a result of this debate.

Lord Tunnicliffe: I thank my noble friend for his intervention. As I said, we will always be sensitive to any information that comes forward. A report will be published on, we believe, 8 April. We will then see the extent to which it comments on the RAC and to which that improves our understanding. If it improves our understanding, we will act accordingly.

Veterans experiencing ill health as a result of their service should rightly expect our support, and we remain committed to delivering it. Veterans have access to a range of support services, including the medical assessment programme that I mentioned, which has been used by 3,500 veterans. Data from that programme continue to support the results of previous research. Gulf veterans seen as part of the programme complain of symptoms similar to those complained of by the general veteran population. No unusual pattern of disease emerged, nor is there any evidence of unusual neurological or other disorders among Gulf veterans. The same high standards of medical care and treatment under the National Health Service is therefore appropriate for them, as it is for other veterans.

One area where we are looking specifically at the needs of Gulf War veterans is rehabilitation. We have initiated specific research into rehabilitation therapies for those with persistent symptoms. This work is being conducted by Cardiff University and is expected to conclude in 2012. There is no doubt that very real progress has been made since 1997. I am pleased to say that our depth of knowledge about ill health reported by Gulf veterans is now much greater and our delivery is good.

I touch on one or two of the comments that the noble Lord, Lord Luke, made. He felt that the RAC report was compelling. Much professional opinion does not regard it as quite so compelling, but we will have time to reflect on it in the light of whatever is published. He said that we are talking about fatalities. That is clearly a very important issue. Each year—the document is dated 31 March, though I am not sure when it is published, but shortly thereafter—we look at all the people who have served in the Gulf. We look at a sample of service personnel and a matched sample of the general population. The fatality rate among the two populations of service personnel—those who went to the Gulf and those who did not—is slightly less for those who have served in the Gulf. However, there is not a major statistical difference. The figures are substantially the same. The rate is, of course, significantly less than for the general population because service personnel are generally healthier. This study has not as yet led to any statistical conclusions on fatalities. We will repeat the study every year so that we can assure society that we believe that this information continues to be valid and true.

The noble Lord spoke about costs. It is difficult to see how the Government would incur more costs because the essence of our reaction is to ask how much disablement has occurred. If we find a different relationship in this regard, that may of course change things, and we never close our minds to this; but the essence of our reaction is not what the label is but the extent to which the citizen cannot manage in their day-to-day life. That is what our system is based on.

I hope that noble Lords will forgive me for speaking for so long. This is a very important issue and I assure noble Lords that we take it seriously. I thank noble Lords for their concerns and their representations on these matters, which affect people to whom we owe a great deal. I assure noble Lords and the people concerned that the Government remain committed to helping

[LORD TUNNICLIFFE]
them. We await with anticipation the report of the Institute of Medicine. I assure all noble Lords that we will consider its findings carefully.

The Deputy Chairman of Committees: The Committee will adjourn until 4.30 pm.

4.27 pm

Sitting suspended.

Crown Dependencies and British Overseas Territories

Question for Short Debate

4.30 pm

Tabled By ***Lord Wallace of Saltaire***

To ask Her Majesty's Government what rules and conventions govern whether the extent clauses of Acts of Parliament implementing treaties which the United Kingdom has signed extend to particular Crown Dependencies and British overseas territories.

The Deputy Chairman of Committees (Lord Colwyn): My Lords, should this debate not run for an hour, the Committee will adjourn during pleasure so that the next debate can start at half-past five. Should there be a Division, we will of course adjourn for 10 minutes, and time can be added on to the time for the Question for Short Debate so interrupted.

Lord Wallace of Saltaire: My Lords, in many ways this is a debate about a minor issue, but one which is not at all unimportant. I have on a number of occasions raised the question of the extent clause—usually on the fourth, fifth or even sixth day in Committee, at about a quarter to 10 at night when everyone else wanted to go back—and, not surprisingly, have not got very good answers. There is very often obscure wording about an obscure and not very central relationship.

When I raised this some months ago on the borders Bill, the Minister responsible told us a great deal about the problems of maintaining a secure border between the United Kingdom and Northern Ireland, but he seemed unable to cope with my questions about how we made sure that the maritime border between the Channel Islands and the continent—a fairly narrow border—could somehow be managed and did not pose the same sort of problem for us. Clause 323 of the Marine and Coastal Access Bill was also extremely unclear to us. It proposed that some parts of the legislation should apply to the Bailiwick of Jersey but not to Guernsey, and to the South Atlantic overseas territories but not to the Caribbean overseas territories, let alone the British Indian Ocean Territory.

On the principle that Parliament should not pass legislation unless we understand what it means and, even more strongly, that Ministers and officials should not attempt to get us to pass legislation unless they can explain to us what it means, I thought that now was the time to raise this short debate. Perhaps I may quote someone to whom I spoke about the Committee stage of the Marine and Coastal Access Bill. I was told:

"It is the settled view of officials within Defra that they do not wish to address this issue".

I understand what they meant by that; it was a very minor issue and there were a huge number of other issues. However, that is part of the problem with the Crown Dependencies and the overseas territories. They are not a central issue for anyone except the relevant bits of the Ministry of Justice. However, as globalisation and international legislation expands, the Treasury, Defra and a whole range of other departments across Whitehall increasingly find themselves dealing with issues that overlap into the Crown Dependencies and the overseas territories.

The relationship between these territories and the United Kingdom is, as we know, relatively loosely defined. I see that the fifth edition of Bennion's *Statutory Interpretation* clearly states:

"As the sovereign legislature of that part of Her Majesty's dominions, the United Kingdom … has the same undoubted power to legislate for the Channel Islands"—

and the Isle of Man—

"as it has for any other part of those dominions … 'in modern times the legislation for these islands has generally been by act of parliament'".

Actually, legislation for those islands is usually by Order in Council, and what we get in the extent clause is that:

"Her Majesty may by Order in Council",

agree to extend. Certainly, from talking to people in the Crown Dependencies, one learns that that is a matter of consultation. Again, we are entitled to know what consultation means in that process, who takes the actual decision at the end of the consultation and whether it is left to the choice of the Crown Dependencies and overseas territories authorities or whether, in the last resort, Her Majesty's Government have the final say.

I have talked to people in the Channel Islands on many occasions, and I am conscious that many of them wish the relationship to be left unchanged, but I recall the first piece of evidence given to the committee in another place—whose report will, sadly, not be published until tomorrow morning—as stating that the sheer weight of international legislation from the European Union, the Financial Action Task Force, the OECD and a range of other global and multilateral negotiations and agencies is such that it is impossible for the relationship between the Crown Dependencies, the United Kingdom and the EU to remain as it has. That is even more the case for some overseas territories whose administrative capacities are even more limited than those of the Crown Dependencies.

The multilateral agreements that Her Majesty's Government sign for the overseas territories and Crown Dependencies cover such issues as nuclear materials, drug smuggling, people smuggling, environmental treaties—an increasingly important and complex area—economic sanctions, financial regulation and fraud and the International Criminal Court. They cover a whole host of matters. That is likely to increase further as negotiations proceed.

I have just spent the weekend in Brussels, at a transatlantic conference at which the head of the World Bank assured us that global financial regulation covering tax evasion, tax avoidance and a whole range of other issues was moving rapidly and will continue to move further. Many of our overseas territories and Crown Dependencies are now significant offshore financial centres. Those matters matter for them. They have negotiated with Her Majesty's Government that their international identity shall be respected and that Her Majesty's Government will on occasion provide representation for them, recognising that their interests are not always identical to those of the United Kingdom. That opens up another set of uncertainties, including how the United Kingdom provides such representation in highly complex and technical multilateral negotiations: how it manages to ensure that the dependencies and territories are regularly informed of what is being said and how correct it is for Her Majesty's Government to represent interests which are not its own in those circumstances. There is of course the minor question of who pays for the cost of that representation, which is another issue that I do not want to raise further at this point.

Tiny Crown Dependencies and overseas territories are now operating in a global system of regulation—not all of them with the capability to represent their interests, to take part in negotiations or to ensure the implementation of obligations to which Her Majesty's Government have signed up. They raise a number of questions that this Parliament ought from time to time to consider.

It is, after all, the stated belief of Her Majesty's Government and the Department for Communities and Local Government that the minimum efficient level for a local authority in Britain is somewhere between 150,000 and 250,000. Crown Dependencies and overseas territories are all way below that level. In effect, they are like county councils running international activities on a very large scale. Her Majesty's Government are responsible for the good governance of the Crown Dependencies and the overseas territories. Her Majesty's Government sign international treaties and conventions on climate change, on financial crime, and on immensely complex international cases. I recall a recent case in Jersey where a well known drug smuggler who had been released from prison in the Netherlands was tried in Jersey for a drugs scam which involved several different countries and is now in prison in the United Kingdom. Jersey is now necessarily dealing with a whole range of different countries even in one case. I am conscious that a great deal of important litigation is under way in the courts in the Crown Dependencies.

When we have consulted the overseas territories and the Crown Dependencies and have sorted out how far, in signing international conventions, Her Majesty's Government are signing on behalf of all the territories under Her Majesty's dominions and are therefore responsible for implementing them throughout Her Majesty's territories and dominions, how do we ensure that the Crown Dependencies and overseas territories implement them? How do we check on the quality of that implementation?

4.41 pm

Lord Goodhart: My Lords, the constitutional standing of the Crown Dependencies and the overseas territories has always seemed to me to be very mysterious. That is largely due to the fact that the Executive and legislature in the United Kingdom are not separated in the way that happens in many other countries, such as the USA or France. The Prime Minister and his Ministers are the chief officers both of the Executive, when exercising royal prerogative, and of Parliament, when it is legislating. The boundary between the exercise of the royal prerogative and the exercise of the power to legislate is extremely obscure.

Let us start by considering the Channel Islands and the Isle of Man. They have never been part of the United Kingdom, but they have come under the control of the sovereign of England or, since 1707, the sovereign of Great Britain or the United Kingdom. One would expect, therefore, that the royal prerogative could be exercised over the Channel Islands and the Isle of Man, but not parliamentary powers. That is not how it works out. That is to some extent recognised by the fact that in many cases where an Act of Parliament has been extended to the Channel Islands or the Isle of Man, that has been done by creating a power in the Act to extend it to the Channel Islands or the Isle of Man by Order in Council.

My noble friend Lord Wallace of Saltaire referred to Orders in Council. In constitutional theory, the Order in Council is an exercise of the royal prerogative, not of the parliamentary power of legislation, but we frequently find that an Order in Council is subject to scrutiny by Parliament—using the negative or affirmative procedure, but definitely involving scrutiny. A good example of that is Section 224 of the Extradition Act 2003. Sometimes, the Act operates directly without an Order in Council—for example, Section 152(6) of the Criminal Justice and Immigration Act 2008.

Are there any rules and conventions which cover the extension of treaties to the Channel Islands or the Isle of Man under an Act of Parliament implementing those treaties? If so, what are they? Does the same principle apply to overseas territories, such as Gibraltar, the Falkland Islands, Bermuda or the Cayman Islands? What was the process, for example, by which Gibraltar became part of the United Kingdom for the purposes of the European Union, but the Channel Islands and the Isle of Man did not? The British Overseas Territories are dealt with differently from the Crown Dependencies. Very rarely are the provisions on the face of an Act of Parliament directly extended to overseas territories, but Acts of Parliament do sometimes do that and still have an important role.

Whenever independence, for example, is to be conferred on a colony, there is an Act of Parliament to do this. If we look back 75 years to 1935, the immensely important Government of India Act of that year was passed and put India some way forward on the road to independence. Acts of Parliament traditionally had, in some respects, provisions to deal with what was happening in the colonies or what used to be the empire.

If Bermuda sought independence, as from time to time it has suggested that it might, presumably there would have to be a Bermuda Act. But, again, what is

[LORD GOODHART]
the procedure for legislating against the use of Grand Cayman for tax avoidance? What is the power, for example, that enabled the Government to remove from office politicians in the Turks and Caicos Islands on the grounds of corruption? What is the constitutional position of the British Overseas Territories? Does Parliament have more power, or less or the same, as it does in relation to the Channel Islands and the Isle of Man? How far can Parliament legislate for these territories, or is that something which is normally left to the FCO or some other part of the Executive?

My noble friend Lord Wallace of Saltaire has raised an interesting and quite important subject. The answers to many of the questions that he and I have raised is notably obscure, and I think we need a better explanation of what the rules are in these matters and what is the reasoning behind them.

4.47 pm

Lord Thomas of Gresford: I am grateful to my noble friend Lord Wallace of Saltaire for raising this issue. He asked an important question which forms the theme of what I want to say, and that is: what does "consultation" mean when it comes to the extension of treaties? My noble friend Lord Goodhart has said that the relationship between the United Kingdom and its overseas territories and Crown Dependencies is somewhat mysterious. That, I think, is because it has grown up in an ad hoc way as a result of the various compromises, fudges and deals that have been done between the domestic legislatures of the various territories and the Crown and Governments over many years.

They are very diverse. The Cayman Islands are wealthy with a gross domestic product of nearly $50,000 per capita, which is certainly higher than it is in this country. They are a major banking centre with more than a trillion US dollars invested in assets, which makes the islands by some measurements the fifth largest centre in the world. They also have 80 per cent of the headquarters for hedge funds. All of this is based in an overseas territory which has been so badly governed that the legislature has been sacked and, for a period of two years, it is being run directly by the Government of this country. That is a complete paradox. Bermuda, referred to by my noble friend Lord Goodhart, has had its own legislature since 1605, so it is a very different sort of place. I mention also Pitcairn, which is inhabited by fewer than 50 people. These are certainly diverse territories.

How are these treaties to be extended to them? So far as the British Overseas Territories are concerned, the Foreign and Commonwealth Office has issued guidelines on what sort of consultation should take place. In asking why the overseas territories should be consulted, the answer is that it is a matter of good policy and administration, and that the views of those in the overseas territories may be required to formulate the United Kingdom negotiating position on a treaty.

The next question concerning the guidelines is: when? They state that,

"consultation ... should occur during the course of negotiation of the treaty, if the subject of the treaty is relevant to the OTs",

so that the Governments,

"can be made aware of the issues and can express any views or concerns".

The guidelines emphasise that overseas territory Governments,

"must be given adequate time to examine a treaty and its implications, with advice as necessary from the UK … It follows that hurried or token consultation is not acceptable, nor is the assumption that an OT is content to accept, and is in a position to fulfil particular treaty obligations because it has not replied to any consultation".

That is a very valuable guide. How it is applied is another matter. I have two examples here. Protocol 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, was ratified in the United Kingdom in 2003 and has been extended to virtually all of our overseas territories, apart from the British Virgin Islands, the Cayman Islands and Pitcairn. Why they should have no ratification or extension to them is a complete mystery. That is the purpose of my noble friend Lord Wallace's Question: why to some but not to others?

The United Nations Convention against Corruption was applied in this country by ratification in 2006 and, as the Minister knows, was the subject of much discussion when we considered the Bribery Bill. It has been extended only to the British Virgin Islands. Curiously, it has not been extended to the Cayman Islands, which is where corruption has been established and proved and the Government sacked. It has not been extended to any of the other overseas territories. We are looking for some principle that would ensure that the Foreign and Commonwealth Office guidelines have been followed in relation to all the overseas territories.

I turn to the Crown Dependencies. A fortnight ago, I was fortunate to be able to give some refreshment to the Chief Minister and Chief Executive of the state of Guernsey and to get some grasp of their problems. As I understand it, a framework of international identity was adopted in 2006 between the Crown Dependencies and the United Kingdom. That signifies that the Crown Dependencies have their own international identity and that the United Kingdom will not act internationally on behalf of Guernsey without prior consultation. The United Kingdom recognises the conflict that can exist because the Crown Dependencies have a different status in the European Union from the United Kingdom as a whole. Obviously, there could be a conflict of interest there.

As my noble friend Lord Goodhart pointed out, the United Kingdom Government have entrusted the Crown Dependencies to negotiate and conclude their own international agreements relating to taxation. A matter of great concern to them is effective consultation. I have been told about three examples. On 17 July 2009, there was informal consultation about the United Kingdom's intended ratification of the United Nations Convention on the Suppression of Nuclear Terrorism. The request was made on 17 July, and they wanted a response by 23 July, with the explanation that the Home Office team needed to confirm the position in advance of the September 2009 annual treaty event. Here was a serious matter, and a week was given for consultation. On 26 February 2009, the Ministry of Justice sought a response by the next day in respect of work that was being undertaken by Defra on an EU

regulation on substances that deplete the ozone layer. How on earth were the States of Guernsey Government expected to respond overnight on the issue of depleting the ozone layer? It beggars belief.

The draft Iran (United Nations Sanctions) Order 2009, which was to be made on 8 April 2009, was forwarded by the Ministry of Justice on 1 April 2009, accompanied by the comment that the opportunity to feed into the order had now passed. The Government of Guernsey were told about it a week before it was to be made, but told that they could not do anything about it because the opportunity to make any representations to the Government had passed. This brings me to the critical point that I would like the Minister to deal with. I have referred to the guidelines that the Foreign and Commonwealth Office has published on extension of treaties to overseas territories. Has the Ministry of Justice, which for some reason has been asked to look after the Crown Dependencies, issued similar guidelines? Why is there a difference?

When I was asked to meet the Chief Minister of Guernsey, I said: "Why me? I have never been there in my life". Then, to my surprise, this turned out to be a Ministry of Justice responsibility: I had not known that. That cost me a tea in the House of Lords restaurant—which was fine, because I learnt why I was being approached. I hope that I have been able to convey some of the concerns that were expressed to me, then and afterwards, about the lack of consultation. There is no point in having this framework in place if it is simply ignored. I await with interest what the Minister will say about that.

4.57 pm

Lord Henley: My Lords, the noble Lord, Lord Thomas, will not have to wait long before we hear what the noble Lord, Lord Bach, says in answer to the questions put by him and other noble Lords, partly because I endorse much of what the noble Lord said. I, too, offered refreshment to the Chief Minister and Chief Executive of the States of Guernsey when they were over here seeing Ministers, my honourable friend Dominic Grieve and noble Lords including myself. I did not know why they were approaching me until they explained that responsibilities had been transferred from the Home Office to the Ministry of Justice. We thought that some of the responsibilities had not even been with the Home Office, but had been with the Foreign Office—

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Lord Chancellor.

Lord Henley: Is that right; it was with the Lord Chancellor? Anyway, they are now with the Ministry of Justice, which is why we are dealing with them today.

My first point deals with extent clauses. I agree with the noble Lord, Lord Wallace of Saltaire, that one does not get very good answers about such clauses because they often come towards the end of a Bill, which, as the noble Lord reminded us, comes fairly late at night on the last day. I remind the noble Lord, Lord Wallace, that we will have an opportunity to discuss many of these matters, certainly in relation to treaties, when we reach Clauses 24 to 28 of the Constitutional Reform and Governance Bill, which is scheduled for a Committee stage in due course. No doubt the Minister will be able to assist us on its timing when he responds, because that deals with treaties, and it should not be beyond the wit of man to table amendments to tease out the questions that the noble Lord wishes to ask.

As has become clear from the various questions, the relationship between the United Kingdom and all these different territories is pretty loosely defined and rather varied. We have the British Overseas Territories, which are mainly relatively small former colonies, and we then have the various Crown Dependencies, which again have rather different origins. The Channel Islands presumably spring from the Monarch's role as Duke of Normandy. The Isle of Man is again somewhat odd. There used to be a figure called the Lord of Man. I believe that Lord Derby in the past was Lord of Man and somehow that was transferred to the Crown, but again the noble Lord, with all he has behind him, will be able to explain the relationship between the Isle of Man and the United Kingdom and how it varies from that of the Channel Islands.

We then have Gibraltar which, as the noble Lord, Lord Wallace, pointed out, is now in the EU, as neither the Isle of Man nor the Channel Islands, in their three different states, is. On top of that, within the European area, we have the sovereign base areas in Cyprus, which again presumably have some other relationship, although I do not know how that comes in.

The territories are all varied in their origin, size and populations. As the noble Lord, Lord Thomas, pointed out, we have some as small as Pitcairn, with a population of barely 50; the British Antarctic Territory, which I imagine has no permanent population at all; and then some with populations of 70,000 or 80,000 or more which have had self-governing Assemblies of some sort or another, such as the one in Bermuda since 1604. They are varied in many different ways, and I rather welcome the diversity. I suspect that the Liberal Democrats do not like the untidiness that this seems to represent, but I would suggest that we should leave these arrangements in place as long as we can be fairly sure that there is a degree of good governance and a means of ensuring—such as those in the Cayman Islands—that things are run properly when the arrangements go amiss.

I was going to say a little more about the States of Guernsey because, as I said, I was also consulted by them and received a similar briefing to the one that the noble Lord received. It was right of him to underline those problems of consultation in which they were given such a short time to respond. I hope the noble Lord will give an assurance that in future they will have more time and ensure that the consultation is fair and proper.

I think that that deals with all the points that I wanted to raise, and I very much look forward to hearing from the Minister who in the department has specific responsibility for some of these issues—and Guernsey is certainly one of them. Perhaps he can assure us that the next necessary consultation will take place in exactly the right manner.

5.03 pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): First, I congratulate the noble Lord, Lord Wallace of Saltaire, on securing this debate. Parliamentary time is at a bit of a premium at the moment—I am not sure why—but he has done extremely well in getting this debate going. I know from talking to him and reading what he has written that he has had a real interest over many years in Crown Dependencies and overseas territories. I thank him on behalf of the House for raising this today, and I also thank other noble Lords, of course, for their interesting and informative contributions.

I, too, entertained the Chief Minister of Guernsey, whom I am glad to say I know very well. I am delighted for both the noble Lords, Lord Henley and Lord Thomas of Gresford, that his visit took place and that he had conversations with them. Otherwise, both noble Lords would have been shocked, when this debate was scheduled on the Order Paper, to find out that they were expected to speak for their respective parties.

Lord Goodhart: I am grateful to the noble Lord for giving way. I feel extremely aggrieved that I was not invited to tea.

Lord Thomas of Gresford: Perhaps I may add to that. The Chief Minister and chief executive had had so many teas that they were unable to eat anything.

Lord Bach: Perhaps I can tell the noble Lord why. Not only did I have a cup of tea in the House with the Chief Minister, he was also invited to the parliamentary all-party annual football dinner on the first night that he was in London. I was glad to go along with him: he is a keen football fan and enjoyed it very much.

The noble Lord, Lord Henley, is right to say that I have responsibility, under the Secretary of State and Lord Chancellor, for this part of the department's duties. The Committee will know that the Ministry of Justice is responsible for relations with Crown Dependencies, and that Her Majesty's Foreign and Commonwealth Office is responsible for overseas territories. I respond today on behalf of both departments.

The UK is responsible for the international relations and defence of the Crown Dependencies. As has been said, they are not sovereign states. We are responsible for their international relations, and ultimately for their performance of international obligations. They are not part of the United Kingdom and are not represented at Westminster. They are self-governing: each has its own democratically elected Parliament, its own machinery of government and its own justice system. Their legislatures make their own domestic legislation, and Acts of the UK Parliament do not automatically apply to them.

While the constitutional position is different, the overseas territories are also separate jurisdictions, which constitutionally do not form part of the metropolitan United Kingdom, unlike the situation across the Channel. The residents of most territories are served by their own local legislatures, which were established under their respective constitutional arrangements. It is a long-standing convention that UK legislation is not normally extended to Crown Dependencies without their consent. In circumstances where it might be considered appropriate or desirable for UK legislation to extend to the dependencies, the usual practice is to consult them on the Bill and seek their views on whether and how provision should be made for it to extend to them. The overseas territories are not normally consulted on whether a general territorial expansion provision should be included in the Bill—the decision is taken by the UK Government—but it is the practice to consult them before such a provision is used to extend an Act to them.

Where we intend to extend the Bill to the territories, there would usually be prior consultation with them. It is recognised that each Crown Dependency and each overseas territory may have particular reasons for wanting or not wanting UK legislation to extend to it. For example, depending on the subject matter and the circumstances of the dependency or territory, including its own domestic legislative framework and constitutional responsibilities, it may decide that it would be preferable to enact its own similar legislation, instead of having the UK enactment extended to it. I hope that this goes some way towards explaining why any piece of UK Parliament legislation may not extend or permit extension to any or all of the territories and dependencies.

I move on to the question of international agreements. Being legally non-sovereign, the Crown Dependencies and overseas territories do not have international personality, and so cannot enter agreements of their own accord with sovereign jurisdictions. However, the UK can and does enter into such international agreements on their behalf; and where the UK ratifies a treaty or agreement, often it can also extend its ratification to include one or more of the dependencies or territories.

Where this occurs, we, the UK, retain responsibility in international law for all their international obligations. In general, when the UK is considering ratifying a treaty or convention, the Crown Dependencies and the overseas territories are consulted about whether they wish the UK's ratification to be extended to them. As and when the UK ratifies the treaty or convention, it will do so on behalf of the United Kingdom of Great Britain and Northern Ireland and any of the Crown Dependencies or overseas territories that wish the treaty to apply to them.

However, it is not always possible to include the Crown Dependencies or the overseas territories in the instrument of ratification, even though they may wish that treaty or convention to apply to their jurisdiction. Generally, this will be because they do not yet have the necessary legislation or other measures in force to enable them to comply with the obligations under the treaty. Rather than require them to work to the UK's ratification schedule, which may not be practicable for them or for us, the United Kingdom will sometimes extend its ratification to include them at a later date, once they have the necessary legislation or other arrangements in place.

The noble Lord, Lord Wallace of Saltaire, will know better than I that many, if not most, treaties are silent on territorial application these days. Only the European conventions and some others have territorial

application provisions. Whether extension is to happen at the same time as the UK's ratification or later, I assure noble Lords that there will be no extension unless and until the UK Government are satisfied that the dependency or territory concerned has all the necessary law or structures in place to meet the obligations of the agreement.

The UK is clearly supportive of the dependencies' and territories' understandable desire to promote their identity and reputation on the international stage, and the extension of international agreements to them is obviously an important aspect of that. Having said that, it is recognised that a particular dependency or territory may have good reason for not wishing to have an international agreement extended to it at a particular point, depending on factors such as the subject matter of the agreement, the domestic legal framework in the dependency or territory and the wider context. There may be some situations where we in the UK have a stronger interest in seeing an agreement extended to the dependencies or territories. In these circumstances, we would seek to follow the established process of constructive engagement with the dependency or territory with a view to achieving this.

The noble Lord, Lord Wallace, invited me to comment on the position where there may be a difference of opinion. If the UK and a Crown Dependency have a different position, we—that is, HMG—reflect that with the international partner. We invite the Crown Dependency to represent its own view to that international partner. For example, that happened between Guernsey and Iceland a few months ago.

We believe that, on balance, the arrangements that I have outlined continue to work well to the mutual benefit of the UK and the Crown Dependencies and overseas territories. As the noble Lord, Lord Wallace, said in his opening remarks, it is true that, just like us, the dependencies and territories operate in a fast-moving, ever-changing globalised economy. That relationship must evolve to reflect those changes.

Therefore, the UK sometimes gives the Crown Dependencies and overseas territories a measure of independence in their international engagement by the process noble Lords will know as "entrustment". It is increasingly the case that dependencies and territories may, in some circumstances, run their own negotiations with other states under the entrustment, and so the ultimate control, of the UK. Under entrustment, Crown Dependencies and overseas territories may negotiate and conclude agreements with certain sovereign states, but only with the terms and conditions of a letter of entrustment issued to their Government under the signature of the appropriate UK Minister which, where appropriate, includes a requirement that the text of the agreement is submitted to the relevant Whitehall department for approval. This process has been used widely to enable territories and dependencies to conclude tax information exchange agreements and some other related agreements. We are looking at ways in which the scope of entrustment may be widened to dependencies.

The systems of government in the Crown Dependencies and the overseas territories may be somewhat different from those in the UK, but one size certainly does not always fit all. We believe that the dependencies and territories have an appropriate degree of flexibility to allow them to decide what will and will not work in their unique situations. The overseas territories are very different from each other. I emphasise that the UK Government keep a close eye on which treaties are excepted and when it would be desirable for others to be extended.

Before I finish, I need to deal with some questions. The noble Lord, Lord Wallace, asked how we make sure that territories and dependencies comply and about the quality of implementation. Any UK legislation extended to the Crown Dependencies is registered by the islands' authorities. That ensures that the provisions have been applied to the jurisdiction beyond any reasonable doubt. It also serves as a formal notification to the island communities that the legislation now applies there and reinforces its application. Before any international instrument can be extended to any of the Crown Dependencies, we must be satisfied that the island concerned already has the necessary frameworks in place to perform the obligations that will be extended. Making that judgment is likely to involve scrutiny of their legislation to ensure that it will support extension of the international instrument in question and that they fulfil their reporting obligations under any international instrument to which they are a party.

Can we intervene to ensure that overseas territories meet their international obligations? We maintain close contact with territory governments to ensure just that. Where it appears that a territory Government may be breaching international obligations, we would take up the matter with that Government to encourage them to take remedial action to comply. If that does not happen, we may, where appropriate, legislate for the territory by Orders in Council to ensure compliance. That is one of the issues about which the noble Lord was concerned. That would be a last resort, where the overseas territory would not or could not act to remedy the position itself. We work with the overseas territories to ensure full implementation of existing conventions applicable to them.

Lord Wallace of Saltaire: I apologise for interrupting, but what happens if the overseas territory lacks the capacity to implement the obligation? I am thinking of the huge issue of marine conservation for which the overseas territories—mostly islands—have large responsibilities. I happened to be listening to an American admiral a few days ago talking about the huge problem of enforcement on the oceans. Very few of our overseas territories begin to have capacity to enforce the obligations that we are taking on in these international conventions for marine conservation. How do Her Majesty's Government cope with that sort of issue?

Lord Bach: I hope that I will have some detailed advice on that in a moment, but I understand that we do not extend international treaties that we enter into to the overseas territory unless we are sure that it can play its part in implementing the treaty. That is exactly why we do not extend all treaties to all territories—for the very reason the noble Lord gave, they do not all have the capacity.

[LORD BACH]

I am conscious that I have spoken for much longer than I should have, but I think that we are still within the allotted time. I shall try to answer the questions that the noble Lord, Lord Wallace, asked me arising from his tea and briefing with the Chief Minister. I acknowledge that from time to time there has been a problem with late consultation. It has largely been caused by departments discovering only at a late stage that a task on which they are working may have implications for the Crown Dependencies. By the time they approach us at the Ministry of Justice, there is sometimes very little time left for the islands to respond. However, I make clear that this is by no means always the case. There are some very good stories of officials in government departments being very keenly aware of the need to take the Crown Dependencies' interests into account. We accept, however, that there is still work to be done in this field. We are developing documents which, among other things, set out the responsibilities of government departments towards the Crown Dependencies. One of the examples that the noble Lord gave the Committee related to sanctions orders and Iran. Sanctions orders are rather exceptional. The UK must implement UN sanctions resolutions as soon as possible in respect of the entire territory of the UK, which includes for these purposes the Crown Dependencies and overseas territories. Therefore, it is not always possible to offer as much time for consultation as we would wish to give on other draft orders.

I hope that there is one message that we may take away from this short debate—that those of us who look after the UK's relationship with the Crown Dependencies and overseas territories take our responsibilities and international obligations seriously. I am confident that the constitutional relationship with the dependencies and territories, which is not always easy to describe but which works pretty well, has evolved and will continue to evolve in a way which safeguards our interests and those of the Crown Dependencies and overseas territories.

The Deputy Chairman of Committees (Lord Colwyn): My Lords, the Committee will adjourn until 5.30 pm.

5.22 pm

Sitting suspended.

Armenia

Question for Short Debate

5.30 pm

Tabled By ***Baroness Cox***

To ask Her Majesty's Government whether they will reconsider their position with regard to the recognition as genocide of the events in Armenia from 1915 to 1917.

Baroness Cox: My Lords, I begin by declaring an interest as chairman of the British-Armenian All-Party Parliamentary Group and as a recipient of various non-financial awards during 69 visits to Armenia and Karabakh. I am grateful to all noble Lords contributing to this debate, which is timely for several reasons. First, the Swedish Parliament and the US Congress Foreign Affairs Committee have recently recognised the Armenian genocide, which was already acknowledged by France, Italy, Poland, Greece, Cyprus, Belgium, Slovakia, the Netherlands, the Holy See, Russia, Canada, Uruguay, Argentina, Lebanon and, I am happy to say, the National Assembly for Wales. Moreover, the Swedish Parliament also recognised the genocide by Turkey of the Assyrian Christian and Greek peoples.

Secondly, last October a significant report was published: *Was there an Armenian Genocide? Geoffrey Robertson QC's opinion with reference to Foreign & Commonwealth Office documents which show how British Ministers, Parliament and people have been misled*. Thirdly, this year marks the 95th anniversary, and recognition is long overdue. Each unrecognised genocide can encourage subsequent genocides, which is infamously illustrated by Hitler's reference to the Armenian genocide before he began the Holocaust in Poland:

"I have sent my Death's Head units to the East with the order to kill without mercy men, women and children of the Polish race or language. Only in such a way will we win the lebensraum that we need. Who, after all, speaks today of the annihilation of the Armenians?".

Whenever initiatives are taken to encourage recognition of the Armenian genocide, the Turkish Government respond in a way described in a FCO briefing to Geoff Hoon in June 2006:

"Turkey is neuralgic and defensive about the charge of genocide despite the fact that the events occurred at the time of the Ottoman Empire as opposed to modern day Turkey. This defensiveness has meant that Turkey has historically stifled debate at home and devoted considerable diplomatic effort to dissuading any further recognition".

The price of telling the truth ranges from political and economic sanctions abroad, such as withdrawal of ambassadors, to punishment at home varying from imprisonment to the ultimate sacrifice of murder, paid by the courageous journalist Hrant Dink.

However, refusal to acknowledge the truth prevents any healing for the Armenian people or genuine reconciliation between Armenia and Turkey. It would be healing for the Turkish people themselves for their Government to stop the systematic distortion of Turkish history. Recently, a very courageous Turkish journalist, Ahmet Altan, and a distinguished Turkish historian, Taner Akcam, have restated passionate opposition to genocide denial in Turkey. We hope they will not suffer as a result.

The British Government's position perpetuates a dishonest refusal to acknowledge a historical truth. Geoffrey Robertson QC's concluding paragraph claims:

"HMG's real and only policy has been to evade truthful answers to questions about the Armenian genocide, because the truth would discomfort the Turkish government. It can be predicted that any future question on the subject will be met with the same meaningless formula about 'insufficiently unequivocal evidence', disguising the simple fact that HMG will not now come to terms with an issue on which it was once so volubly certain, namely that the Armenian massacres were a 'crime against humanity' which should never be forgiven or forgotten. Times change, but as other civilised nations recognise, the universal crimes of genocide and torture have no statute of limitations".

I will briefly address the historical reality. Winston Churchill's account is compelling:

"In 1915 the Turkish government began and ruthlessly carried out the infamous general massacre and deportation of Armenians in Asia Minor ... whole districts were blotted out in one administrative holocaust ... there is no reasonable doubt that this crime was planned and executed for political reasons".

The then US Ambassador Henry Morgenthau's personal account is devastating:

"The Central Government now announced its intention of gathering the two million or more Armenians living in the several sections of the empire and transporting them to this desolate and inhospitable region"—

the Syrian desert—

"it really represented a new method of massacre. When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race; they understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact.

All through the spring and summer of 1915 the deportations took place. Scarcely a single Armenian .... was exempted from the order … Before the caravans were started, it became the regular practice to separate the young men from the families, tie them together in groups of four, lead them to the outskirts, and shoot them. Public hangings without trial—the only offense being that the victims were Armenians—were taking place constantly".

The soldiers,

"showed a particular desire to annihilate the educated and the influential ... I was constantly receiving reports",

of Armenian men marched to a secluded valley where,

"a mob of Turkish peasants fell upon them with clubs, hammers, axes, scythes, spades and saws".

A guard of soldiers,

"accompanied each convoy ... From thousands of Armenian cities and villages these despairing caravans now set forth; they filled all the roads leading southward ... When the caravans first started, the individuals bore some resemblance to human beings; in a few hours, however, the dust of the road plastered their faces and clothes, the mud caked their lower members, and the slowly advancing mobs, frequently bent with fatigue and crazed by the brutality of their 'protectors', resembled some new and strange animal species. Yet for the better part of six months, from April to October 1915, practically all the highways in Asia Minor were crowded with these unearthly bands of exiles. They could be seen winding in and out of every valley and climbing up the sides of nearly every mountain—moving on and on ... every road led to death. Village after village and town after town was evacuated of its Armenian population ... about 1,200,000 people started on this journey to the Syrian desert.

Death in its several forms—massacre, starvation, exhaustion—destroyed the larger part of the refugees. The Turkish policy was that of extermination under the guise of deportation. In one particular death march ... On the seventieth day a few creatures reached Aleppo. Out of the consigned convoy of 18,000 souls just 150 women and children reached the destination ... I have by no means told the most terrible details ... I am confident that the whole history of the human race contains no such horrible episode as this".

The evidence of state-sponsored massacres and deportations is overwhelming and incontrovertible. I am grateful that the noble Lord, Lord Avebury, will refer to the compilation of systematic and compelling evidence in the Blue Book. But in the face of all the evidence, Her Majesty's Government's position was summarised as recently as 4 March 2008 by the noble Lord, Lord Malloch-Brown:

"The Government acknowledge the strength of feeling about this terrible episode of history and recognise the massacres of 1915-16 as a tragedy. However, neither this Government nor previous Governments have judged that the evidence is sufficiently unequivocal to persuade us that these events should be categorised as genocide as defined by the 1948 UN Convention on Genocide".—[*Official Report*, 4/3/08; cols. *WA 165-66*.]

In June 2006, Geoff Hoon made the spurious claim that it is not possible to apply the term genocide retrospectively:

"I recognise that it is perfectly possible intellectually to try to apply the definitions of genocide from the convention to appalling tragedies that occurred, in this case, some 30 years before. The common practice in law is not to apply such judgments retrospectively".—[Official Report, Commons, 7/6/06; col. 136 WH.]

To which Geoffrey Robertson robustly replied:

"This is nonsense. There is no 'common practice in law' not to apply the definitions of genocide 'intellectually' to tragedies that occur before the convention was ratified".

He went on to say:

"There can be no logical or legal objection to an authoritative judgment which decides whether the events of 1915 satisfy the 1948 definition".

I will place a copy of Geoffrey Robertson's publication in the Library.

One of the gravest consequences of denial is a sense of impunity which extends to the present day in the forcible expulsion of all the Armenians living in Nakhichevan—I was there when some of that was happening—and the systematic destruction by Azeri Turks of priceless Armenian archaeological sacred treasures beyond count, such as ancient crosses, churches and graves, continuing the terrible trajectory of destruction of remnants of Armenian civilisation and culture. Similarly, the assaults on Armenians in Nagorno-Karabakh by Azeri Turks in the 1991 Operation Ring policy was a brutal rerun of the deportations of 1915, until the Armenians in Karabakh resorted to their constitutional right to self-determination. That prompted Azerbaijan to begin full-scale military offensives and attempted ethnic cleansing, an issue for another day.

I return briefly to the desirability of recognition for the Turkish people. Many feel that, in a culture where the concepts of shame and honour carry great weight, it could be interpreted as a mark of honour for a contemporary Turkish Government to acknowledge the historic reality of the genocide carried out by a past government and for which they are not responsible. Turkey would gain respect from the international community if it became an open, civil society, allowing freedom of speech to its own people and respecting the rights of the international community to speak the truth now widely available in scholarly publications and expert legal opinions.

Non-recognition can be interpreted as a denial of a cruel reality which will exacerbate the pain for those for whom the memory of genocide is still raw: survivors, their families and communities. As I am sure the Minister does not wish to exacerbate that pain, would Her Majesty's Government at least send a representative to attend the 95th anniversary commemoration at the Armenian genocide memorial at the Temple of Peace in Cardiff? Even if the word genocide is not used, that act would convey genuine feelings of sympathy, which would at least be some comfort for those who will be remembering the anguish of their history.

Until or unless the truth is acknowledged, it is not only that justice is denied to the Armenians but that the freedom of the so-called free world is jeopardized.

[Baroness Cox]
While we have our freedom, we must use it to fight for truth to be acknowledged and for justice to be achieved for victims of untruth and genocide.

5.41 pm

Lord Avebury: My Lords, I am sure that we are all very grateful to the noble Baroness, Lady Cox, for raising not only the subject of the Armenian genocide but its treatment in modern Turkey and the lack of freedom to discuss the issue among Turkish writers, journalists and thinkers. However, in the last few years it has to be acknowledged there has been some relaxation of the total ban on discussion of the Armenian genocide in Turkey, enforced as it used to be by the constitution itself. That was buttressed by criminal sanctions, social ostracism and, in tragic cases such as that of Hrant Dink, who the noble Baroness mentioned, murder.

It was perhaps a consequence of the international furore created by the prosecution, under the notorious Article 301 of the Turkish criminal code, of Nobel Prize winning novelist Orhan Pamuk that the crime of "insulting the Turkish state" is no longer used systematically against the few brave writers who affirm that what happened in 1915-16 was indeed a genocide. Although no statistics are available of the use of that law, it seems that other laws are being used to prosecute for thought crime, such as Article 216 of the penal code, which criminalises,

"instigating a part of the people having different social class, race, religion, sect or region to hatred or hostility against another part of the people in a way dangerous for the public security".

There is indeed still a strong taboo on discussion of the issue, and the few dissidents like Temel Demirer or Ragip Zarakolu who speak out are harassed relentlessly. According to the report by the EU Commissioner for Enlargement to the Council last November:

"Turkish law does not sufficiently guarantee freedom of expression in line with the European Convention on Human Rights.... Political pressures on the media and legal uncertainties affect the exercise of freedom of the press in practice".

As we saw only this month from the extreme reaction to the resolution by the US Congress Committee on Foreign Affairs, formally recognising the Armenian genocide, Ankara's efforts to suppress discussion of the facts extends overseas. When the BBC asked Turkish Prime Minister Erdogan, who was on an official visit here earlier this month, about the US initiative and a similar, recent vote in the Swedish Parliament using the "G" word, his response was to threaten to summarily deport 100,000 Armenian guest workers from Turkey—reminding the world that it was in the mass deportations of 1915, which the noble Baroness raised, that a million Armenians met their deaths. At the moment, the Turkish media are getting wound up about a supposed Bill in the UK Parliament providing for a day of remembrance for the events of 1915-16. They do not seem to have realised that Parliament is rising for the election in a few days' time.

I want to deal specifically with an attempt to bully our own Parliament into silence. There had been regular debates in both Houses about the genocide, many of them starting from the contemporary analysis of the evidence then available, which was published in the Blue Book, *The Treatment of Armenians in the Ottoman Empire, 1915-16*. That compilation, sourced from missionaries and the consulates of states that were neutral in the war, is by no means the only original source material available today. It has been supplemented by voluminous records such as those published by the US State Department, many now in the public domain in a 700-page book published by the Gomidas Press, and by the memoirs of Americans who were in Turkey at the time, from Ambassador Morgenthau to Dr Ussher, an American physician who was running a hospital in Van at the time of the siege by the Ottomans. There is also a surprising amount of evidence from Turkish sources despite the systematic destruction of incriminating documents; for example, in Vahakn Dadrian's bibliographical analysis published by the State University of New York.

Perhaps because the Blue Book was the first summary of evidence to reach a wider audience and because of the prestige of its editor, the great historian Arnold Toynbee, the Turkish Grand National Assembly singled it out by addressing an appeal to the UK Parliament in April 2005, labelling it as a piece of fabricated wartime propaganda and asking us to repudiate it. The Speaker sent the petition to the Foreign Office, which wrote a soothing letter in reply saying that the petition had been deposited in the Commons Library. The Turkish media continued to write about the issue through the summer, and in October 2005 some of us held a meeting to discuss a proper response to the TGNA. This was drafted and, after being signed by 33 Members of both Houses—including, I think, the noble Lord, Lord Hylton—it was sent to every Member of the TGNA in January 2006. Not one of them reacted to our proposal that a meeting should be held between Turkish and UK parliamentarians, with academic advisers, to discuss the limited question of the authenticity of the documents quoted in the Blue Book.

At a conference on Turkish-Armenian relations in Istanbul in March 2006, the arch-denialist Sukru Elekdag MP acknowledged that he and his colleagues had received our letter, and said that the reason it had been ignored was that it did not come from all the Members of the UK Parliament. We have written to Mr Elekdag to renew our attempt to hold this dialogue, and the FCO has kindly agreed to deliver the letter to him in person.

In August, we emailed the 400 Members of the TGNA who are online, repeating our proposal for a meeting; but again not one of them responded. We had come up against a brick wall. Then, last summer, what seemed to be a new opportunity for starting a dialogue presented itself to us. The eminent scholar and publisher Ara Sarafian had translated the Blue Book into Turkish, and I had the honour of writing the foreword. The authorities refused to deliver the copies that we sent to every Member of the TGNA, and not one of the intended recipients came to the meeting we held in Ankara. The event was reported briefly and factually by the two main dailies, but they ignored what was said at the launch about getting together to talk about the petition.

I appeal to the Minister to help us to open up this dialogue between British and Turkish parliamentarians on the limited question of the sources for an appraisal of the events of 1915-16, starting with the Blue Book

since they first raised the subject with us. Will the Minister facilitate our proposal to hold a meeting between interested MPs from both countries, with their academic advisers, so that in the new Parliament we can help them to open up a part of their history that has been swept under the carpet for nearly 100 years? Will the Minister ask Mr Erdogan to join us in promoting a discussion that the TGNA itself began?

5.48 pm

Lord Hylton: My Lords, I shall make three brief points. From 1915 onwards, it is pretty clear that the Ottoman Government planned and organised deportations and massacres. This was to have been the final solution for the Armenians of Turkey, and alas, it included in its scope—whether intentionally or not—a good number of Assyrian Christians from those parts. The evidence is compelling. Perhaps the most telling point is that it was the Austrian and German consuls in the region who spoke out, even though their countries were allies of the Government of Turkey. If Turkey would now acknowledge its history and apologise, if possible, for the dying acts of the pre-republican Government, honour might be satisfied. That should be preceded—as the noble Lord, Lord Avebury, mentioned—or followed by an end to the prosecution and persecution of historians and writers trying to present the truth from within Turkey.

I conclude by suggesting that the current clamour for attaching the particular label "genocide" to the terrible events that took place is misplaced. It certainly annoys Turks and their Government, and encourages, if anything, the continuance of denial of what happened. It has already harmed the détente that was beginning between Turkey and Armenia, and as has again been mentioned, it has caused threats by Turkey to deport a large number of Armenian workers. It has also diverted attention from the urgent constitutional reforms that many Europeans and others consider necessary within Turkey and has thus hindered Turkey's application for EU membership.

Lord Tunnicliffe: My Lords, a number of noble Lords have indicated that they wish to speak in the gap. I remind them that this is a time-limited debate and that the time that they use in the gap, of which there is little, will come out of the closing speeches.

5.51 pm

Lord Maginnis of Drumglass: I am grateful for the opportunity to speak briefly in the gap. I apologise for having failed to realise that the debate was taking place until now.

I want to contribute because I feel that it is inappropriate to dwell on events of a century ago while the ongoing Nagorno-Karabakh conflict remains unresolved. Currently nearly 1 million Azerbaijanis have refugee status after being denied the right to return to their homes. It is a humanitarian disaster carried out by the Armenians. I would have thought that that would be more relevant instead of self-indulgence about something that happened 100 years ago in the dying days of the Ottoman Empire. I would never suggest that there is a reason or an excuse for multiple deaths and killings on one side or the other, but from my reading, I believe that there was an organised Armenian-Russian attempt in the dying days of the Ottoman Empire, which provoked conflict, and in that conflict equal or comparable numbers of people were killed in pretty harsh circumstances.

In the short time available to me, I suggest that the United Kingdom should remember that in 1922 Kemal Ataturk turned Turkey around. It became our ally. It has been our ally for almost 90 years. During the days of the Warsaw pact and the NATO stand-off, we required, and were grateful for, Turkish participation in guarding the freedom of Europe. For that reason, I believe that like the American congressional committee we should be very careful not to alienate further our Turkish friends. I draw attention to the fact that the American congressional committee voted by a majority of only one in favour of such a resolution. My time is up, but I am grateful, thank you.

5.54 pm

Lord Kilclooney: My Lords, I, too, will be brief. The history of Europe, and, indeed the world at the moment, is a conflict between Muslims and Christians in many different countries, the most recent example being the slaughter of several hundred Christians in Nigeria. Armenia is a Christian country, and Turkey is a Muslim country. My sympathy would therefore go towards Armenia, because I am a practising Christian. My daughter, through Tear Fund, has done voluntary work there for many months, assisting the people since their freedom from the Soviet Union.

However, as has been said, this is something from 100 years ago. To bring it all up now and clamour—to use the well chosen word of the noble Lord, Lord Hylton—to have it qualified as genocide is unhelpful to the situation between Turkey and Armenia. Of course, there is also the problem of Nagorno-Karabakh, where there have been more recent murders of hundreds of people by the Armenians, supported by other countries. Hundreds were killed and nearly a million Azeris had to flee, so Armenia does not have clean hands.

It is a bit like Cyprus, or Palestine and Israel or, dare I say it, even Ireland: there are arguments in favour of both sides. The best way forward is for the two countries involved to negotiate. I do not see why we in the United Kingdom should think that we, plus the Turks, can solve the problem by holding talks in Ankara, and so on. It is really a matter for Turkey and Armenia to get together to resolve, knowing that hundreds of thousands died on both sides—the Turkish side and the Armenian side.

At the moment, we have some movement. The President of Turkey took the initiative and went to a soccer match in Armenia. That brought about a meeting between the Governments of Armenia and Turkey to try to create movement on the subject. A sub-commission has been set up involving not only Turkey and Armenia but Switzerland and several other countries to try to search out the facts, quietly and diplomatically, not trying to raise the temperature—which this kind of resolution does. We see what happened in America and Sweden. I therefore suggest that it would be better not to support the Motion.

5.57 pm

Lord Wallace of Saltaire: My Lords, much has been said on both sides. As often, as a foreign policy spokesman for the Liberal Democrats, I find myself standing in the middle. In the past few weeks, I have found myself disappointing Turkish Cypriots who wanted me to give absolute and unconditional support to the Turkish Cypriot view of the Cyprus conflict, as I had previously disappointed Greek Cypriots who wanted me to give absolute and unconditional support to their view of the Cyprus conflict. Similarly, I have found myself between Tamil lobbies and the Sri Lankan High Commission, and between traditional supporters of the current Israeli Government and people who feel that we should be deeply committed to the Hamas view of the Palestinian community. Indeed, I have just returned from a conference in Brussels where, this time last year, I criticised the Israeli Government's intervention in Gaza and was accused bluntly by one of Mr Netanyahu's closest advisers of being an anti-Semite for daring to raise the subject.

We know that passions go very high in this area, and we need to tread carefully. I echo what the noble Lord said: we also need to tread carefully to ensure that we do not always support Christians against Muslims or against Hindus. We must recognise that there have been many historical wrongs. It is not just the Turks and the Armenians who do not have clean hands: if one looks back 90 or 100 years, the British Government's hands were not particularly clean. The responsibility for the Bengal famine during World War II, in which an extraordinarily large number of Bengalis died, was clearly that of our fathers and grandfathers. I was reading about the British Army retaking Delhi after the Indian mutiny, during which we massacred the entire Muslim population. We have not been wonderfully civilised in the past.

We all recognise that the fate of the Armenians during World War I was a tragedy. A huge number were killed or forced to leave their villages. Much of the legacy of Armenian civilisation was lost. I also recognise—because I have been reading about the history of the Caucasus in recent months, as the north Caucasus becomes less and less stable—that this was one further event in the decline of the Ottoman and Tsarist Empires. As I got to know Turkey better in recent years, I discovered that many of the current population of Turkey are the great-grandchildren of people who were expelled from south-east Europe or from the Tsarist Empire. For example, in 1870, the Circassians, who are actively supporting from the outside the revolt in the north Caucasus and the very sad events that are happening there, were offered the choice of expulsion, conversion or death by the Tsar during the final conquest of the northern Caucasus. Sadly, many of them remember it. When one goes to Turkey, one finds oneself arguing with people whose great-grandparents were themselves the victims of expulsion and worse in other parts of the world.

Undoubtedly, there were massacres of Armenians in World War I. There were also massacres of Greeks as the Turkish army, under Kemal Ataturk, managed to expel the Greeks from Smyrna. Had the Greeks won the battle of Smyrna, there would have been massacres of Turks instead. Sadly, that was the nature of the debate.

Now we have the least bad Turkish Government that we have had in my lifetime. I have found myself debating with members of the AK Party on several occasions in recent weeks. This is a Government that is attempting to modernise Turkey, and which is also attempting to open up to Armenia and to its Kurdish minority. It finds itself coming up against—

Viscount Waverley: Perhaps I might ask the noble Lord whether he remembers that Turkey has made an accord with Armenia, with a view to friendship. Perhaps the noble Lord would like to say a word on that, if he has the time.

Lord Wallace of Saltaire: I am well aware of what is under way. I am also aware of the pressure that the Turkish Government are coming under from what one has to call the deep state within Turkey—the secularists, the judiciary and the army—and the problems that leaves for them in managing to make progress in reconciling with the Kurds and the Armenians as they try to move forward. One has to remember that many of those who conducted the massacre of Armenians were Kurds: there are very delicate memories here.

I support what the Turkish Government are doing. I recognise that they find themselves caught between Azerbaijan and Armenia as they attempt to move forward, and I recognise that that means that Nagorno-Karabakh must be dealt with as part of the package. Both sides committed a number of very unfortunate acts during the chaos of 1990-92 in the south Caucasus—as they did in Georgia. If we are to sort out Nagorno-Karabakh as a compromise between Azerbaijan and Armenia, concessions must be made by both sides.

We should now encourage the opening that is under way and the hesitant steps that the Turkish Government are making towards a more open and civilised society. I wish that they were moving faster, but I recognise the obstacles that they face within Turkey—particularly within the Turkish state. We should encourage the Armenian Government, the Azeri Government and the Turkish Government to come to more open and friendly relations.

6.05 pm

Baroness Rawlings: My Lords, it is always a pleasure to follow the noble Lord, Lord Wallace of Saltaire, especially on historical debates. The Hamidian policies which were enacted and the massacres which were repeated in 1895-96, 1909, 1915-18 and 1920-22 formed a truly horrendous period in Armenian history. I thank the noble Baroness, Lady Cox, for initiating this Question today.

As we know, the Ottoman Empire massacred up to 1.5 million people in 1915 alone. The Armenian population was annihilated in the most cruel and barbaric way. The events were an appalling crime against humanity and a terrible tragedy for the Armenian people, and they can never be forgotten. We must learn from the past, move forward and do all that is in our power to help and support Turkey and Armenia to move forward so that they have a better chance of a better future.

Turkey and Armenia have initiated a diplomatic protocol between them, for the first time in their history, which promises to establish and develop better relations between the two and to formalise an official investigation into the past. This is a constructive step. However, the process has stalled, despite pressure from the US and EU, amid mutual accusations by Turkey and Armenia of attempts to modify the deal. Neither Parliament has yet approved the protocols. Armenian President Serzh Sargsyan has said that the Armenian Parliament will ratify the deal as soon as Turkey does, but he has also threatened to walk away from the protocols if the Turks fail to honour them,

"within the shortest period of time".

Does the Minister agree that it would be a catastrophe if the progress made so far by both countries were to stall? What are the Government doing to support these countries and persuade them to work together, and to persuade both Parliaments to co-operate and ratify the deal as soon as possible? In light of the pressure that has already been applied, to date with limited success, what new plans have the Government drawn up to help with this issue?

Relations have also been soured this month by Tayyip Erdogan's threat to deport thousands of Armenian migrants working illegally in Turkey. What is the Government's assessment of this situation and how are they helping to calm tensions over this matter? Can the Minister tell the Committee what discussions have taken place with Turkey and Armenia's neighbours to make them aware of the importance of their role and support in easing friction between the two countries?

It is widely accepted that the prospect of European Union membership is helping to drive reform within Turkey, and that this process of change is a constructive way for it to examine its past in this area. The criteria for EU membership demand that a country should be, in effect, a liberal democracy subject to the rule of law. We on these Benches believe that the process of change in society and politics which the criteria for EU membership involve is the best context for Turkey to examine the Ottoman Empire's past in this area. What discussions are Her Majesty's Government having with representatives of the EU and Turkey to help the country meet these criteria and progress to its accession to the EU?

For us and the outside world to label such events, and pass judgments, changes very little. The best way to arrive at the historical truth and to reconcile the descendants of perpetrators and victims is for there to be a free and open historical debate. I urge the Government to do all they can to assist and support both parties in this process.

6.10 pm

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): I thank the noble Baroness, Lady Cox, for initiating this debate and for her assiduous pursuit of challenging issues such as this one. I also thank noble Lords who have participated so ably in this debate.

At the outset, I reaffirm that the Government deeply regret the deaths of hundreds of thousands of Armenians who were either killed by Ottoman troops or died from starvation or disease at the beginning of the previous century. We share the view expressed today that the victims of such suffering should not be forgotten. The fate of ethnic Armenians and smaller Christian minorities, including the Assyrians, living in the Ottoman Empire at the time was roundly and robustly condemned by the British Government.

I confirm that the position of the Government is to continue to work for rapprochement and reconciliation between Turkey and Armenia. In October 2009, two protocols were signed by the Foreign Ministers of both countries, agreeing a framework for the normalisation of relations and the opening of borders. This represents a landmark step in progressing better relations between the two countries. Signing the protocols—a number of noble Lords alluded to this—was not an easy step for either country, and ratification will remain sensitive. The UK Government will not make any statements that have the potential to jeopardise this process.

It is apparent that there is a strong political will, and indeed popular support, for improving relations. The Armenian president and the Turkish president have been focused and engaged in the process, which also allows for the creation of a sub-committee to examine historical issues, including the events of 1915-17.

I shall now answer some of the questions that noble Lords asked. I say to the noble Baroness, Lady Cox, that Geoffrey Robertson concluded that while the 1948 UN Convention on Genocide could not be applied retrospectively, the term "genocide" should be applied to the Armenian massacres. "Genocide" is a precise term and its use is best assessed by a competent court. However, then as now, there is no court with the authority to make such an assessment. Therefore, it is inappropriate for the British Government to apply the term to events on which no legal judgment can be made.

I was aware last year that noble Lords had raised the issue of a memorial. Sending a government representative might suggest recognition, so, despite our sympathies for the tragedy, we do not intend to send a representative. The Government reject any suggestion that Parliament has been misled, but I will also make it perfectly clear that Ministers, not officials, are responsible for the statements that they make to Parliament.

The noble Baroness, Lady Cox, referred to recent resolutions and decisions in the US Congress and the Swedish Riksdag. Those have not changed the UK Government's view that it is for the Turkish and Armenian people to address the issue together. Neither the US nor the Swedish Government has changed its position as a result of these votes.

The noble Lord, Lord Avebury, referred to the Blue Book, with which he has a long association. As he pointed out, it contains many compelling reports of eye-witness accounts of the events in question. It should be considered alongside other documents relating to the events of 1915-16 in archives around the world. Our embassy in Ankara can certainly assist in passing on a letter from UK parliamentarians to their Turkish counterparts inviting dialogue over the validity of the Blue Book. I understand that officials have already been in touch with the noble Lord to take this forward.

[Baroness Kinnock of Holyhead]

It remains our view, with regard to those events, that the greatest need is for dialogue between Turks and Armenians. However, on the issue of parliamentarians, in which the noble Lord, Lord Avebury, has been extremely engaged, we can do only so much to encourage Turkish parliamentarians to engage on the issue. I fear that, to date, their response to the idea of a conference has been somewhat negative, but of course any progress on such a front would be very welcome and would represent more of the reconciliation which we all want.

The noble Lord, Lord Hylton, and other noble Lords raised the issue of deportations. Prime Minister Erdogan and the Foreign Minister have now clarified that there is no immediate plan to deport illegal Armenian immigrants from Turkey. President Gül has also clarified that Turkey does not discriminate against Armenians working in Turkey. Subsequent comments by Turkish politicians have underlined the tolerance shown by Turkey towards migrants. I repeat that it is for the Turkish Government to manage migration issues and illegal immigration in line with their international obligations and Turkish law.

On EU membership, which several noble Lords raised, the issue that we are discussing today is not a precondition for Turkish membership of the European Union. However, under the political criteria for membership, Turkey is expected to maintain what is called in the criteria "good neighbourly relations" with countries in the region, which of course include Armenia.

The issue of Nagorno-Karabakh was raised by noble Lord, Lord Maginnis, and others. The Presidents of Armenia and Azerbaijan have had useful and constructive meetings in the framework of the Minsk group process, including, most recently, at the end of January. We hope for continuing progress. On the issue of our contacts, my honourable friend Chris Bryant, Minister for Europe, discussed Turkey-Armenia relations with his Turkish counterpart during the Turkish Prime Minister's recent visit, and he lobbied his counterpart in January and February this year to encourage progress on the normalisation of relations with Armenia.

The noble Baroness, Lady Rawlings, raised a number of points. I may not get round to them all, but if there is anything that I have not covered in my response, she may expect me to give her a written answer as soon as possible. Politically, the UK Government continue to urge both the Armenian and Turkish Governments to move forward with the normalisation process and to find ways to reconcile their differences. The Foreign Secretary recently raised the issue with the Armenian President, we have had many discussions with foreign ministers and others and, in-country, our ambassadors are engaging on the issues.

We have supported a number of projects designed to promote conflict resolution and break down the stereotypes that clearly exist. These have included sponsoring a Turkish film festival in Yerevan and a touring theatre production about the conflict. and bringing together young people from both countries—women, journalists and others, but especially women activists from both countries—to talk about the prospects for EU integration and working together to ensure that both countries have open contacts and discussions.

The noble Baroness, Lady Rawlings, also mentioned the EU. The European Union remains fully involved in helping Turkey and Armenia to improve relations. Commissioner Fule, who is responsible for enlargement and neighbourhood, will visit the south Caucasus in April, and High Representative Ashton is planning a visit in the next few months. The EU Special Representative for the South Caucasus, Peter Semneby, is following the Turkey-Armenia normalisation process closely and using his contacts with both parties to encourage more progress. The EU continues to make it clear that it is ready to provide practical support, should that be needed, to further the implementation of the protocols once they are ratified.

The 2009 EU accession report for Turkey shows that it is not meeting the conditions for joining the EU, in particular in relation to neighbourly relations with countries such as Armenia. That question was raised by noble Lords. The accession progress report recognises the significant progress that Turkey has made in normalising relations with Armenia. It has made efforts to improve relations with neighbours, although we recognise that there is still some way to go.

I thank noble Lords for this debate—in particular the noble Baroness, Lady Cox, who has made a great contribution on these issues. We must all work together to ensure that we see the progress that will be essential to bring consensus and closure to the tragic history that the two countries are grappling with. I hope that noble Lords, who have great interest and commitment, can assist with that.

The Deputy Chairman of Committees (Baroness Pitkeathley): The Committee will adjourn until 6.30 pm.

6.21 pm

Sitting suspended.

Mental Capacity Act 2005

Question for Short Debate

6.30 pm

Tabled By ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government what assessment they have made of the effect of the Mental Capacity Act 2005.

Baroness Finlay of Llandaff: My Lords, I am grateful that time has been found for this debate. I tabled the Question because, since the Mental Capacity Act came into force in October 2005, there has been remarkably little debate about it. I say "remarkably" because this is one of the most important pieces of legislation affecting health and social care that we have seen in my time here. It provides a framework to empower and protect individuals who lack the capacity to make decisions for themselves. These principles are honourable and important, and recognise the state's duty to uphold public safety while respecting the dignity and worth of each human being.

The framework enabled through the Mental Capacity Act reflects the complexity of loss of capacity in terms of its practical, financial and emotional implications. It pushes decision-making to be clearer; to be in the patient's best interests, unclouded by value-laden judgments; and if possible to take into consideration what the person would have wanted. Personally, I have found it helpful to explain to other clinicians why I suggest or do not support a course of action.

I am glad that the noble Baroness, Lady Barker, is here, as she amended the Bill in one of the most important ways. She introduced the concept of advance statements of wishes. This has led to advance care planning. We have not yet gone far enough, but we are moving towards more personalised care. She deserves praise for driving that through.

Overall, the training of staff as outlined in the Act has happened, and the many educational activities included in the Act have had a beneficial secondary effect on care attitudes in general. However, some problems have arisen. Advance decisions to refuse treatment remain a relatively rare occurrence. I am surprised by that. When they are spoken about, they are often misnamed in common parlance as "advance directives", which leads to unrealistic expectations. Of course, you cannot direct someone to do something to you in advance. If you could, we would have seen unnecessary and dangerous operations or interventions on demand.

The framework for best-interest decisions has perhaps been overinterpreted in some physical care settings, so that things that ought to be done as part of basic care have been excessively deliberated over, and the Act has been used as an excuse for risk-averse rather than risk-intelligent behaviour. The independent mental capacity advocates have proved helpful. I was sceptical about them, but I was wrong. Separately but importantly, the convictions for neglect of vulnerable adults have had a knock-on effect in the protection of vulnerable adults—POVA—orders, making more work for staff but hopefully protecting more people appropriately.

Although awareness in health and social care is not all that it could be, things are going in the right direction—but not fast enough. However, some parts of the bureaucracy have not panned out well. One has to ask of the administrative procedures: how and for whom is the Act working? Does it successfully illuminate the complexities of grey everyday areas by disentangling the overwhelming web of processes that people are faced with, or does it confuse them more? Is the law empowering and reassuring the many people who are touched by the loss of mental capacity, or does it present frightening hurdles?

Deprivation of liberty safeguards and the supporting guidance are not interpreted uniformly, and there has been confusion between the interaction of the Mental Capacity Act and the Mental Health Act. Current case law is bringing some clarification, but would it not be less expensive and more effective to bring together the experts who have experience of this in practice, and to produce better guidance that is more easily interpreted with consistency, so that we do not risk a yo-yo effect from case law decisions?

An essential test is to evaluate the effectiveness of the Court of Protection that was set up under the Act. The court was established to appoint or endorse deputies to act on behalf of someone when they have lost mental capacity. The current president of the Court of Protection, Sir Mark Potter, conceded last October that the court had had,

"its fair share of difficulties in its early stages".

He is now chairing an ad hoc committee to scrutinise its efficiency which I hope will shine a light on some areas, including the working relationship between the Court of Protection in Archway and the Office of the Public Guardian, now moved to Birmingham.

When a family is anticipating or is in the process of experiencing a relative's loss of mental capacity, the sudden upheaval in their everyday lives is unimaginable. Therefore, an absolute prerequisite in staff training should be handling applications with efficiency, professionalism and sensitivity. Sadly, recent reports indicate that during the past two years, the Court of Protection has received more than 2,000 complaints and applications for deputyship are taking between three and six months. This is far too long, especially when the loss of capacity is sudden and unexpected. When someone phones the court, they are not allowed to speak directly to the case worker for their case, but surely this depersonalisation of process runs counter to the spirit of the Act. Would the Minister undertake to ask Sir Mark to look at this too?

In terms of protection, the Mental Capacity Act allows for lasting power of attorney to whom a donee can allocate decision-making over legal, financial and health dilemmas in the event of loss of capacity. The demand for this option is huge. In February of this year, applications since the Act's inception totalled almost 127,000. Although this is a commendable system in theory, experience has revealed severe flaws. Not only does it take weeks to process an application, but the fee charged by most solicitors seems to be about £600 per person, although some charge that sum for a couple. But such a fee represents a lot of money for many people and deters them from proceeding. Moreover, because the processes are slow, some die before their application is ever fully processed. Does the Minister feel that this is satisfactory or will he undertake to look into how the processes can be simplified and made more accessible and affordable for those who want to make plans in the event of losing capacity?

A recent Radio 4 report, for example, cited the case of one gentleman entrusted to take care of his sister's financial affairs. As her care costs rose substantially, he needed to apply for increased funds. Alongside reported gross discourtesy from the staff at the Court of Protection, he was informed that the process would take up to 21 weeks and that the application for varied allowance carried a fee of £400. This was a predictable scenario. Surely the Court of Protection should operate in a way that is fully prepared for such an eventuality, that of a rise in the costs of care.

In 2008, more than 22,600 applications were made to the Court of Protection, and more than 18,900 in 2009. I appreciate that the staff processing such a volume of applications have an unenviable task. However, it seems that the rigidity of the application process has

[Baroness Finlay of Llandaff]
sometimes eclipsed common sense, to the detriment of staff, applicants and carers. During discussions with a solicitor who specialises in care of the elderly, she cited one scenario of concern to illustrate this. A doctor, supporting her patient's application for lasting power of attorney, submitted the required medical report but forgot to certify her own date of birth. So the application was sent back on the grounds that it was not clear if this doctor was over 18 years of age, even though she would not be registered to practise as a doctor if under that age. It was made worse by the fact that she was on extended leave when the form came back, resulting in lengthy delays for the elderly and anxious applicant.

That incident is a depressing illustration of an institution designed to meet complex human needs responding in a mechanical and inflexible way. It strikes a discordant note with the very spirit of the Act: to empower and protect. Will the Minister undertake to try to ensure that we do not lose the spirit in which this important and impressive Act was conceived and written?

6.40 pm

Lord Rix: My Lords, first, I take this opportunity to thank my noble friend Lady Finlay of Llandaff for securing today's short debate on this extremely important issue. I remind your Lordships that at Second Reading of the original Bill on 10 January 2005, I welcomed the Bill most warmly and paid tribute to the late, lamented Lord Carter, as we scrutinised the draft version of the Bill. I also reminded the House that I had and still have a particular interest in the Bill, now an Act, as joint chairman of the All-Party Group on Learning Disability and as President of Mencap.

Since its introduction in 2007, the Mental Capacity Act has aimed to promote and safeguard decision-making within a legal framework. The legislation rests on the principle that people should be empowered to make decisions for themselves wherever possible, while at the same time protecting people who may lack capacity by providing a flexible framework that places the individual at the head of the decision-making process. That is a fundamentally important principle in improving the lives of people with a learning disability, particularly those who have profound and multiple learning disabilities and therefore complex needs.

Although I warmly welcome the principles and intentions of the Act, I remain concerned as to how it is being applied in practice and the wide discrepancies which may arise when these principles are being implemented. Doctors, health and social care professionals, as well as paid carers, have a responsibility to work in line with the Mental Capacity Act code of practice. However, there still seems to be a great deal of confusion about the Act, with individuals unsure about their responsibilities. This undermines quality of life for many people with a learning disability and fails to recognise the respect and dignity to which they are entitled.

As all noble Lords present are only too aware, when it comes to healthcare, the decision-making framework for a patient with capacity involves the doctor presenting options to the patient and the patient weighing up the potential benefits, risks and burdens of the various options. Doctors need to ensure that their suggestions have not been influenced by discriminatory assumptions simply because that person has a learning disability. The Act allows people to make decisions for themselves and plan ahead for a time in the future when, for any number of reasons, they may lack capacity. For those who have already been assessed as lacking capacity to make a particular decision, such a decision must be taken in their best interests, and a person's capacity must be assessed on a decision-by-decision basis. A person's "best interests" means involving the person as much as possible, consulting with those close to them where practical and appropriate, while avoiding discrimination. As is all too apparent, people with learning disabilities face unique difficulties in accessing end of life treatment and care. That is part of a pattern of health inequalities which has been well documented, including those illustrated only too horrifically in Mencap's report *Death by Indifference*, which told of the deaths of six patients with a learning disability who died because of NHS ignorance and neglect, and has been the subject of two official inquiries since its publication.

Let me tell you about Victoria, who has profound and multiple learning disabilities. In the words of her mother, Jean:

> "Victoria was rushed into A&E after a series of seizures. She wasn't responding to medication and needed to be put on a ventilator. The doctor came up and spoke to us. It took me a moment to realize that he was questioning whether we should go ahead with treating Victoria.
>
> He was suggesting that it wasn't worth trying to save her. He didn't know our lovely 33 year old daughter and the quality of her young life. I sometimes wonder what might have happened if I hadn't told him how good her life was when she was well, about her social life and the people who love her".

This most disturbing story highlights why it is so important that the principles of the Mental Capacity Act are stringently enforced, and underlines the need for proper training for health professionals to complement the guidance which is already in place. Training should cover general disability issues and, specifically, what is a learning disability, as well as meeting health needs and how to communicate with somebody with a learning disability. It should cover issues around quality of life to ensure that doctors do not make discriminatory judgments, as in Victoria's case. In essence, doctors must look at the individual and not just at the disability.

Mencap knows from its research that doctors and health professionals do not always make appropriate best interests decisions, so we are trying in a project entitled "Involve Me" to correct this and by showing how people with profound and multiple learning disabilities can be involved in decision-making. The project is supported by the Renton Foundation—named after the first president of Mencap, the late Lord Renton—and is being run by Mencap in partnership with the British Institute of Learning Disabilities. Staff and people with profound and multiple learning disabilities at four sites are taking part in the project, with each site using a different and creative approach. An interactive DVD and training guide will be produced to show how creative approaches have been used at each site. It will also show how everyone, including staff, families and policy makers, can start involving people with profound and multiple learning disabilities

in decision-making. The "Involve Me" project will also be running workshops and conferences. It is an excellent example of how innovative and creative approaches can be used to empower people with grievous disabilities to take more decisions on how they lead their lives, as well as involving them in the benefits of the Mental Capacity Act.

To pile Pelion on Ossa, in June this year Mencap's Getting it Right campaign will be launched in Learning Disability Week to highlight evidence of best practice in the NHS and to ensure better healthcare for people with a learning disability. A key component will be to ensure that healthcare professionals do have training in the Mental Capacity Act. So, we are doing our best and we trust that after the forthcoming election, whichever party is in power, the incoming Government will ensure that even more doctors, health and social care professionals understand and apply the principles of the Mental Capacity Act 2005. While much progress has been made since the introduction of the Act in 2007, a great deal of work still remains to be completed before we can say, as I did at the end of my Second Reading speech five years ago, that,

"many thousands of people will enjoy better support in expressing what they want; and many thousands more will gain greater dignity, better treatment and happier lives. No Member of your Lordships' House could ask for more than that".—[*Official Report*, 10/1/05; col. 51.]

6.48 pm

Baroness Barker: My Lords, the Mental Capacity Bill, as it then was, was the first piece of legislation to be subjected to the then new process of pre-legislative scrutiny. I had the honour to serve alongside the noble Lord, Lord Rix, on that committee. As a result, it was one of the best pieces of legislation that had ever been put through the House. It was the product of considerable effort on the part of Peers from right across the political spectrum.

I congratulate the noble Baroness, Lady Finlay, on starting to complete the equally important process of post-legislative scrutiny. We do not formally have that yet in Parliament, but I have long thought that it is something we should do. Those of us who take part in passing legislation have an intention about how that legislation should work in practice. That is important and I hope that we will develop it in the next Parliament.

Before diving into the detail, I want us to remember that this is legislation for which a broad coalition of people have campaigned for 30 years, because it was necessary to deal with the widespread but largely undocumented abuse of vulnerable people. I thank the noble Baroness, Lady Finlay, for her kind words about me. During the passage of the legislation, it was my intent that advance statements would not simply be used by people to refuse treatment but could also be used to ensure that people were not refused treatment. The examples used at the time were about people with fluctuating mental health conditions who might say, "I know that when I am unwell I may say that I don't want treatment, but at this moment when I am well, I am saying that I wish you to disregard that". I am pleased if that has come to pass.

I want to focus on lasting powers of attorney and deprivation of liberty, because those were always predicted to be the two key pillars of the legislation. The noble Baroness, Lady Finlay, highlighted the problems that there have been with the Office of the Public Guardian. Perhaps it was to be expected that when such wide-ranging and detailed legislation came into force there would be difficulties for those who were given the task of implementation. It is now five years on, and it is important to listen to people such as the Law Society and the Mental Health Alliance, to which I am indebted, about how the legislation is working for front-line practitioners. I was pleased that the noble Baroness, Lady Finlay, mentioned the issue of fees during the passage of the legislation at the prompting of my then colleague in Age Concern, Pauline Thompson. We flagged up to Ministers the issue of fees and how we thought that if the issue was not considered it would be a major cause of people avoiding taking out lasting powers of attorney when they should. There is now a significant body of evidence saying that that is so.

I am pleased to learn from the Law Society that the forms used for lasting power of attorney are being reviewed. It is always the case in such matters that the form-filling can be the make or break factor in whether people use legislation that is there for their protection. I am glad that that is being simplified, but I add my voice to those who make the plea that the Office of the Public Guardian should use e-mail. I understand that everything has to be written down and recorded, but if greater use were made of e-mail that would speed things up considerably. The noble Baroness, Lady Finlay, is right to say that it is taking far too long in many cases to register these very important things.

I shall touch briefly on the matter of finance, because I talked a lot about that during the passage of the legislation. Even a lay person reading the financial bits of the newspapers at the weekend, particularly the questions from members of the public who write in with the problems they have experienced with financial institutions, will know that there are difficulties. Nearly every week, somebody writes in about a problem to do with powers of attorney and banks. It is evident that financial institutions are very patchy in the way that they heed this legislation. The Law Society published a practice note, called *Powers of Attorney for Banking*, which outlines how lasting a power of attorney should be. What are the financial regulators doing to ensure that good practice becomes much more widespread throughout the financial institutions?

I want to talk briefly about the deprivation of liberty. When the concept was introduced under the legislation, as it had to be because of the Bournewood ruling, everybody knew that it was an extremely important concept. We were right, back when the legislation was going through, in guessing that the term "deprivation of liberty" would in itself be a problem. That, plus the lack of a clear definition of it in guidance, has meant that practitioners in care homes, for example, do not quite know what a deprivation of liberty is. They assume that if a deprivation of liberty application is made, they are immediately going to escalate the issue of somebody's care into a heavy legal process.

Would the Minister consider changing the terms? I know that he is not the relevant Minister and therefore do not expect him to be able to answer this, but what is the Department of Health doing to monitor the number

[Baroness Barker]
of deprivations of liberty which are being registered? Also, is the CQC, as the regulator of care standards, monitoring whether deprivations of liberty are being sufficiently authorised and, where they have, whether they are in fact leading to changes in the care plans of people who are having their liberty restricted?

The Mental Health Alliance continues to monitor the impact of this legislation and has collected quite a lot of evidence from a number of organisations about how it is working. Its key point is, again, the one that we predicted: this legislation represents such a fundamental change of professional practice and attitude that it requires a great deal of training, information and constant publicity. What will the Government be doing, on an ongoing basis, to make sure that practitioners and members of the public understand the legislation and their rights and responsibilities under it? Finally, do the Government intend to revise the code of practice, now that we are a few years into its implementation? We always recognised that the code of practice would have as much importance as the legislation itself, and it was always conceived that that document could be easily amended. Perhaps the time is coming now when that should be the case.

I would have liked to talk about the appointment of independent mental capacity advocates, but I will simply say that there appear to be too few of them. It was always the case that such complex legislation would take a great deal of time to become established and to be good practice. The legislation gave the best possible basis for good practice to take hold. It is now the Government's job to consider how it is being implemented and to listen to those on the front line who, while they may have criticisms of detail to make, believe overall that this legislation has changed the lives of vulnerable people for the better. We should support that.

6.58 pm

Lord Henley: My Lords, like the noble Baroness, Lady Barker, I was briefed by the Law Society. I am very grateful for the advice that it gave me and for the advice that I received from a number of individual practitioners to whom I spoke. Like the noble Baroness, Lady Barker, the noble Baroness, Lady Finlay, who introduced this debate, and the noble Lord, Lord Rix, most of us welcome the principles behind the 2005 Act and how it is working, although we accept that some problems have been highlighted in the press. The noble Baroness and other speakers also highlighted some problems this afternoon.

I shall start, as I always do, by being positive and making the point that we believe that the Act, being major legislation—although it is still early days to understand fully its effectiveness—has been a catalyst for cultural and behavioural change among health and social care professionals. It reinforces the position, as the Act makes it clear, that the person involved is at the centre of decision making whether they have the capacity or not. As I said, I have a number of questions to put to the Minister, and I hope that he will be able to touch on some of them. Even if he cannot, as the noble Baroness, Lady Barker, put it, we need a degree of post-legislative scrutiny of all legislation, so I hope that in due course he will come back to the questions he cannot address in the form of a letter.

The noble Lord will remember that the Act abolished the enduring power of attorney and brought in the lasting power of attorney. However, EPAs that were already in existence—there must have been quite a number since I know that quite a lot of solicitors were encouraging people to take them out in advance of the Act because they thought that there were certain advantages in the EPA over the LPA—can still be used in the future. So, in effect, a number of EPAs are floating around waiting to be activated that could come into play for several years hence. I would be grateful if the Minister could give his view on how many EPAs he thinks are running in parallel with LPAs and whether that is likely to cause any problems. I suspect that it will not, but it is something we must be aware of, particularly given that there is some evidence of a rush of EPAs being taken out in the run-up to the legislation.

Secondly, I want to touch on the application forms, which were also mentioned by the noble Baroness, Lady Barker. Again, the Law Society has made it clear that the original forms were overly long and complex, but I gather that some work has been done on them. However, there are considerable problems with the complex nature of the form. Again, I would be grateful if the noble Lord could outline what work the department is doing in looking at the form again and producing a new one. I imagine that that is a problem not just for the department but also for the Office of the Public Guardian.

Thirdly, banks and financial institutions were quite used to the old EPAs, and there is anecdotal evidence of some problems with LPAs. I appreciate that LPAs go wider than the older EPAs, which covered only property and financial affairs. A lasting power of attorney can cover those areas and health and welfare issues. However, the banks appear to be having problems with them. I do not know whose job it is to deal with the issue and put the message across to the banks to ensure that they have adequate processes in place.

Operational concerns have been raised about both the Office of the Public Guardian and the Court of Protection. The noble Baroness, Lady Finlay, highlighted the issues, so I hope that the noble Lord will look at those bodies to see whether they are operating quite as well as they ought. The noble Baroness referred to the fact that as one located is in Archway and the other in Birmingham, delays arise as things are referred back and forth between them. I imagine that this is a matter that Sir Mark Potter will look at in his review, although I hope that the Minister will also be able to comment on it.

Finally, I come to the deprivation of liberty safeguards, which were referred to by the noble Baroness, Lady Barker. A number of problems have been associated with them, including inconsistency in decision making arising from a lack of understanding about what deprivation of liberty means and a lack of certainty about when the deprivation of liberty safeguards apply. There is also an issue about lack of awareness of the deprivation of liberty safeguards within healthcare settings.

I appreciate that I have repeated a number of questions that have been put to the Minister, but I am sure he will find a way to answer them all. We look forward to his answer. However, I return to the first point that I and all other speakers made: in general, we welcome the Act. We think it is performing, but there are one or two signs of underperformance that need to be addressed by the department, the Court of Protection and the Office of the Public Guardian. We hope in due course to have answers to them and that where there are improvements to be made they will be made.

7 pm

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): I congratulate the noble Baroness, Lady Finlay, on getting the authority from the usual channels to find time for this debate. As I said earlier today, there seems to be a great deal of pressure on time at present—I cannot think why—so the noble Baroness needs double congratulation on finding time for this debate.

If the noble Lord, Lord Henley, will forgive me, we have in this Room three experts on this Act who played important parts in the passage of the Bill from its early days to Royal Assent. We are lucky that they have found time tonight to come and talk about how the Act is doing. I cannot speak for the noble Lord, Lord Henley, but I was no expert on the Act until I read my briefing for tonight. I think the noble Lord, Lord Henley, is more of an expert than I am, but perhaps not much more.

The thing to notice straightaway is how popular this Act is. All sides agree that it has improved the prospects for a large number of people. It was necessary social care legislation, and something that we can all be proud of. I shall do my best to deal with many of the questions raised. I apologise in advance because I may not cover them all, but I am content to deal with those I do not cover in the form of a letter following this debate.

It is nearly 30 months since the Act came into force and a good time to take stock. The Act brought in provisions for people to make lasting powers of attorney. There are two types—one to cover financial matters and one to cover health and welfare issues, which was a new provision. They offer people who have capacity new choices to decide how they are cared for in the future by giving them the opportunity to plan ahead for a time when they may lose capacity. We know that many people take comfort from knowing that someone whom they have chosen will look after their best interests.

I am pleased to tell the Committee that in 2008, 33,653 LPAs were registered with the Office of the Public Guardian and that that number increased to 75,874 last year. Perhaps this shows that we are beginning to ensure that people are aware of how important it is to make an LPA and how it can ensure that their best interests and wishes are taken account of in decision-making should they lose the capacity to make those decisions themselves. If no LPA is in place, an application has to be made to the Court of Protection for a deputy to be appointed, which is a more costly, complex and often longer process than having an LPA in place. I shall return to that.

We promised that we would start to review the Act 12 to 18 months after implementation. My department, the Ministry of Justice, has undertaken two consultation exercises on the provisions of the Act, which have led to a streamlined and simplified LPA form. It has been well received, and informal evidence shows that it has reduced the number of incorrect forms being received by half—from approximately 20 per cent to about 10 per cent. The first consultation also led to a reduction in the fee to register an LPA from £150 to £120, and to the introduction of a more flexible supervision regime.

The second consultation—the Government response to which was printed today and the resultant SI laid in Parliament—was on more technical but still important matters, which impact on the quality of service that we offer to customers. We intend to report back to Parliament, as promised, by way of a memorandum to the Justice Select Committee. This will be after the Summer Recess. It will take into account all that we have learnt so far and will lay out what research is still going on.

As has been said in the debate, a major part of the review of the Act has been to look at the way in which the new Court of Protection has been working. Key to this has been the establishment of an ad hoc committee to undertake a review of the Court of Protection Rules 2007. The committee is made up of professional and non-professional court users, judiciary and officials. It is chaired by two High Court judges. This committee will look at key areas that have been referred to, such as the continued improving and simplifying of court forms, quicker and simpler procedures to deal with straightforward property and affairs applications, and improving the guidance in practice directions. The committee expects to produce initial recommendations for the president this summer.

Not surprisingly, the Department of Health's main focus has been on implementation rather than review, as the Act has required changes in policies for many people, as it affects the work of approximately 3 million staff. Such changes take time to embed in an organisation the size of the National Health Service, and the department has an ongoing programme of implementation for the Act. As part of the review, the Department of Health commissioned a large piece of research on the successes and difficulties of making best-interest decisions in both the NHS and in the field of social care. It has also commissioned a set of audit tools that will enable organisations to carry out their own reviews of the Act.

We have heard mention of the new independent mental capacity advocates. They are trained professionals who support and represent people who lack capacity and who have no one else to speak for them when decisions need to be taken about serious medical treatment and long-term residential care. This is an important step forward in ensuring that the best interest of the patient is always taken into account.

As part of its implementation programme, the department has developed training materials for the Act that were widely distributed, and has also provided funding for others, such as the Royal College of Psychiatrists, the Intensive Care Society and the Alzheimer's Society, to develop their own guidance. The department has maintained a national

[LORD BACH]
implementation manager and a team of regional implementation leads to support the embedding of the Act in practice.

During implementation, it became clear that not all health and social care practice was as good as it might have been prior to the Act's introduction. There is a greater than anticipated need to work with care homes, hospitals, local authorities, primary care trusts and other providers of treatment and care, as well as a range of other bodies such as those responsible for training and development, to ensure best practice.

I turn briefly to some of the many questions that were posed. The cost of registering an LPA was referred to by the noble Baronesses, Lady Finlay and Lady Barker. As I said, the OPG has reduced the cost of registering to £120—the same as it costs to register an EPA. I am told that the OPG is looking at other ways in which it may reduce costs without impacting on the speed and quality of the service provided. We asked for views on this in the recent consultation.

I remind the House that the Legal Services Commission can fund legal help in relation to the making of lasting powers of attorney in advance decisions when the client is aged 70 or over, or is a disabled person within the meaning of Section 1 of the Disability Discrimination Act. Legal health is subject to the general means test and the merits test is that of sufficient benefit. The length and complexity of the form was referred to by the noble Lord Henley, and the noble Baroness, Lady Finlay. It is longer than the old one. It has been reduced in size since it was first introduced. In part, its length is to enable it to be filled in by ordinary people without the need to seek legal advice. It contains some additional safeguards that the old enduring power of attorney form did not. It requires an independent person to certify that the person making the LPA has the capacity to do so and is not doing it under duress. I am sure that noble Lords will agree that to reduce it still further could run the risk of weakening some of these measures, but we are interested in feedback.

The noble Baroness, Lady Finlay, talked about complaints. Between October 2007 and April 2009 there were 3,000 complaints to the OPG and the court. That figure was widely publicised. The majority were in relation to the speed of processing of lasting powers of attorney which were the result, as the noble Baroness, Lady Barker, implied, of a higher than anticipated workload in the first year of operations. The OPG has put in place measures to deal with that and between April and September 2009—six months—there were 899 complaints. The OPG annual report stated that there had been considerable improvement in the registration process and that that was expected to be maintained and built on in the future.

On the issue that LPA fees are too high and too complex, as I said, the forms have been simplified. We continue to look at ways to make the process simpler. Timetables have been shortened and seem to take around 11 weeks now as opposed to up to six months when the Act first came into force. Six weeks is of course the statutory waiting period for objections.

There were comments from all noble Lords about deprivation of liberty safeguards—DOLS. The NHS Information Centre on social care published activity data last week for the first nine months of last year. The Department of Health is drafting a briefing and commentary on this data to be published on its website in early April. The department has published guidance on its website for the first three significant case law judgments and the Care Quality Commission has to publish an annual report on DOLS under the Act, which will include best practice guidance. The Mental Health Alliance will also publish a report on its view of progress, which will be based on feedback from alliance members. It is understood that the report confirms that there have been some improvements in practice and that there are major causes for concern in the low level of applications. There are significant variations in levels of activity between supervising bodies, lack of understanding of the Act, which was referred to by all noble Lords, and some lack of adherence to legal requirements. The Department of Health shares a number of these concerns.

The noble Baroness, Lady Barker, asked about deprivation of liberty safeguards. We hope that they provide a framework for proving the deprivation of liberty of people who lack capacity. They contain detailed requirements about when and how deprivation of liberty may be authorised. Delays have been referred to. As I said, the workload of the court exceeded expected levels. Now nominated judges from the regional courts can be used to assist with casework within the Court of Protection, which came under Her Majesty's Courts Service from April last year and which allows more flexibility in terms of judging.

There has been a lot of training and awareness raising on the requirements of the Health and Social Care Act. There are good examples of policies and procedures throughout England and many examples of best practice. I agree with the noble Baroness, Lady Finlay, that not all health and social care practice was best practice prior to the Act's introduction, so there has been a greater need than was anticipated to work with the institutions to which I have referred. As regards the point about the "over-18 box", without going into detail I can say to the noble Baroness that we do not believe this will happen again.

The noble Lord, Lord Rix, has a well-known interest in those with learning difficulties. The Act is clear that there should never be an assumption that a person lacks capacity to make a decision. This applies to those with learning difficulties as much as to everyone else. The starting assumption has to be that a person has the capacity to make a decision unless it can be established that they do not. All possible steps must be taken to try to help people make a decision for themselves. An important point must be made clear—that a person's capacity refers specifically to their capacity to make a particular decision at the time it needs to be made. It cannot be based just on age, appearance, assumptions or one aspect of their behaviour. The noble Lord informed us about the "Involve Me" project. We are very interested to hear of the work Mencap has done with this project. We would be interested to hear more about the remits of this work and to consider what wider lessons can be learnt.

The noble Lord, Lord Rix, was concerned about the working of the Act in practice. Two pieces of research are under way from the Office of the Public

Guardian and the Department of Health, as I think I mentioned. Both are looking at the quality of best interest decision-making. The noble Baroness, Lady Barker, and the noble Lord, Lord Henley, referred to financial institutions. The noble Baroness is absolutely right to refer to the awareness of LPAs among banks and financial institutions. I am told that the public guardian liaises regularly with the British Banking Association, and where individual concerns are brought to his attention will write to banks informing them of their duties. Over the coming year, his office will consider what further engagement may be needed in this area.

As regards the number of people subject to the DOLs legislation, between April and December last year, more than 5,300 people had been the subject of completed assessments. Of these, 43 per cent had resulted in authorisations, two-thirds for people aged over 65; 50 per cent of those assessed have dementia. There is no over-representation of any ethnic minority group in this field.

We agree with the noble Baroness, Lady Barker, that the two codes of practice are integral to the ways in which the Act is interpreted. Feedback about them is positive so far and no major issues have been raised. However, I hope she will be pleased to hear that we intend to consider the results of research commissioned by my department and the Department of Health in this area and consider more widely how well the code is working in practice and what changes may be necessary.

I know that I have gone over my time, but I shall finish. The noble Lord, Lord Henley, asked whether it is possible to say how many EPAs are out there. They can be used while the person lacks capacity without being registered, and therefore without us knowing about them. That is why it was decided that all LPAs must be registered in order to be used. The noble Lord also asked about inconsistencies in the understanding of the DOL safeguards. We acknowledge that at this early stage in implementation there are inconsistencies in understanding and practice.

All noble Lords asked about what the Government are doing to raise awareness, which is perhaps the crucial question about the Mental Capacity Act and the deprivation of liberty safeguards. The Department of Health and the Social Care Institute for Excellence have recently delivered seven regional events to look at best practice on the Act. They were attended by more than 1,000 health and social care staff. The Social Care Institute for Excellence has produced four TV films about mental capacity and more are planned for this year. The department has an ongoing national and regional implementation programme and continues to work through 152 locally established MCA implementation networks to disseminate the Act's requirements.

Perhaps I can sum up by saying so far, so good. I know that many noble Lords and other people outside this House will be looking carefully to see how the Act continues to work and will make their criticisms and comments about it in due course. That is just the way it should be. I once again thank the noble Baroness, Lady Finlay.

Committee adjourned at 7.26 pm.

Written Statements

Monday 29 March 2010

Airports: Body Scanners

Statement

The Secretary of State for Transport (Lord Adonis): On 1 February, I announced the initial deployment of security scanners at Heathrow and Manchester Airports. This was part of a package of measures announced as a direct response to the attempted attack on Northwest flight 253 to Detroit on Christmas Day 2009. The device used on that flight had clearly been constructed with the aim of making detection by existing screening methods extremely difficult.

The safety of the travelling public is my highest priority and security scanners are a vital additional tool which give airport security staff a much better chance of detecting explosives or other potentially harmful items hidden on a passenger's body.

At the same time that I announced the initial deployment of security scanners I published an interim code of practice to reflect concerns about privacy, health and safety, equality and data protection and announced our intention to consult on it.

Today we are in a position to begin that consultation. This provides an opportunity to influence the final code of practice. We will consider all representations carefully, and this consultation will run until 21 June 2010.

We will inform stakeholders that the consultation paper has been published today. Copies of the consultation paper are available on the Department for Transport's website at www.dft.gov.uk and copies have been placed in the Libraries of the House.

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 Statements to the House on 22 and 25 March, I am pleased to announce the next steps on a number of projects that will deliver vital equipment and support, particularly to the Royal Air Force (RAF), and will help sustain the aerospace and weapons sectors of the UK's defence industry. These announcements build on the package of adjustments to the defence programme I announced to the House on 15 December 2009 and the emerging thinking on defence as set out in the Green Paper that leads in to the Strategic Defence Review (SDR).

The Ministry of Defence (MoD) has entered into an interim partnering agreement with MBDA (UK) Ltd to take forward the Government's strategy for the UK's complex weapons sector as originally set out in the Defence Industrial Strategy. The agreement builds on the successful team complex weapons assessment phase that commenced in July 2008. As part of the agreement, the MoD has placed a contract valued at some £330 million to demonstrate and manufacture both the fire shadow loitering munition which will be able to be used in operations by the British Army in Afghanistan and, using a development of the current Brimstone anti-armour weapon, the second element of the Selective Precision Effects at Range (SPEAR) programme for use by the RAF on Harrier GR9 and Tornado GR4 including on current operations. The contract also includes further work on the future local area air defence system and on future components of the SPEAR programme.

This partnered approach is designed to meet the Armed Forces' requirements through a modular family of weapons, with the agreement providing greater overall flexibility to meet evolving requirements, permitting shorter development times, and achieving significant efficiencies through life. It will also ensure the UK has continued access to industrial skills and capabilities that are critical for the ongoing provision of cutting edge complex weapons for our Armed Forces. The agreement represents a further significant investment in the United Kingdom's high technology industry and its wider supply chain, and helps to sustain the UK's key complex weapons skills base.

I am also pleased to announce that this week we will sign a £120 million contract with BAE Systems for the in-service support of the Hawk T Mk2 (the advanced jet trainer), which will provide a modern fast jet training capability for the RAF. This contracted logistic support arrangement will see BAE Systems responsible not only for the number of aircraft made available for training flights but also for ensuring that the aircraft are able to carry out the training mission effectively, and covers all aspects of support including on-base maintenance, fleet management, spares management and re-provisioning, repair and all other ancillary activities needed to provide the required aircraft availability out to 31 March 2014. This contract is sufficiently flexible to continue to deliver value for money for defence should the Strategic Defence Review identify changes in the fast jet training requirement. Altogether the contract will sustain over a 100 jobs at BAE Systems and its subcontractors, Babcock Defence Division and Rolls Royce (all at RAF Valley in Anglesey).

We are making excellent progress towards delivery of the 22 new Chinook I announced in December. The decision to buy more Chinook is a reflection of operational experience over the past 20 years, especially more recently in Afghanistan where the aircraft has proven its value to commanders time and again. I am pleased to inform the House that a contract was signed with Boeing on 23 March, just three months after my announcement, for initial design and long lead manufacture work, which will protect the critical path to delivery of the first 10 aircraft in 2012 and 2013. This demonstrates our commitment to delivering more capability to the front line as quickly as possible.

It has been well publicised that the A400M transport aircraft, which will provide airlift support to operations, is proving to be a challenging programme, principally due to the technical complexity of this next generation military transport aircraft. Since 2008, MoD officials

have worked tirelessly with the other partner nations, the Organisation for Joint Armaments Co-operation, and EADS/Airbus Military to find the best way forward for the UK. This process has involved difficult negotiations but I am pleased to announce today that the partner nations have reached an agreement with EADS/Airbus Military on a non-legally binding heads of terms agreement that will provide the basis for a formal contract amendment in the coming months. The in-service date is now expected to be 2015, and it is our intention to see the A400M programme through to completion.

It was very clear from negotiations that the programme would only remain viable with further investment from the partner nations. The UK contribution to this further investment will be achieved by reducing the number of aircraft to be delivered to the RAF so that we remain within our existing cost envelope. We expect that the cost increases, which for the UK represents a maximum reduction of three aircraft from the originally contracted number of 25, may be recovered in the long term through a levy on foreign export sales of the A400M.

I acknowledge that there have been significant programme delays, reflecting the complex technical challenges of this international project, and we may not receive the number of aircraft for which we originally contracted. Nevertheless, we will deliver the capability required and are greatly encouraged that a prototype A400M aircraft has now flown, with flight trials continuing. This, coupled with recent changes in governance structures that have led to greater transparency, means that the MoD has grounds for greater confidence in the A400M programme. The proposed way forward has been subject to rigorous internal scrutiny, and I am satisfied that the proposed heads of terms agreement is underpinned by a sound evidential base.

As a result, I am confident that the A400M will remain value for money for the taxpayer, and will still deliver an outstanding capability for the RAF. The A400M programme will also sustain up to 8,000 British jobs, including cutting-edge wing design work.

As a result of the measures I announced to the House in December, and despite the delay to the A400M programme, we expect to be able to meet the airlift requirements for current operations after the C130K goes out of service in 2012. We are bolstering our strategic lift capability by the procurement of a seventh C-17, which will enter service with the RAF in March 2011. We are also maximising tactical airlift capability by investing in a package of enhancement measures to maximise the use of the existing fleet of 24 Hercules C-130J. The completion of a second runway at Bastion, Helmand, in 2010 will also allow us to reduce tactical airlift tasking in theatre. Through these investments, the department believes it can sustain anticipated intra-theatre airlift tasking on current operations until A400M comes into service.

Finally, on 30 November 2009, the Minister for Defence Equipment and Support announced the beginning of formal trade unions' consultation on the future of Defence Support Group's (DSG) Large Aircraft Business Unit (LABU) at St Athan, South Wales, designed to achieve closure of the facility by June 2013 at the latest.

Once depth maintenance on the VC10 ends in 2013 there will be no requirement to maintain RAF aircraft at St Athan. The management of the DSG, the Government and the Government of Wales have explored exhaustively the prospects for replacing the contract with other work but no such opportunity has been identified. Therefore, our priority is to ensure that the redundancy and retraining schemes available to the workforce fully reflect our appreciation of the loyal, reliable and very skilled work that employees of St Athan have delivered for the benefit of the RAF and the country.

We have written to the trade unions concluding the consultation process and setting out the redundancy terms that will give the workforce the opportunity to apply for redundancy on the current conditions available for compulsory redundancy.

MoD will continue to work with other government departments and agencies to explore future job opportunities for DSG employees who will be affected by the drawdown and closure of the facility. The option of retraining and transferring LABU personnel to other DSG sites will be maximised where this meets business needs and individuals' preferences. And DSG will work closely with external training providers and agencies such as Careers Wales, JobCentrePlus and other advisory organisations to explore alternative training and job opportunities for any employees wanting to retrain for an alternative career.

I pay tribute to the outstanding service of DSG St Athan personnel, both past and present, in supporting the UK Armed Forces with the vital equipment needed on critical operations both at home and overseas.

The series of announcements I have made underline this Government's commitment to provide our Armed Forces with the equipment and support they need. The decisions we have taken will introduce new and enhanced capability that is required now and in the coming years, and support, not-prejudge future decisions in the forthcoming SDR.

Banking: Credit Guarantee Scheme

Statement

The Financial Services Secretary to the Treasury (Lord Myners): My honourable friend the Exchequer Secretary has made the following Written Ministerial Statement.

The credit guarantee scheme (CGS) was introduced as part of a package of measures to support the stability of the banking system and to protect savers and depositors. The scheme makes available, to eligible institutions, a government guarantee of new short and medium-term debt issuance of up to three years' maturity.

As announced at the Pre-Budget Report in 2009, the CGS closed for new issuance on 28 February 2010. In consequence, the maximum amount currently outstanding represents the maximum contingent liability under scheme rules. On 24 March 2010 issuance stood at £125 billion. HM Treasury is therefore notifying a revision to the contingent liability to the maximum currently outstanding to reflect this and in addition is publishing a short report providing details of scheme use on 29 March 2010 on the Debt Management Office's website.

Children: Internet Safety

Statement

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): My right honourable friend the Secretary of State for Children, Schools and Families (Ed Balls) has made the following Written Ministerial Statement.

I am today writing to Professor Tanya Byron in response to her review of the progress made on improving children's digital safety since the publication of her 2008 review, *Safer Children in a Digital World*.

The pace of technological change since Professor Byron's 2008 review has been rapid. In recognition of this in December 2009 I asked Professor Byron to review progress in keeping children safe when using new technology and report to Government by the end of March. I am grateful to Professor Byron for the inclusive, consultative approach which she has taken—including meeting with honourable Members—and for her thoughtful analysis and conclusions which are, as ever, balanced, insightful and informed throughout by the voices and interests of children, young people and families.

Professor Byron's report celebrates the world-leading precedent which has been set by the establishment of a UK Council for Child Internet Safety (UKCCIS) and the important advances that have been made, particularly around raising public awareness of how to keep children safe online and teaching children how to stay safe through improved digital safety education. As we move forward, Professor Byron is clear that the priority must be to deliver, without delay, what was set out in the UKCCIS strategy last December. She also makes recommendations on how we should respond to the developments that have taken place since the her 2008 review alongside a set of helpful recommendations to improve the workings of UKCCIS.

I welcome Professor Byron's report and, because UKCCIS was founded on the principle of shared responsibility, I agree with her recommendation that the UKCCIS Executive Board should decide on the best way to address her recommendations. The Home Secretary and I are therefore writing today to the UKCCIS Executive Board asking it to consider the report and agree a response covering all of the recommendations by 31 July 2010.

I have placed copies of Professor Byron's report, my letter responding to her and the letter to the UKCCIS Executive Board in the Libraries of both Houses. They are also available online at www.dcsf.gov.uk/byronreview.

Civil Service (Management Functions) Act 1992

Statement

Baroness Crawley: My right honourable friend the Minister of State, Cabinet Office (Angela E Smith) has made the following Written Ministerial Statement.

During 2009, delegations were made to the Department for Energy and Climate Change and to the Head of the Home Civil Service.

Delegations/authorisations are made subject to the condition that recipients comply with the provisions of the Civil Service Management Code as amended from time to time. Copies of the Civil Service Management Code are available in the Library of the House and electronically at http://www.civilservice.gov.uk/about/resources/csmc/index.aspx.

Climate Change

Statement

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): My right honourable friend the Secretary of State (Hilary Benn) has made the following Written Ministerial Statement.

My right honourable friend the Secretary of State for Energy and Climate Change and I wish to inform the House that plans will be published on Wednesday 31 March by all major government departments to show how they are taking forward action on climate change.

The Carbon Reduction Delivery and Adaptation Plans set out how government departments will work to reduce greenhouse gas emissions from their own estates and operations, and in the sectors that they can influence. They also show how departments will cope with the impacts of climate change that we expect to face, including by improving awareness, capacity and skills within Government to respond effectively to a changing climate.

These documents are being published alongside a single overview *Climate Change: Taking Action—Delivering the Low Carbon Transition Plan and Preparing for a Changing Climate*. This provides a view of progress across government and identifies some of the main climate challenges that departments are working together to address—through delivery of their departmental carbon budgets and adapting to a changing climate in their planning and decision making.

I will place copies of *Climate Change: Taking Action—Delivering the Low Carbon Transition Plan and Preparing for a Changing Climate* in the Libraries of the House on Wednesday.

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.

The Department for Transport has today published a response to the public consultation which closed 5 February 2010. It outlines our proposals for implementing the third EU directive on driving licences (directive 2006/126/EC), adopted in December 2006.

Most features of the directive must be transposed into national law by mid-January 2011 and come into practical effect by mid-January 2013. Implementing regulations will be laid before Parliament in order to transpose the directive into law in Great Britain by the due date of January 2011. Separate arrangements apply in Northern Ireland, where driver licensing is a devolved matter.

After carefully considering views expressed by respondents, we intend to maintain the approach of making as little change to our current arrangements as is consistent with the directive and, where change is unavoidable, making it at least cost. Changes include:

a new European moped category AM which will include light quadricycles and tricycles. The minimum age for this category remains unchanged from current requirements at 16 years;

the introduction required under the directive of a new motorbike category A2, providing in the future categories A1, A2 and A;

progress through these categories will be achieved by passing a test; direct access to a category, by passing a test, will also be possible. Direct access to new category A2 will be 19 years. Direct access for category A will rise from the current 21 to 24 years;

special provisions for moped and motorcycle riders with a physical disability;

the need for new car drivers to pass a test to tow a medium sized trailer;

new conditions of approval for organisations with non-DSA driving examiners;

abolition of the separate category B1 (quadricycles) driving entitlements for new drivers; and

five-year driving licence administrative validity periods for drivers of lorries and buses.

We have decided not to introduce a training route to progressing through the motorcycle categories or, for car drivers, to towing a medium sized trailer. Although a training route was supported by many respondents some did not consider that in the current economic downturn the proposals were financially viable. This is also our assessment.

Many respondents opposed our proposals that riders should first take a familiarisation course on a more powerful category of motorcycle before being able to ride that category with a provisional licence before taking their test. They argued instead that riders wishing to ride category A2 or A motorcycles who have not yet qualified for a full licence for the larger category should be accompanied by an authorised trainer (AT) when riding on the roads. We agree with this argument and have amended our proposals accordingly.

Copies of the response report are available on the DfT website at www.dft.gov.uk and copies have been placed in the Libraries of the House.

Employment

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Secretary of State for Work and Pensions (Yvette Cooper) has made the following Written Ministerial Statement.

Today, I am publishing *Building Bridges to Work: New Approaches to Tackling Long-term Worklessness*, which sets out the next steps of welfare reform and will ensure no one is left to a life on benefits.

Historically too many people who were out of work were written off. In the 1980s and early 1990s long-term worklessness soared. We have had to deal with that legacy. Since 1997 worklessness has fallen, the number of people on working age inactive benefits has fallen by 300,000 and the action we have taken has prevented a big increase in inactivity during this recession.

Today we are going further. In *Building Bridges to Work: New Approaches to Tackling Long-term Worklessness* we set how we will support the long-term workless back into work, and support disabled people and those with health conditions who are at risk of long term unemployment and worklessness to make sure no one gets left behind in the recovery. We will do this by introducing more individualised help alongside stronger personalised conditions, including extra support for people who are newly assessed as fit for work but may have spent a number of years on an incapacity benefit.

For those who are doing their bit but still struggling to get a job, the Government will step in and do their bit too. For jobseekers who do not find work after two years we will guarantee them employment or work placements and for people on employment and support allowance who do not find work after two years, we will provide a guaranteed place on our specialist disability employment programme—Work Choice.

I am also today publishing the Government's response to the Social Security Advisory Committee's consultation on the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) Regulations and laying these regulations before Parliament.

Over the next three years healthcare professionals will assess current incapacity benefits claimants, looking at what they can do, as well as what they cannot, using the work capability assessment to move them to our more active welfare regimes, culminating in the abolition of old style incapacity benefits by April 2014.

To ensure people are directed to the right support to get into work we will amend the work capability assessment and our proposals for the revised assessment are also published today.

The revised assessment will, for example, take better account of an individual's ability to adapt to their condition and introduce improved assessment of fluctuating conditions.

These proposals involve a radical change in the way we use our resources to support people at risk of long-term worklessness—providing more personalised help and conditions coupled with guarantees to prevent those who are able to work spending a lifetime on benefits.

Intellectual Property Office: Performance Targets

Statement

The Minister of State, Department for Business, Innovation and Skills and Ministry of Defence (Lord Drayson): My right honourable friend the Minister for Higher Education and Intellectual Property has today made the following Statement.

I have tasked the Intellectual Property Office with managing and shaping an intellectual property system which encourages innovation and creativity, balances the needs of rights holders and the public, provides support to businesses on managing and exploiting their intellectual property, and stimulates economic growth.

I have set the Intellectual Property Office the following targets for 2010-11:

be able by March 2011 to quantify the level of IP rights and estimate IP's impact on the knowledge economy;

demonstrable improvement in stakeholder perceptions of the impact of our international policy engagement compared with 2009-10 results;

review by March 2011 the UK's system of moral rights, by comparison with our international partners and by conducting an appraisal of any impact on our economic and cultural environment;

issue 80 per cent of patent search reports within four months of request;

give good customer service in processing patent applications in 95 per cent of quality assured cases;

clear all outstanding patent examinations older than 49 months by March 2011;

register 85 per cent of correctly filed applications for trade marks, where no opposition has been filed, within four months, 90 per cent within five months and 95 per cent within six months;

make the correct decision on registration on at least 99 per cent of trade mark applications;

register 95 per cent of correctly filed design applications within one month;

our business outreach enables 80 per cent of its recipients to improve the IP performance of their business or the businesses they advise;

achieve a return on capital employed of 4 per cent;

identify savings equivalent to 5 per cent of the operating costs of areas where we make IT investment decisions and from contracts renewed through the procurement process;

90 per cent of IPO customers will be satisfied with the service they receive; and demonstrable improvement in our people's perceptions of leadership and change management capability at all levels of the IPO compared with 2009.

Law Reform

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 very pleased to announce that the chairman of the Law Commission and I have agreed a statutory protocol governing how government departments and the Law Commission should work together on law reform projects. The protocol is key to ensuring a more productive working relationship between the Law Commission and Whitehall. The protocol has been laid before Parliament today.

The Law Commission Act 2009, which amends the Law Commissions Act 1965 to provide for the statutory protocol, also introduces a duty on the Lord Chancellor to report annually to Parliament on the extent to which Law Commission proposals have been implemented by the Government. The protocol is intended to improve the rates of implementation of Law Commission reports and its success in this respect will be highlighted in the annual reporting to Parliament.

Police: Pursuits

Statement

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): My right honourable friend the Minister of State for Policing, Crime and Security (David Hanson) has today made the following Written Ministerial Statement.

I have today launched a public consultation on the management of police pursuits. To promote the efficiency and effectiveness generally of the police, Section 39A of the Police Act 1996 empowers me to issue to chief officers of police codes of practice relating to the discharge of their functions.

The National Policing Improvement Agency (NPIA) will be leading a 12-week public consultation on the draft of a code of practice on the management of police pursuits. The draft has been produced following detailed discussions involving the Home Office (HO), the Association of Chief Police Officers (ACPO), NPIA and the Independent Police Complaints Commission (IPCC). We have also consulted the Department for Transport, the Superintendents' Association, the Police Federation, the Health and Safety Executive and the Scottish and Welsh Assembly Governments.

Police on-road pursuits typically involve around 35 to 40 fatalities a year. Not all of these involve the pursuit car. However, both ACPO and the HO agree with the IPCC that we need to ensure we have done all we can to ensure public safety in the process of preventing crime. I want to reduce the risk of casualties to the minimum and ensure that pursuits are undertaken as safely as possible and only when a necessary and proportionate means of preventing crime and apprehending offenders. I want to ensure public confidence in the management of pursuits.

In 2007, the IPCC published research on police pursuits. Its recommendations included the updating, development and codification of existing ACPO guidance on pursuit management. ACPO prepared new guidance and recommended to Ministers that it should be issued as a statutory code. The Police Act requires chief officers to have regard to such a code. Its issue would therefore ensure more consistent good practice.

Ministers agreed the ACPO recommendation. To help achieve earlier benefits from the guidance and speedier implementation of the code, a Home Office circular was issued last July to all police forces. This announced the planned development of a statutory code based on the guidance and HO and ACPO agreement that all forces should work towards full compliance with that guidance.

The draft code clearly sets out over-arching requirements and principles, including the need to comply with the detailed ACPO operational guidance. The guidance will remain a separate document, subject to up-dating and amendment as necessary. Code and guidance together will reduce the risks of death and serious injury, enhance public confidence in pursuit management and promote the safe prevention of crime and apprehension of offenders.

Following the consultation, we will consider the responses and feed these into a final draft. The Act requires me to lay before Parliament the code as finally issued. I intend to do this before the end of the year.

NPIA is sending the draft code direct to the police and other key parties and it is available for public comment on the NPIA and HO websites. Copies are also available from the Vote Office and in the House Library.

Post Office: Banking

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 has today made the following Statement.

The Post Office is one of this country's oldest institutions, but the Government believe it still has a vital role to play in today's society, and in the future.

In December 2009, the Government published a consultation on Post Office Banking, setting out its vision for banking at the Post Office based around four values: universal; accessible; trusted and sustainable. The scale of the response showed a clear desire for the Post Office to do more.

The Government's response to the consultation, which is being published today, sets out the expanded role we want the Post Office to play:

making affordable credit more readily available by working closely with credit unions;

increasing financial inclusion, by providing local access to more high street bank accounts;

giving children their own account to allow them to save at their local Post Office; and

providing a way for people to manage their household bills, with a new account that will allow those on low incomes to take better advantage of direct debit rates for energy and water bills.

The document also sets out new measures on mortgages, access to business banking, and a Post Office current account which would be available in all of its 11,500 branches. These new products will add to the wide range of banking products and services already on offer at the Post Office—credit cards, insurance, loans, foreign currency, and savings.

The measures the Government are taking mark a step change in banking at the Post Office. They also demonstrate the Government's ongoing commitment to the Post Office network. A commitment the Government are backing up with a £180 million of new government funding for the network for 2011-12, beyond the £1.7 billion that is already being invested from 2007 to 2011.

Copies of the Government's response to the consultation will be available in the Vote Office, the Printed Paper Office and will be deposited in the Libraries of the House. The consultation document will also be accessible online on the department's website.

Social Care

Statement

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): My honourable friend the Minister of State, Department of Health (Phil Hope) has made the following Written Ministerial Statement.

The department has today issued a local authority circular detailing the funding allocations for the Social Care Reform Grant.

This is the final year of the £520 million Social Care Reform Grant which is ring-fenced to be used by local authorities to assist them with their partners in delivering the transformation of adult social care, as set out in *Putting People First: A Shared Vision and Commitment to the Transformation of Adult Social Care*.

In the first two years of the Social Care Reform Grant, significant progress has been made to deliver this transformation but this circular details what councils will need to do in the final year of funding.

In September 2009 the Association of Directors of Adult Social Services and the Local Government Association with the Department of Health agreed a set of milestones focusing on five areas of priority to help councils be clear about what good progress implementing *Putting People First* looks like and to prioritise their use of the final year of the reform grant. These priorities are:

effective partnerships with people using services, carers and other local citizens;

ensuring everyone has self-directed support and a personal budget;

ensuring universal access to information and advice;

commissioning a range of services to ensure people have choice; and

delivering services in a cost effective and efficient manner to use the available resources well.

The final year of revenue money (£237 million) has been ring-fenced by the department, so that it should be used for supporting the process of transformation. In addition, non ring-fenced capital moneys have also been allocated this year. This includes:

£30 million allocated to local authorities as a capital investment grant, to support delivering personal budgets and transformation in adult social care; and

an allocation of £20,000 to each council with adult social service responsibilities to develop innovative strategies and approaches to extra care housing.

This year's funding should enable local authorities to deliver the transformation envisaged in *Putting People First*.

Taxation: Information Exchange Agreements

Statement

The Financial Services Secretary to the Treasury (Lord Myners): My right honourable friend the Financial Secretary has made the following Written Ministerial Statement.

A tax information exchange agreement (TIEA) was signed with Belize in London on 25 March 2010.

The text of the TIEA has been deposited in the Libraries of both Houses and made available on HM Revenue and Customs' website. The text will be scheduled to a draft Order in Council and laid before the House of Commons in due course.

Tourism: Seaside Economy

Statement

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): My right honourable friend the Secretary of State for Communities and Local Government (John Denham) has made the following Written Ministerial Statement.

The *Strategy for Seaside Success: Securing the Future of Seaside Economies* was launched on Thursday 25 March.

The aim of the strategy is to help ensure our seaside towns have the help they need to build on their heritage and take advantage of the new opportunities to develop strong economies and communities for the future. While many seaside towns have had to confront particular economic challenges in recent years, seaside towns have unique histories and retain a special place in the development of modern Britain.

A renewed interest in these places, coupled with new possibilities to develop and use low carbon economies and tap into the global digital economy, provides an excellent opportunity for seaside towns to become great places to live, work and visit.

This strategy builds on support the Government have given to seaside towns since 1997 through a range of mainstream policies together with targeted support to some of the most deprived seaside authorities.

We have given councils more powers to tackle their own problems locally, through devolution, while the regional development agencies have given seaside towns significant support to promote economic development. The North West Development Agency has invested over £200 million in its seaside towns, and over £86 million has been invested in coastal areas by the East of England Development Agency.

The Government's Sea Change initiative has put £38 million into improving seaside town infrastructure in 32 seaside areas since 2008. The Heritage Lottery Fund has provided over £234 million to 864 projects in English seaside reports to support their regeneration. Over £99 million has been targeted on 21 of the most deprived seaside resorts through the Working Neighbourhoods Fund and New Deal for Communities.

The new cross-government strategy is directed at key areas where action is most needed. The package of support it outlines includes:

a new £5 million Seaside Towns Grant fund to help the 25 most deprived seaside local authorities tackle long term worklessness and drive regeneration;

a pledge to extend the Sea Change programme to help improve seaside town infrastructure after 2011;

the Heritage Lottery Fund to look at how more support can be given to iconic piers which are a unique part of many seaside towns historic infrastructure;

new licensing rules for councils over houses in multiple occupation will help tackle problems around poor quality seaside housing, and we will look at what else is needed to prevent unsuitable landlords getting holiday caravan site licences;

support for a "Seasiding" campaign with festivals to attract cultural investors and strengthen non-seasonal economies to help them become year round visitor destinations;

exploring options to exploit new opportunities on the coast to benefit seaside town economies, including taking advantage of their natural advantages and location to be at the forefront of the shift to a low carbon economy. New UK offshore wind licences could be worth £75 billion and create 70,000 new jobs by 2020, many of which could be in coastal areas;

ensuring that communities across the UK, including seaside towns, benefit from the Government's commitment to extend new digital networks, including super-fast broadband, across the country;

regional development agencies and tourism boards to give maximum promotion to seaside towns in their region;

learning from the neighbourhood policing pilots in seaside and other areas on how to deal effectively with anti-social behaviour and crime in seaside towns; and

a focus on stronger co-operation across government to improve regeneration outcomes in seaside towns, including Regional Ministers as seaside champions, and improved delivery of on-line personalised public services in seaside towns.

Seaside towns face complex economic and social issues so this strategy will evolve. It will help to ensure all our seaside towns to reach the standards of the best and become year round economies that flourish and grow in the 21st century.

I have placed copies of the strategy in the Library of the House.

UK Hydrographic Office: Targets

Statement

The Minister for International Defence and Security (Baroness Taylor of Bolton): My honourable friend the Parliamentary Under-Secretary and Minister for Veterans (Mr Kevan Jones) has made the following Written Ministerial Statement.

The following key targets have been agreed with the chief executives of the UK Hydrographic Office and Defence Science and Technology Laboratory (Dstl) for the FY2010-11.

UK Hydrographic Office

KT1: Safety

While aiming for 100, to achieve a safety index of 95 or higher.

KT2: Defence

To deliver the defence hydrographic programme achieving an index rating of 95 or higher while transitioning to a multi-year service definition annex incorporating incentivised pricing.

KT3: Finance

To achieve a return on capital employed of 9 per cent on a three year rolling basis.

KT4: Organisational excellence

To demonstrate an improvement year on year across 10 measures of excellence while also achieving at least 75 out of 100.

KT5: Improving business efficiency and deliver value for money

To achieve at least 50 out of 70 against seven targets which together reflect a measure of efficiency improvements and value for money.

Dstl

KT1: Quality

Deliver high quality outputs from Dstl-led projects that are assessed externally as impacting on customers' priority issues, including the Research and Development (R&D) Board's priorities.

KT2: Timeliness and customer satisfaction

Deliver at least 90 per cent of all Dstl-led projects that complete in the financial year 2010-11 to time and to budget, and achieve at least 93 per cent of customer feedback responses at a score of seven or above for overall satisfaction.

KT3: Capability

Dstl will sustain and develop its technical capability, independently assessing 10 capability groups chosen by the R&D Board where Dstl needs to lead thinking either now or in the future. No more than three of these will be assessed as development needed.

KT4: Business performance

To maintain strong business performance through:

achieving an average ROCE of at least 3.5 per cent over the period 2009-10 to 2013-14;

achieving an annual operating profit of £18.4 million while using the same charge out rates in 2010-11 as in 2009-10; and

non-staff costs not exceeding 32.1 per cent of net income.

KT5: Sustainability

Embed sustainability into Dstl's business ethics by achieving and, where these have already been met, exceeding government sustainable operations targets by:

reducing carbon emissions from buildings by 15 per cent relative to 2001-02 levels, by the end of 2010-11;

increasing energy efficiency per m2 by 17 per cent relative to 2001-02 levels, by the end of 2010-11; and

increasing recycling figures to 80 per cent of waste arising by 2010-11.

Westminster Foundation for Democracy

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 would like to inform the House that the recent FCO commissioned independent review of the Westminster Foundation for Democracy is complete. I have placed copies of the review in both Libraries of the House and it is also available on the WFD website.

The Westminster Foundation for Democracy is a unique organisation that carries out important work to support democracy worldwide. The FCO places great value on its work.

The objective of the review was to assess the foundation's performance and its value for money. The review found that the WFD is well positioned to make a contribution internationally. It was broadly positive about the WFD's work with parties and parliaments overseas. The WFD was found to be valued by both participants and beneficiaries. The FCO will continue to work closely with the WFD to ensure that the review's recommendations are implemented.

Written Answers

Monday 29 March 2010

Agriculture: Cattle Emissions

Question

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government why it took 15 months to publish the data for 2007 in Indicator 6.1.2 (greenhouse gas emissions from agriculture) in the Department for Environment, Food and Rural Affairs' autumn performance report 2009; and why the data for 2008 will not be available before April 2010. [HL3051]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): Indicator 6.1.2 on greenhouse gas emissions from agriculture is compiled using statistics from the set of environmental accounts published by the Office for National Statistics (ONS), which in turn use statistics from the greenhouse gas inventory now published by DECC. The 2007 environmental accounts were published by the ONS in July 2009 and these were then used to update indicator 6.1.2 published in the 2009 autumn performance report in line with previous years. The 2008 data are expected to be available in the summer of 2010 and will be used to update the indicator within the 2010 autumn performance report.

The complex nature of the calculations for both the inventory and the environmental accounts and the timing by which the variety of data sources used in their compilation become available leads to an inevitable delay before indicator 6.1.2 can be published. But we will continue to look for ways to improve the timeliness of the publication of this indicator without compromising its accuracy.

Agriculture: Genetically Modified Crops

Questions

Asked by ***The Countess of Mar***

To ask Her Majesty's Government which genetically modified products approved and marketed bring benefits to consumers in terms of taste, nutrition, cost and shelf life; and what assessment they have made of the effect of marketed genetically modified crops on production costs, choice of seeds for growers, yields, pesticide use and weed resistance. [HL2865]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): Current genetically modified (GM) products approved for food and feed use in the European Union (EU) are not intended to provide benefits directly for consumers. They are mainly products made from GM crops which are designed to make weed and pest control easier for farmers, being herbicide-tolerant, insect-resistant, or a mix of both these traits. In addition, the EU has just approved the cultivation and marketing of a GM potato which has altered starch composition for various industrial uses.

Defra is aware of various published reports on the impact of GM crop cultivation in other countries. The reported impacts can vary according to the specific type of crop involved and the country or region of use. In addition, outcomes may fluctuate over time, and the range of evidence available on a given impact may not cover a consistent period.

Asked by ***The Countess of Mar***

To ask Her Majesty's Government further to the Written Answer by Lord Davies of Oldham on 8 March (*WA 12*), whether there was discussion about the scientific evidence of proposed authorisations for genetically modified products in the Council of Ministers. [HL2899]

Lord Davies of Oldham: There is not normally a substantive discussion when votes are taken in the Council of Ministers on proposed authorisations for genetically modified (GM) products. Any issues about the scientific evidence relating to a specific product are usually raised at an earlier stage in the EU assessment process, before a decision is referred to the council. Scientific questions concerning GM food and feed applications under Regulation (EC) No.1829/2003 can be raised at the Standing Committee on the Food Chain and Animal Health, and for applications made under the GMO Deliberate Release Directive 2001/18/EC at the associated Regulatory Committee. The position taken by the UK on GM applications is informed by the expert scientific advice provided by the European Food Safety Authority and the Advisory Committee on Releases to the Environment.

Agriculture: Maps

Questions

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government how many original maps were submitted in each month for the Rural Payments Agency's (RPA) remapping exercise; how many maps have been confirmed by the RPA in each month; how many maps have been amended; how many have been returned in each month; and how many have yet to be returned from each month of submission. [HL2913]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): The number of maps that the Rural Payments Agency (RPA) have confirmed, amended, returned and those still outstanding are shown in the table below.

Week Ending	*4/9/2009*	*2110/2009*	*30/10/2009*	*27/11/2009*	*18112/2009*	*29/1/2010*	*26/2/2010*	*1913/2010*
Original Maps Sent from RPA	49,512	71,396	103,416	107,111	107,111	107,247	107,247	107,247

Week Ending	4/9/2009	2110/2009	30/10/2009	27/11/2009	18112/2009	29/1/2010	26/2/2010	1913/2010
Maps Accepted by Customers	10,520	26,847	38,833	52,150	*53,949	*57,045	*57,064	*57,064
Maps Returned to RPA for Amendment	9,885	16,814	27,567	44,360	49,011	50,183	50,183	50,183
Customer Responses Outstanding	29,107	27,735	37,016	10,601	4,151	19	0	0
Amended Confirmation Maps Sent	293	293	1,397	4,627	10,254	24,208	30,362	39,850
Outstanding Confirmation Maps still to be Sent	9,592	16,521	26,170	39,733	38,757	25,975	19,821	10,333

* The number of maps accepted by customers includes customers who did not respond after several reminders and were therefore deemed to have accepted by default.

Asked by ***Baroness Byford***

To ask Her Majesty's Government what steps are taken, when the Rural Payments Agency reduces a farmer's landholding, having sent him a final map, to compare the new map with the old map. [HL3007]

Lord Davies of Oldham: The Rural Land Register has been using base data from Ordnance Survey 2001 Mastermap. The Rural Payments Agency has been updating this with the 2008 version and using this information, along with aerial photography, to identify changes to land and features ineligible for the single payment scheme.

The maps sent to farmers show field parcel sizes so farmers can compare the new map information with the old maps they held previously and can see any increase or decrease in field size.

Anglo-US Defence Trade Treaty

Question

Asked by ***Lord Astor of Hever***

To ask Her Majesty's Government what discussions they have had with (a) the government of the United States, and (b) members of the United States Congress, about the ratification in the United States of the United Kingdom–United States Defence Trade Co-operation Treaty which was ratified in the United Kingdom in early 2008. [HL2995]

The Minister for International Defence and Security (Baroness Taylor of Bolton): Her Majesty's Government discusses the UK-US Defence Trade Co-operation Treaty frequently with all levels of the US Government. Ratification of the treaty still awaits the approval of the US Senate, and the UK has also ensured that Members of the Senate are aware of the benefits the treaty brings to both nations in operational and industrial terms.

Armed Forces: Aircraft

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government how much they have spent on developing and procuring all confirmed orders for Eurofighter Typhoon aircraft for the Royal Air Force; and how much they have committed to spend on those orders. [HL2939]

The Minister for International Defence and Security (Baroness Taylor of Bolton): As published in the Major Projects Report 2009 (MPR09), the cost of the Typhoon demonstration and manufacture phase is £17.526 billion. This covers the main development contract, tranche 1 and tranche 2. The tranche 3A cost is subject to validation by the National Audit Office and will be reported formally in MPR 10.

Armed Forces: Medals

Question

Asked by ***Baroness Finlay of Llandaff***

To ask Her Majesty's Government what consideration they have given to adding a bar to service medals to recognise repeated tours of duty in an area of conflict for which a medal is awarded. [HL2986]

The Minister for International Defence and Security (Baroness Taylor of Bolton): The accumulated campaign service medal was instituted for aggregated service and repeat tours of duty for those locations anywhere where a campaign medal is awarded.

We believe this is the most appropriate way to recognise repeat tours of duty, and so there are no plans to consider adding a bar to service medals.

Armed Forces: Reserve Forces

Question

Asked by ***Lord Moonie***

To ask Her Majesty's Government what training obligations there are on members of Her Majesty's reserve forces; and how many have undertaken them in the past 12 months. [HL2731]

The Minister for International Defence and Security (Baroness Taylor of Bolton): In order to qualify for an annual bounty, a tax-free lump sum bonus of up to £1,621 for meeting the training commitment, volunteer reservists are required to undertake a minimum 27 days training per annum, or 19 days for some specialist units.

Between 1 March 2009 and 1 March 2010, 20,470 volunteer reservists, excluding members of university units, received an annual bounty. This represents 61 per cent of all volunteer reservists, excluding members of university units—a level that has been stable for the past 20 years.

Members of the regular reserve currently have various training obligations according to service and status under the Reserve Forces Act 1996. In practice, these have not been applied since the end of the Cold War, although voluntary training may be undertaken. In 2009, 30 individuals received the ex-regular and other ranks training bounty of £369 for undertaking annual specialist military training of 5-10 days.

Asylum Seekers

Questions

Asked by ***Lord Avebury***

To ask Her Majesty's Government whether the Case Resolution Directorate of the UK Border Agency is processing asylum cases in order of the person's arrival in the United Kingdom; and, if not, how the directorate decides on their priority. [HL2909]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): The Case Resolution Directorate (CRD) does not process outstanding asylum legacy cases in order of the person's arrival in the United Kingdom. As set out in the Home Office's Immigration and Nationality Directorate review of July 2006, command paper reference 275921, CRD prioritises those individuals who may pose a risk to the public, are receiving support from the agency, and those who can more easily be removed or where it is likely that the decision will be made to allow them to remain in the United Kingdom.

All cases will be dealt with on their own individual merits and in accordance with these priorities.

Asked by ***Lord Hylton***

To ask Her Majesty's Government following the recent Human Rights Watch report Fast-Tracked Unfairness: Detention and Denial of Women Asylum Seekers in the UK, whether they will ensure that people with complex claims are not included in the fast-track asylum procedure; and whether complex gender-related persecution claims will be excluded from that procedure. [HL3047]

Lord West of Spithead: No asylum seeker whose case is considered to be complex would be processed in the detained fast track procedure, irrespective of the basis of their claim.

Benefits

Questions

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

To ask Her Majesty's Government what estimate they have made of the percentage of new employment and support allowance applicants expected to fail to qualify for supported benefit status under the work capability assessment and who will be directed to claim jobseeker's allowance instead. [HL2880]

To ask Her Majesty's Government what percentage of current employment and support allowance claimants who fail to qualify for supported benefit status under the work capability assessment are being advised to claim jobseeker's allowance instead. [HL2881]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The department estimated that around 50 per cent of people found fit for work by the work capability assessment for employment and support allowance claims would subsequently move to jobseeker's allowance. Information on the percentage of current employment and support allowance claimants who fail to qualify for supported benefit status are being advised to claim jobseeker's allowance is not currently available.

Biocidal Products: Formaldehyde

Question

Asked by ***The Lord Bishop of London***

To ask Her Majesty's Government what assessment they have made of the impact of the Biocidal Products Directive (98/8/EC) on funeral practices in the United Kingdom, especially the embalming of bodies with formaldehyde prior to burial. [HL2892]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): No specific assessment has been made of the impact of the Biocidal Products Directive on the use of formaldehyde in the embalming process or more generally on funeral practices in the United Kingdom. At the time the Biocidal Products Regulations 2001 were drafted to implement the Biocidal Products Directive in Great Britain, a regulatory impact assessment was prepared by the Health and Safety Executive using the best available information. Compliance costs of the Biocidal Products Regulations for industry as a whole were estimated over and above those for existing national legislation, and industry was consulted.

Embalming and taxidermist fluids is one of 23 biocidal product types identified in the Biocidal Products Directive. Formaldehyde (often as formalin, a solution of formaldehyde gas in water) is widely used as a disinfectant, preservative and for antifouling and vertebrate control. The embalming industry is, therefore, not alone in having to support active substances used in its products

through the review process required by the directive, and may wish to work with other sectors to share costs as appropriate.

Buses

Question

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what financial contribution they have committed to the Cambridge guided busway project; what is its expected opening date; what is the estimated outturn cost; and whether they intend to contribute further funding to the project. [HL3036]

The Secretary of State for Transport (Lord Adonis): The Department for Transport's contribution has been capped at a maximum of £92.5 million. There is no intention to contribute further to this scheme. When approved in 2006 the scheme had an expected outturn cost of £116.3 million. I understand that Cambridgeshire County Council has recently indicated that the total may now fall between £140 million and £145 million.

I also understand that the council is in regular contact with the guided busway contractors regarding establishing an opening date.

Businesses: VAT Registered

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government how many VAT-registered companies were operating in each region and country in the United Kingdom in (a) 1997, (b) 2006, and (c) 2009. [HL2751]

The Financial Services Secretary to the Treasury (Lord Myners): A business' place of registration may not always be a reliable indicator of where it does business. This is particularly true for larger businesses as while most businesses have one VAT registration, larger businesses may have more than VAT registration.

Figures on the number of VAT registered entities operating in each region were published in the then Department for Business, Enterprise and Regulatory Reform's publication *Business Start-ups and Closures: VAT Registrations and De-registrations in 2007* and its associated tables available at http://stats.berr.gov.uk/ed/vat/. This information is reproduced in the table below.

	VAT registration threshold at start of:		
	1997	*2006*	*2008*
	£48,000	*£60,000*	*£64,000*
	Number of VAT registered entities at start of:		
	1997	*2006*	*2008*
Region			
North East	42,600	48,990	52,285
North West	160,175	184,700	194,700
Yorkshire and the Humber	121,470	139,125	145,240
East Midlands	111,885	132,520	139,155
West Midlands	137,210	160,795	167,075
East of England	163,655	196,270	204,645
London	238,680	300,160	321,635
South East	249,300	305,395	319,850
South West	156,375	183,440	191,125
Country			
England	1,381,350	1,651,395	1,735,710
Wales	77,825	85,045	87,340
Scotland	120,810	134,290	141,895
Northern Ireland	55,375	64,685	66,230

As this report is no longer compiled, recent figures for 2009 are available only at disproportionate cost. In January 2009 HMRC's figures show that there were 1,974,142 VAT registered traders in the UK; the VAT registration threshold was £67,000 at this time. Further information is available at https://www.uktradeinfo.com/index.cfm?task=bullvat.

Communities: Preventing Extremism

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what legislation authorises local authorities to map locations and residential areas containing Muslims, as provided in the *Preventing Violent Extremism scheme National Indicator No 35*; and what assessment they have made of the effect of such action on Muslims. [HL2911]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): National Indicator 35 or NI35 "Building resilience to violent extremism" is one of the 188 indicators that make up the national indicator set. All district and unitary local authorities in England are required to report against NI35 and some have agreed it as a

priority indicator in their local area agreement. The principles of the national indicator set are set out in more detail in the Local Government White Paper Strong and Prosperous Communities.

The Communities Secretary has made clear that work on "Prevent" should be done in partnership with Muslim communities. Local authorities can do this only by knowing who their communities are. The measure around understanding and engagement of Muslim communities in NI35 is consistent with the statutory duties placed on local authorities to involve their communities in local decisions.

A new duty to involve came into force on 1 April 2009 as part of the Local Government Public Involvement in Health Act 2007 and includes an additional requirement on local authorities to ensure that people have greater opportunities to have their say. Statutory guidance, "Creating Stronger and Prosperous Communities" which supports the Act, was issued to local authorities in July 2008.

A copy of this guidance is available on the CLG website at http://www.communities.gov.uk/publications/localgovernment/strongsafeprosperous.

It is for local authorities themselves to make assessments about the impact of their work on local communities. We would expect them to listen to any concerns raised by their communities about any aspects of their work.

Crime: Hate

Questions

Asked by ***Lord Waddington***

To ask Her Majesty's Government further to the Written Answer by Lord Bach on 5 February (*WA 72*), who are the members of the Independent Advisory Group to the cross-government hate crime programme "Race for Justice". [HL2984]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): The Race for Justice Advisory Group members are a broad range of community representatives who are all independent of any relevant government department or criminal justice agency. They are led by an independent chair, Professor John Grieve, and include academic experts, representatives of third-sector bodies, victims groups and people directly affected by hate crime. The group is self-selecting and has invited new members to join when it has felt it needed to broaden membership to respond to new challenges. Members of the group have expertise and involvement in all five strands of monitored hate crime, being disability, race, religion, sexual orientation and transgender.

Asked by ***Lord Waddington***

To ask Her Majesty's Government further to the Written Answer by Lord Bach on 5 February (*WA 72*), whether they will publish the advice of the Independent Advisory Group to the cross-government hate crime programme "Race for Justice" given to assist the preparation of the new hate crime manual. [HL2985]

Lord Bach: In addition to the advice given to the "Race for Justice" programme, the Advisory Group took a decision to act as the standing Independent Advisory Group to the Hate Crime Portfolio Group of the Association of Chief Police Officers. It is this group who that is developing the refreshed hate crime manual. Given that this document will be owned by the Association of Chief Police Officers, Her Majesty's Government do not intend to publish the advice received in the preparation of the document. The Association of Chief Police Officers has indicated that they intend to complete an equality impact assessment which will reflect the advice of the advisory group and all other consulted groups.

Crime: Public Transport

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government why a summary of the research findings on the cost of crime on public transport anticipated to be published in the autumn of 2009 has not been published; and when it will be published. [HL2967]

The Secretary of State for Transport (Lord Adonis): We had anticipated publishing a summary of the research findings on the cost of crime on public transport to tie in with an event specifically focusing on transport crime last autumn, which was subsequently postponed. The research findings will be published in due course.

Department for Transport: Instructional Videos

Questions

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what was the cost to public funds of the instructional videos that the Department for Transport commissioned on how Flip video camcorders should be used when filming Ministers; whether they will place those videos on the Department for Transport's website; and what other such videos have been commissioned in the past five years. [HL3034]

The Secretary of State for Transport (Lord Adonis): The cost to public funds for the production of the camcorder training video was £767.71.

As it is for internal use, the video will not be placed on the Department for Transport's website. No other camcorder training videos have been commissioned in the past five years.

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what measures are in place in the Department for Transport to monitor the effectiveness of staff in their use of Flip video camcorders. [HL3035]

Lord Adonis: As a trial, a total of four small camcorders were acquired in 2009 and issued to selected communications directorate staff for the purposes of

producing short films suitable for publicising departmental announcements and events on social media such as YouTube.

Material produced using these small camcorders is edited by the department's social media team and checked for quality and suitability by Communications Directorate senior management.

Elections: British Nationals

Question

Asked by ***Lord Lester of Herne Hill***

To ask Her Majesty's Government why British citizens living abroad for more than 15 years are excluded from the right to vote in parliamentary elections. [HL2890]

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach): Section 1 of the Representation of the People Act 1985 provided for the first time that British citizens living overseas should be able to register to vote in parliamentary elections in the UK. That Act established the principle that a British citizen living abroad can only be registered within a fixed period of time. That period currently expires 15 years from the date on which the citizen in question was last resident in a parliamentary constituency in the United Kingdom and was included in the register for that constituency as a result.

Parliament decided to impose a time limit on the eligibility of overseas electors to vote in parliamentary elections, as it was thought that, during a lengthy period of absence from the UK, their connection with the UK is likely to diminish. Accordingly, it was considered that the ability of those electors to have a direct influence on our democratic processes by voting should also diminish.

The length of the period after which the right to vote lapses was initially set at five years but has subsequently been increased by statute to 20 years then, from 1 April 2002, reduced to 15 years. Each time a change has been has been made, Parliament has approved that change and confirmed its view that the basic principle of time-limiting overseas voting rights remains appropriate.

However, despite the general time limit described above, there are certain categories of person living abroad for a period longer than 15 years who are still entitled to vote. The categories of person are members of the Armed Forces; persons in Crown service posts; and persons working for the British Council. This exception also covers the spouses and civil partners of members of each of those categories. In the case of the Armed Forces, the right recognises the need for special arrangements that reflect the important nature of their service to the United Kingdom. Crown Servants are given this right because their service and loyalty to the Crown and State are considered to be directly comparable to that of a civil servant who lives and works in the United Kingdom.

Energy: Light Bulbs

Question

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government whether they have commissioned or funded research into the safe disposal of failed eco-friendly light bulbs. [HL2915]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): In December 2008, Defra funded the "Impact Assessment of Energy Using Products (EuP) Implementing Measures for non-directional household lamps" as part of its work to transpose the Waste Electrical and Electronic Equipment (WEEE) Directive into UK law. This assessment is available online in the Better Regulation Executive (BRE) library at: http://www.ialibrarv.berr.gov.uk.

Section 4.3 of the evidence attached to this impact assessment addresses the end-of-life phase, covering the key environmental impacts and associated disposal issues.

Energy: Microgeneration

Question

Asked by ***Lord Teverson***

To ask Her Majesty's Government whether they will consider removing the requirement for approval through the Microgeneration Certification Scheme, together with product accreditation, for micro-hydro installations under the feed-in tariff regime, in light of the non-standard applications that apply to that technology, as recorded in section 1.3 of Analysis of the Feed-in Tariff responses to the Consultation on Renewable Electricity Financial Incentives 2009. [HL3041]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): The microgeneration certification scheme (MCS) is an important component of the feed-in tariff scheme (FITs) to ensure consumer protection. The Government have taken account of comments summarised in 1.3 of the analysis of responses to the FITs consultation.

The draft MCS installation standard (MIS 3006) currently being developed by the MCS micro-hydro expert working group was recently published on the MCS website. The consultation closed on 8 March 2010 and responses are being considered. The working group is aware of concerns that installations are non-standard and it is drafting the MCS standards to take account of this. The group will clarify the position on products shortly, when the MCS steering panel consults on the draft MCS product standard through http://www.microgenerationcertification.org.

Energy: Severn Barrage

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what is their response to the comments of the Wildlife Trusts on the Severn Embryonic Technologies Scheme for the Severn estuary in their report Energy at any price? [HL3076]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): We will publish our assessment of the Severn Embryonic Technologies Scheme alongside the publication of the Severn Tidal Power Feasibility Study evidence base later this year.

Energy: Wind Generation

Question

Asked by ***Lord Vinson***

To ask Her Majesty's Government whether the Department of Energy and Climate Change continues to use the 30 per cent onshore wind load factor assumption of the wind industry for planning purposes. [HL3165]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): The Department for Energy and Climate Change (DECC) does not use any one, single load factor assumption for onshore wind. Load factors may vary according to prevailing site conditions and technology used.

Analysis for DECC by Redpoint/Trilemma (2009)[1] used load factors for onshore wind of 21 per cent (low), 27 per cent (medium) and 29 per cent (high). The *Digest of UK Energy Statistics 2009* reports that average onshore wind load factors have varied between 26.7 per cent and 29.4 per cent over the period 2004 to 2008 (unchanged configuration basis).

[1] Redpoint/Trilemma, 2009, *Implementation of the EU 2020 Renewables Target in the UK: RO Reform*

Energy: Microgeneration

Question

Asked by ***Lord Teverson***

To ask Her Majesty's Government what responses they received from the micro-hydro sector to their consultation on feed-in tariffs; and how they responded to the points made when formulating their policies. [HL3042]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): All the responses to the consultation have been published on the website of the Department for Energy and Climate Change, http://www.decc.gov.uk/en/content/cms/consultations/elec_financial/elec_financial.aspx which is arranged to facilitate searching by type of response.

The Government response to the points made is available from the same website, www.decc.gov.uk/fits

Equality and Human Rights Commission: Consultants

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how much the Equality and Human Rights Commission spent on (a) public relations consultants, and (b) public affairs consultants, in each of the last three years; and for what purposes. [HL2284]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): The Equality and Human Rights Commission (EHRC) is independent and manages its own affairs; the following is based on information it has provided.

The EHRC has spent a total of £290,985.73 on public affairs and public relations consultants during the past three years. For each year spend is as follows:

2006-08—£61,076.82;

2008-09—£103,807.62; and

2009-10—£99,612.74 (spend to date) plus £26,488.55 for which the EHRC is contractually obliged to pay.

This expenditure was for seven distinct pieces of work:

the Muslim Women's Power List;

Young Brits at Art;

Our Space;

the Celebr8 Project;

preparation for the Commission's appearances before parliamentary Select Committees and provision of strategic advice on the Equality Bill;

deliver communications strategy for the Commission's three year strategic plan; and

development of a Campaign Book to assist the EHRC in messaging and branding work, setting out strategy for engaging with key audiences.

EU: Corporate Governance

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what is their response to the Law Society's recommendation in its July 2009 document EU Priorities for 2009–2014 for the creation of a "comply or explain" approach to corporate governance in the European Union single market. [HL3077]

The Minister for Trade and Investment (Lord Davies of Abersoch): The Government support the promotion of the effective use of "comply or explain" in corporate governance across the EU.

Used appropriately, such an approach can achieve high standards of corporate reporting and so assist shareholders in holding directors to account.

Flooding

Questions

Asked by ***Baroness Byford***

To ask Her Majesty's Government what rules or guidelines the Environment Agency works to when drawing up flood action plans that allow the flooding of land. [HL3010]

To ask Her Majesty's Government what rules the Environment Agency considers when drawing up flood action plans that may adversely affect on the livelihood of persons in the area; how soon they inform those affected; and whether they provide support for them. [HL3011]

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham): The Environment Agency undertakes assessments to understand the social, environmental and economic impacts of flood management measures that it is considering, It actively consults landowners and occupiers on possible future decisions.

The Environment Agency follows its project appraisal guidance when considering the most appropriate flood management options. This guidance applies the higher level HM Treasury guidance on appraisal and evaluation in Central Government (The Greenbook) (2003) and Defra's policy statement on Appraisal of Flood and Erosion Risk Management (2009). Guidance on Catchment Flood Management Plans and Shoreline Management Plans also follows those high level guidelines.

When reviewing the appropriate level of maintenance for existing flood protection schemes, four categories are considered:

assets for which there is an economic case for maintenance, to reduce the risk from flooding to people and property;

assets that are required to protect internationally designated environmental features from the damaging effect of flooding where it is sustainable to do so;

assets that do not fit categories 1 and 2 above, but where work is justified because of legal commitments or where stopping maintenance would cause an unacceptable flood risk; and

assets that do not fit the above three categories.

A category four asset will have no economic or other reason to justify continued maintenance of the flood protection scheme. Where plans may include stopping maintenance, the Environment Agency provides support by offering practical advice on future options that may be a viable alternative. This could include the landowner. If maintenance is to cease, the period of notice to the landowner or occupier must be reasonable. This would normally be within six to 24 months. Longer periods may be appropriate in some instances as the definition of what is reasonable can depend on many factors.

The Environment Agency's approach to flood action plans is based on providing effective consultation within government guidelines. This approach has been developed in full consultation with Regional Flood Defence Committee chairs.

Environment Agency guidelines set out the criteria for making decisions and provide a framework that seeks to reduce flood risk and maximise cost effectiveness across England and Wales.

Government Departments: Illegal Immigrants

Question

Asked by ***Baroness Warsi***

To ask Her Majesty's Government how many illegal immigrants have been found to be working for the Department of Energy and Climate Change and its agencies since its creation. [HL2350]

The Minister of State, Department of Energy and Climate Change (Lord Hunt of Kings Heath): People employed to work in government departments and their agencies, either directly or through a contractor, are required to satisfy requirements on identity, nationality and immigration status prior to the offer of employment.

There have been two occasions since its inception in October 2008 where compliance checks have found illegal immigrants working through an employment agency for the Department of Energy and Climate Change.

Government: Websites

Question

Asked by ***Lord Tebbit***

To ask Her Majesty's Government further to the Written Answer by Lord McKenzie of Luton on 3 March (*WA 348*), which festivals of Christianity, Islam, Hinduism, Sikhism and Judaism were marked by ministerial video messages on the website of Communities and Local Government; and which Ministers broadcast each of those messages during 2009. [HL2869]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Further to my Written Answer to the noble Lord, the following festivals of Christianity, Hinduism, Islam, Judaism and Sikhism have been marked by ministerial video messages:

Christianity

Easter greeting April 2009—Sadiq Khan;

Christmas greeting December 2009—John Denham.

Islam

Eid greeting September 2009—John Denham;

Eid Ul Adha November 2009—John Denham.

Judaism

Hanukkah greeting December 2009—John Denham.

Sikhism

Vasaikhi greeting April 2009—Sadiq Khan.

Hinduism, Jainism and Sikhism

Diwali greeting October 2009—John Denham.

Green Belt

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what plans they have for designating new areas of land as green belt land. [HL3073]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): It is for local planning authorities to designate new green belt or to enlarge existing green belts through the local plan process. Since 1997 the amount of green belt land in England has grown by around 34,000 hectares, if one disregards the re-classification of 47,300 hectares of green belt as New Forest National Park in 2005.

Health: Contaminated Blood Products

Question

Asked by ***Lord Morris of Manchester***

To ask Her Majesty's Government further to the Written Answer by the Minister of State for Public Health, Gillian Merron, on 12 March (*Official Report*, Common, col. 562W), whether they will itemise their estimate of the costs of implementing the recommendations on compensation in Lord Archer of Sandwell's report on contaminated blood and blood products. [HL2876]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): Our initial estimate of £3 billion to 3.5 billion was based on an understanding that individual payments made in Ireland to infected patients ranged between £500,000 and £1 million, and was derived by multiplying the average of those figures by the estimated number of infected claimants in the United Kingdom. It did not take account of payments to dependents of those infected.

It is not possible to calculate an accurate figure for the cost of implementing the recommendations for compensation contained in Lord Archer's report because the Irish scheme uses a series of eligibility criteria, which means that different claimants have received different amounts of compensation, depending on their circumstances. Therefore, unless each UK claimant is assessed individually against the same criteria, it would be impossible to give an accurate figure. It is also not possible to estimate with any certainty how many people in the UK might be eligible to apply.

Health: Diabetes

Questions

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

To ask Her Majesty's Government what assessment they have made of the number of people in the United Kingdom who use an insulin pump compared with the number of people who use an insulin pump in (a) Europe, and (b) the United States. [HL2858]

Baroness Thornton: There are currently no centrally held data on the number of people in the United Kingdom who use an insulin pump. We are unable to provide a direct comparison to the number of people using insulin pumps in other parts of Europe or the United States.

The uptake of insulin pumps in the UK is known to be lower than in most other countries of comparable economic standing and level of healthcare provision.

The NHS Technology Adoption Centre is currently investigating the barriers to the adoption of insulin pumps. Their guidance is due to be published at the end of April 2010.

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

To ask Her Majesty's Government how many (a) adults, and (b) children within each primary care trust area receive funding for an insulin pump. [HL2859]

Baroness Thornton: There are no centrally held data on how many adults or children within each primary care trust area receive funding for an insulin pump.

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

To ask Her Majesty's Government how many people with type 1 diabetes self-fund an insulin pump. [HL2860]

Baroness Thornton: There are no centrally held data on the number of people with type 1 diabetes that self-fund an insulin pump.

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

To ask Her Majesty's Government what assessment they have made of the costs and benefits of insulin pump use compared with multiple daily insulin injections. [HL2861]

Baroness Thornton: The National Institute for Health and Clinical Excellence (NICE) assesses the cost and benefits of treatments and provides guidance on best practice. We expect all clinicians to consider NICE guidance when making decisions with patients (and/or their parents or carer) about an individual's care pathway.

NICE guidance recommends pump therapy as an option for adults and children of 12 years and older with type 1 diabetes, provided that multiple-dose insulin therapy had failed and that those receiving the treatment could use it effectively.

NICE also recommends that insulin pump therapy can be used as a treatment option for children younger than 12 years with type 1 diabetes, provided that: Multiple daily injection (MDI) therapy is considered to be impractical or inappropriate. Children on insulin pumps would be expected to undergo a trial of MDI therapy between the ages of 12 and 18 years.

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

To ask Her Majesty's Government how many people in the United Kingdom use a continuous glucose monitor; and of those people, how many are (a) funded by the National Health Service, and (b) self-funded. [HL2862]

Baroness Thornton: There are no centrally held data on the number of people in the United Kingdom that use a continuous glucose monitor either self-funded or funded by the National Health Service.

The National Institute for Health and Clinical Excellence (NICE) recommends that children and young people with type 1 diabetes who have persistent problems with glyceamic control should be offered continuous glucose monitoring systems.

We expect all clinicians to consider NICE guidance when making decisions with patients (and/or their parents or carer) about an individual's care pathway.

Health: Diabetes 1

Question

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

To ask Her Majesty's Government what assessment they have made of the number of people in the United Kingdom who use an insulin pump; and what steps they are taking to increase insulin pump use among people with type 1 diabetes. [HL2857]

To ask Her Majesty's Government how many (a) adults, and (b) children, with type 1 diabetes in the United Kingdom use insulin pump therapy. [HL2889]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): There are no data held centrally about how many people in the United Kingdom use an insulin pump. However, in its suite of guidance on "Continuous subcutaneous insulin infusion for the treatment of diabetes mellitus", the National Institute for Health and Clinical Excellence (NICE) estimates that the number of patients using insulin pumps in England could be up to 8,000.

The NHS constitution makes it clear that patients have the right to drugs and treatments that have been recommended by NICE for use in the NHS (subject to any criteria specified in NICE's guidance) if that patient's healthcare professional considers that they are clinically appropriate.

Health: Foreign Doctors

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government whether their implementation of European Union rules that outlaw checks on foreign doctors' language skills takes account of risks to United Kingdom patients, as shown by the death of Mr David Gray who died as a result of being treated by a German doctor with poor English skills. [HL2854]

The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton): Under Directive 2005/36/EC language knowledge is not a ground for refusing recognition of the qualifications of a national of another member state.

The United Kingdom has therefore transposed the provisions in the directive that migrants shall "have a knowledge of languages necessary for practising the profession in the host member state", not at the point of registration, but at the point where a doctor seeks to provide services in a community; through the Performers List Regulations 2004 and through obligations on employers.

Health Service Circular 1999/137 makes it clear to all National Health Service employers that they are responsible for ensuring that the staff they employ have the necessary language and communication skills needed to do their job safely and effectively.

Homelessness

Question

Asked by ***Baroness Miller of Chilthorne Domer***

To ask Her Majesty's Government what progress has been made in providing emergency accommodation for young people who have run away from home since the Young Runaways Action Plan was published. [HL2970]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): Providing emergency accommodation for all young people who need it, including young runaways, is the responsibility of local authorities. Since the publication of the Young Runaways Action Plan, we have reviewed the commissioning, delivery and perceptions of emergency accommodation. *Commissioning Delivery and Perceptions of Emergency Accommodation for Young Runaways* was published in November 2009 and made recommendations about what more can be done to support emergency accommodation. A copy of that review is available in the House library or to download here:

http://publications.dcsf.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&Productld=DCSF-RR181&

Where relevant we will incorporate the response to those recommendations into a revised version of our statutory guidance to local authorities.

House of Lords: Life Peerages

Question

Asked by ***Lord Stoddart of Swindon***

To ask Her Majesty's Government whether they will refrain from recommending the creation of new peerages pending any decisions on the future composition of the House of Lords. [HL2942]

The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon): The position on the creation of new peerages remains as currently provided for until such time as Parliament decides differently.

House of Lords: Procedure Committee

Question

Asked by ***Lord Denham***

To ask the Chairman of Committees whether he will place in the Library of the House the agendas of Procedure Committee meetings to ensure that non-members of the committee have an opportunity to make their views known to members in advance of meetings. [HL3144]

The Chairman of Committees (Lord Brabazon of Tara): In general, only the members and staff of a committee see the papers in advance of a meeting. However, I shall put the noble Lord's suggestion to the Procedure Committee at its next meeting

House of Lords: Publications

Question

Asked by ***Lord Palmer***

To ask the Chairman of Committees how much the House of Lords Business Plan 2010-11, which was mailed to members of the House, cost to produce, print and distribute. [HL3102]

The Chairman of Committees (Lord Brabazon of Tara): The production, printing and distribution costs of this year's business plan were £3,238.82.

Houses of Parliament: PICT

Question

Asked by ***Earl Attlee***

To ask the Chairman of Committees when the performance of PICT was last independently assessed; and what was the outcome. [HL3093]

The Chairman of Committees (Lord Brabazon of Tara): PICT was assessed by a "health check" conducted in June 2008 by an independent ICT consultant commissioned by the bicameral joint Business Systems Board. The health check found that PICT had developed into a professional ICT organisation delivering effective ICT services at a reasonable cost. It went on to recommend improvements that could be made in the way in which ICT projects and programmes were organised and financed. A review of the actions taken in response to the health check was undertaken in June 2009 and the consultants found that good progress had been made. Both reports were presented to the Management Board and the Information Committee in the House of Lords.

Human Rights

Question

Asked by ***Baroness Northover***

To ask Her Majesty's Government what provision they have made for funding human rights programmes through the Department for International Development and the Foreign and Commonwealth Office in the next financial year. [HL3038]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): Both the Foreign and Commonwealth Office (FCO) and the Department for International Development (DfID) integrate human rights work across their objectives. This means that funding for human rights can be given through numerous programmes.

The FCO holds the Strategic Programme Fund for Human Rights and Democracy dedicated specifically to supporting human rights projects. In 2010-11, this fund has allocated £5.6 million to human rights and democracy projects around the world. These include support to civil society and freedom of expression; and abolition of torture and the death penalty.

FCO's 2010-11 programmes that can fund human rights projects where these help to realise their core objectives include:

Strategic Programme Fund for Reuniting Europe—£3.8 million;

Strategic Programme Fund for Counter Terrorism and Radicalisation—expected £38 million;

bilateral programme budgets—£11.233 million;

DfID's 2010-11 programmes that can fund human rights projects include:

bilateral programmes to support governments and civil society (this includes support to democratic elections, defending human rights and strengthening the management of public finances);

UKaid which supports the role of civil society. It is also channelled through multilateral organisations such as the UN and the EU to support work on human rights amongst other issues;

support to the UN Office of the High Commissioner for Human Rights;

partnership programme arrangements with organisations that work on human rights issues;

the Governance and Transparency Fund; and

the Disability Rights Fund.

In addition, there is the tri-departmental Conflict Pool that funds conflict prevention and stabilisation work that can fund human rights projects/objectives. The 2010-11 budget is £178.5 million which is for discretionary conflict prevention and stabilisation work. My right honourable friend the Foreign Secretary announced this in his Written Ministerial Statement of 25 March.

Immigration: Detainees

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government when they will respond to the report "Outsourcing Abuse" by Baroness O'Loan; whether they will publish their response; and whether they will take steps to ensure that all complaints of maltreatment will be fully investigated. [HL2912]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Baroness O'Loan was appointed by the Home Secretary to review allegations of systematic abuse of immigration detainees by escorting staff that were published in a dossier entitled "Outsourcing Abuse". Her review centred on investigations into the complaints detailed in the dossier and the UK Border Agency's complaints and investigation systems.

Baroness O'Loan's findings were published on 12 March 2010. She found that there was no evidence to substantiate the central allegation of systematic abuse by escorting staff. At the same time, she recognised that many of the concerns she had about the way a number of the investigations into complaints had been handled in the past had been addressed already by the agency following a decision to transfer responsibility to its Professional Standards Unit in February 2008. She none the less made a number of recommendations to strengthen the supervision of staff and improve our complaints handling further.

In the report's foreword, the chief executive of the UK Border Agency welcomed Baroness O'Loan's report. Her response can be found on the UK Border Agency's website.

Immigration: Heathrow Airport

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government what is their response to the report of the Independent Monitoring Board on the short-term holding facilities at Heathrow,

in particular concerning the holding of families and the length of detention in unsuitable conditions. [HL3044]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): Both I and the chief executive of the UK Border Agency have welcomed the annual report of the Independent Monitoring Board (IMB) for the non-residential short-term holding facilities at Heathrow Airport.

We have noted the fact that the board has recognised significant improvement in the way in which immigration detainees are treated at the airport over the past 12 months. At the same time, we have noted the concerns about length of detention and the detention of families.

The chair of the board has been advised that detention services will provide a full reply in May.

Infrastructure Planning: Funding

Question

Asked by ***Lord Taylor of Holbeach***

To ask Her Majesty's Government whether they have estimated the volume of national infrastructure project applications likely to be made by the 50 smallest councils; and whether they plan to provide assistance with the costs to the smallest councils. [HL2916]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The Government have not made any estimate of the volume of applications for nationally significant infrastructure projects likely to be made by the 50 smallest local authorities; we do not however generally anticipate that local authorities will submit such applications. Funding of such projects is a matter for the scheme promoter.

Kidnapping

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government whether United Kingdom officials were consulted about or authorised the paying of a ransom to secure the release of Sahil Saeed in Pakistan. [HL3014]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): Foreign and Commonwealth Office officials were neither consulted about nor authorised payment of a ransom to secure the release of Sahil Saeed in Pakistan. The UK Government's policy of not making or facilitating substantive concessions to hostage-takers, including the payment of ransoms, is long standing and clear. We believe that making such concessions rewards hostage-taking and encourages future kidnaps. We will continue to offer consular assistance to the families of those taken by kidnappers.

Kurdistan: British Citizens

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they have taken action on allegations of infringements of human rights and sexual and racial abuse made by British citizens working in the University of Kurdistan Hawler. [HL2925]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): Our consulate in Erbil is aware of allegations of malpractices made by certain staff members at the University of Kurdistan Hawler. The consulate has advised that complaints be referred to the university's internal grievance system. The consulate has also passed on names of lawyers based in Erbil who can advise on any additional legal measures that can be considered.

Money Laundering and Terrorism

Questions

Asked by ***Lord Marlesford***

To ask Her Majesty's Government how many Suspicious Activity Reports have been received by the Serious Organised Crime Agency from the 12,409 bookkeepers who have registered with HM Revenue and Customs under the Money Laundering Regulations 2007 (SI 2007/2157). [HL2959]

The Financial Services Secretary to the Treasury (Lord Myners): Suspicious activity reports (SAR) statistics are maintained by the Serious Organised Crime Agency (SOCA). These are not broken down into SARs submitted by businesses under a particular supervisor. According to the SOCA annual report between October 2008 and September 2009 there were 228,834 SARs of which 6,390 were from accountants and 96 from tax advisors.

Asked by ***Lord Marlesford***

To ask Her Majesty's Government what guidance on detecting and reporting money laundering is given to bookkeepers who are required to register with HM Revenue and Customs under the Money Laundering Regulations 2007 (SI 127/2157). [HL2960]

Lord Myners: HM Revenue and Customs (HMRC) have adopted the anti-money-laundering guidance for the accountancy sector issued by the Consultative Committee of Accountancy Bodies. This is the guidance that bookkeepers, tax advisers and accountants required to register with HMRC are directed to use.

This guidance has been drafted by the accountancy industry. HMRC was consulted on the drafting of the guidance and has had input into its contents. The guidance is approved by HM Treasury.

In addition, HMRC has also published on its website simplified guidance for all the businesses they supervise.

Nigeria

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what assessment they have made of how many British citizens face personal risk from the unrest in Nigeria. [HL3016]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): It is not possible to provide an exact figure of British citizens at risk from unrest in Nigeria. The Foreign and Commonwealth Office (FCO) working with the Ministry of Defence and the in-country team, closely monitors the political and security situation in Nigeria, and keeps the risk to British citizens from unrest under constant review. This ongoing process includes reviewing contingency plans by our posts in Lagos and Abuja, maintaining contact with our community liaison officer network as well as other diplomatic missions, and ensuring FCO travel advice is updated to ensure British citizens have the most up-to-date information on the present situation. We also encourage British citizens to register with our LOCATE service through the FCO website (https://www.locate.fco.gov.uk/locateportal/).

Organophosphates

Question

Asked by ***The Countess of Mar***

To ask Her Majesty's Government what are the genotoxic effects on humans of exposure to tetrachlorvinphos; and what products containing the chemical are licensed. [HL2901]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): There are no longer any licensed pesticides or veterinary medicinal products in the UK containing the chemical tetrachlorvinphos. Laboratory tests on bacteria and human cells have given evidence that it may present a genotoxic hazard.

Pensions

Question

Asked by ***Lord Laird***

To ask Her Majesty's Government what discussions they have had in the last five years with the governments of Australia, Canada, the Falkland Islands, New Zealand and South Africa about reciprocal arrangements for the payment and uprating of pensions and other social security benefits; and what progress has been made. [HL2994]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): In the past five years Ministers have had four meetings with Australian Ministers and officials at which the issue of not uprating UK state pensions to persons living in Australia was raised. There have been no similar representations from the Canadian, Falkland Islands or South African Governments on this issue in that period. At the request of the New Zealand Government, officials are currently negotiating minor amendments to the reciprocal social security agreement between the United Kingdom and New Zealand, but those amendments would not include provision for the payment of annual uprating of UK state pension to persons living in New Zealand.

Pensions: NEST

Question

Asked by ***Baroness Noakes***

To ask Her Majesty's Government whether the costs incurred by the Personal Accounts Delivery Authority in setting up the National Employment Savings Trust (NEST) and personal accounts will be transferred to NEST; and, if so, how much will be transferred; and how and when NEST will pay for it. [HL2934]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): NEST will be self-financing in the long-term, meaning that any loan finance provided by Government to fund the costs of establishment, including those costs incurred by the Personal Accounts Delivery Authority (PADA), will be repaid from members' charge revenues. This will ensure the scheme is delivered at nil overall cost to taxpayers.

Up to the end of February 2010, PADA has received £37 million of loan funding and is expected to receive a further £24 million up to its wind-up on 5 July 2010. All loan funding advanced to PADA is based on evidence of need.

The loan liability owed by the Personal Accounts Delivery Authority (PADA) will, on its wind-up, be transferred to the NEST Corporation, which will then be responsible for repaying the loan along with any further money it borrows from Government in connection with its activities to establish the scheme.

The period in which the loan to NEST Corporation will be repaid will ultimately depend on a variety of factors, including the final costs of NEST and the size and nature of its membership. We anticipate that the total loan period, including the years in which NEST borrows from Government and the subsequent repayments, will last in the region of 20 years.

Planning

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what conclusions they have reached from the responses to the draft Planning Policy Statement 15: Planning for the Historic Environment. [HL3075]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): The responses to the consultation on the draft Planning Policy Statement (PPS) 15 supported the unified approach to the historic environment but raised concerns about some aspects of the draft. They gave a clear steer as to how these should be addressed. With the help of informal discussions and stakeholder feedback both during and after the consultation exercise we were able to propose changes to the draft which were tested with key practitioner and conservation interests. Once we were satisfied that the draft had been revised in a way that fully met the concerns raised during consultation, a final version was published as PPS 5 on 23 March.

The Government's formal response to the consultation, identifying the main issues raised and how they were addressed, was included in the summary of consultation responses published alongside the new PPS, which can be found on my Department's website at http://www.communities.gov.uk/publications/planningandbuilding/pps 15summaryresponses.

Ports: Business Rates

Questions

Asked by ***Lord Bates***

To ask Her Majesty's Government with reference to the paper deposited in the Library of the House on 1 April 2009 (DEP2009-1056), whether they will publish an updated chart with the (a) pre-review, and (b) post-review, (1) total rateable values, and (2) number of hereditaments, for port and non-port companies, broken down by port across England and Wales, according to the most recent records held by the Valuation Office Agency. [HL2972]

The Financial Services Secretary to the Treasury (Lord Myners): A revised table of pre-review and post-review assessments with an effective date of 1 April 2005 will be placed in the Library.

Asked by ***Lord Bates***

To ask Her Majesty's Government what is the estimated cost to (a) local authorities, (b) the Valuation Office Agency, and (c) the Exchequer, of administering and enforcing the new arrangements for business rates on firms in ports, including the cost of the deferment scheme. [HL2976]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): No estimate of the cost to local authorities, the Valuation Office Agency and the Exchequer has been made for administering and enforcing arrangements for business rates on firms in ports, as the addition of new properties to the ratings list is part and parcel of the ongoing rating system.

The cost of the schedule of payments scheme to the Exchequer is set out in the impact assessment accompanying the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (England) (Amendment) Regulations 2009 (SI 204). It estimates the cost of the scheme as being revenue neutral for local authorities and £33 million over the life of the scheme to the Exchequer. There is no cost associated for the Valuation Office Agency with this scheme.

The schedule of payments scheme was implemented as a result of the Government having listened to the concerns of businesses with significant and unexpected backdated bills, including some businesses within ports. The scheme enables such bills to be repaid over an unprecedented eight years rather than in a single instalment, helping affected businesses to manage the impact on their cash flows during the downturn by reducing the amount they are required to pay now by 87.5 per cent.

Railways: Consultants

Question

Asked by ***Lord Bradshaw***

To ask Her Majesty's Government further to the Written Answer by Lord Adonis on 22 March (*WA 266*), what was the cost of employing consultants and other advisers in connection with (a) the case presented to the Office of Rail Regulation (ORR) in 2006, (b) the responses to the ORR's consultation documents, (c) the presentation of information for the Competition Commission's investigation, and (d) responding to the Commission's questions and consultation documents. [HL3143]

The Secretary of State for Transport (Lord Adonis): The cost of employing consultants and other advisers (excluding VAT) was as follows:

(a) £2.0 million between the beginning of 2005 and June 2006, at which point the Department for Transport asked the Office of the Rail Regulation to investigate the rolling stock market;

(b) £0.6 million between July 2006 and April 2007, at which point the Office of Rail Regulation referred the matter to the Competition Commission; and

(c) £2.8 million between May 2007 and April 2009, at which point the Competition Commission published its final report at the end of its rolling stock leasing market investigation.

Railways: InterCity Express Trains

Question

Asked by ***Lord Bates***

To ask Her Majesty's Government when they will announce the location for the manufacture of Intercity Express Programme trains by Agility Trains. [HL3122]

To ask Her Majesty's Government what are the preferred locations for the manufacture of Intercity Express Programme trains by Agility Trains. [HL3123]

To ask Her Majesty's Government what discussions they have had with One North East about the suitability of Newton Aycliffe as a location for the manufacture of Intercity Express Programme trains by Agility Trains. [HL3124]

The Secretary of State for Transport (Lord Adonis): Selection of the site of the Intercity Express Programme manufacturing facility is a matter for Hitachi, which would build the trains on behalf of the Agility Trains consortium. This decision is not being guided, influenced or overseen by the Department for Transport.

There have been no discussions between the Department for Transport and One North East about the suitability of Newton Aycliffe or any other location for the manufacture of Intercity Express Programme trains.

Religious Freedom: ASEAN

Question

Asked by ***Lord Patten***

To ask Her Majesty's Government further to the Written Answer by Baroness Kinnock of Holyhead on 15 March (WA 113), whether they intend to make representations about religious freedoms to the Association of Southeast Asian Nations. [HL2982]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): We have no current plans to raise religious freedoms with the Association of Southeast Asian Nations (ASEAN).

ASEAN has recently established the ASEAN Intergovernmental Commission on Human Rights (AICHR) to promote human rights in the region. The AICHR commissioners are still drafting the first five-year work plan. It is not yet clear whether religious freedoms will be included in the body's mandate, but if so, this would provide opportunities to discussion religious freedom in a regional context.

We, along with our EU partners, raise human rights concerns, including those around religious freedoms, bilaterally with ASEAN Member States. Where there are specific concerns, particularly on the treatment of religious minorities, we have raised them in bilateral discussions.

Schools: A-Levels

Questions

Asked by ***Lord Quirk***

To ask Her Majesty's Government further to the Written Answer by Baroness Morgan of Drefelin on 9 March (*WA 55*), how many students at maintained secondary schools were entered for A-Levels in 1999 in (a) history, (b) French, (c) German, and (d) Spanish. [HL2835]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): Of those students at the end of key stage 5 in maintained secondary schools[1] in 1999:

18,818 entered history A-Level;

8,760 entered French A-Level;

4,638 entered German A-Level; and

1,852 entered Spanish A-Level.

[1] This excludes 16-18 FE institutions, eg sixth form colleges.

Asked by ***Lord Quirk***

To ask Her Majesty's Government further to the Written Answer by Baroness Morgan of Drefelin on 9 March (*WA 55*), how many students at maintained secondary schools were entered for A-Levels in 200p in (a) history, (b) French, (c) German, and (d) Spanish. [HL2836]

Baroness Morgan of Drefelin: The total number of entries for 16 to 18 year-olds' in maintained schools[2] in 2009 is shown in the table below:

Subject	*Total Entries*
History	25,471
French	6,282
German	2,751
Spanish	2,617

[1] Age at the start of the 2008-09 academic years, ie 31 August 2008.

[2] Includes community and foundation special schools, hospital schools and pupil referral units but not including sixth form colleges.

Source:

Statistical First Release: GCE/Applied GCE A/AS and Equivalent Examination Results in England, 2008-09 (Revised).

Schools: Attendance

Question

Asked by ***Lord Quirk***

To ask Her Majesty's Government how many students aged 10 to 18 were in attendance at maintained secondary schools in (a) 1998, and (b) 2009. [HL2834]

The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin): Information on the number of pupils aged 16 to 18 at state funded secondary schools in 1999 and 2009 is shown in the table.

State Funded Secondary Schools (1)

	Number of pupils aged 16 to 18 (2)
1999	310,800
2009	392,070

Source:

School Census

(1) Includes middle deemed secondary schools, city technology colleges and academies.

(2) Includes solely registered pupils only. Includes full and part time pupils. Age as at 31 August prior to the academic year shown.

Figures have been rounded to the nearest 10.

Syria

Question

Asked by ***Lord Hylton***

To ask Her Majesty's Government whether they are making representations to the Government of Syria about the alleged killing of three young persons and the wounding of nine others by security forces during Newroz celebrations in the town of al-Raqqa. [HL3043]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): My officials are seeking further information about this alleged incident. We will then consider further action.

Taxation: Financial Transactions

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what support they will give to proposals for a tax on financial transactions. [HL2795]

The Financial Services Secretary to the Treasury (Lord Myners): The Government continue to engage in the international debate on the subject of financial transaction taxes, following the Prime Minister's speech to G20 Finance Ministers at St Andrews in November, where he raised the issue of a new social contract between banks and society, and called for a global plan to make the financial sector contribute in recognition of the cost to taxpayers of government interventions in the sector. The International Monetary Fund has been commissioned by the G20 to produce a report on these issues. The Government look forward to seeing the results of this work later on this year.

Taxation: Non-domiciled Residents

Question

Asked by ***Lord Dykes***

To ask Her Majesty's Government what steps they are taking to ensure that non-domiciled persons resident in the United Kingdom return to paying full United Kingdom personal taxes. [HL3018]

The Financial Services Secretary to the Treasury (Lord Myners): The Government reformed the rules governing the taxation of non-domiciles in 2008. These reforms struck the right balance between increasing the fairness of the rules and maintaining the UK's international competitiveness.

Unemployment

Question

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

To ask Her Majesty's Government what internal or external evaluations they have carried out into welfare-to-work programmes introduced by the Department for Work and Pensions since 2005. [HL2882]

The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton): Evaluations into welfare-to-work programmes are published as part of the department's Research Report Series. These are available on the department's internet site and can be located at http://research.dwp.gov.uk/asd/asd5/rrs-index.asp.

Universities: Officer Training Corps

Question

Asked by ***Lord Astor of Hever***

To ask Her Majesty's Government how many officer cadets serving in the University Officer Training Corps regularly attended training in (a) October 2008, and (b) February 2009. [HL2996]

The Minister for International Defence and Security (Baroness Taylor of Bolton): The number of officer cadets serving in the University Officer Training Corps (UOTC) that, on average, regularly attended training in October 2008 was 2,691. The number of officer cadets serving in the UOTC that, on average, regularly attended training in February 2009 was 2,356.

US: Nuclear Weapons

Question

Asked by ***Lord Avebury***

To ask Her Majesty's Government whether they have given permission under exchanges of letters with the United States or otherwise for the stationing of nuclear weapons on vessels within the territorial waters of Diego Garcia. [HL2877]

The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead): We cannot comment on specific deployments or the capabilities of coalition forces' vessels anywhere in the world.

Under the UK/US Exchange of Notes which govern the use of the British Indian Ocean Territory for defence purposes, the stationing of nuclear weapons in the territory would require a joint decision by both Governments.

Visas

Questions

Asked by ***Lord Laird***

To ask Her Majesty's Government whether they will publish a list of suspended private colleges on the UK Border Agency website to inform prospective foreign students seeking visas for the United Kingdom. [HL2870]

The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead): We do not currently publish a list of suspended colleges on the UK Border Agency website.

Asked by ***Lord Marlesford***

To ask Her Majesty's Government in which United Kingdom diplomatic missions corruption involving (a) United Kingdom personnel, and (b) locally employed staff, has been detected in the issuing of visas for travel or entry to the United Kingdom in each of the past three years; and what steps they are taking to prevent and detect such corruption. [HL2956]

Lord West of Spithead: The UK Border Agency expects the highest levels of integrity from its staff.

The majority of staff carry out their roles with professionalism and integrity. Any allegations of corruption are thoroughly investigated and the agency takes swift action where it finds members of staff have broken the law. The agency has a dedicated unit of accredited counter-fraud investigators who work in close co-operation with the police and other bodies to deter, to detect and to investigate internal fraud and corruption.

With regard to overseas missions in which corruption has been detected and the steps taken to prevent and detect such corruption, I will write to the Lord separately, due to the risk of prejudicing steps taken to detect and prevent corruption.

Asked by ***Lord Laird***

To ask Her Majesty's Government further to the Written Answer by Lord West of Spithead on 18 March (*WA 234*), whether they will ensure that the cost of processing a confirmation of acceptance for studies form to a prospective foreign student seeking a United Kingdom visa is in future covered by the fee charged. [HL3065]

Lord West of Spithead: The fee for a tier four certificate of acceptance of studies will be reviewed during 2010 as part of the Government review of immigration fees that is done on an annual basis.

We will make appropriate changes as necessary in line with our overall objective to set fees to ensure we maintain the UK as an attractive destination for migrants who come to work, study and visit.

Monday 29 March 2010

ALPHABETICAL INDEX TO WRITTEN STATEMENTS

Monday 29 March 2010

ALPHABETICAL INDEX TO WRITTEN ANSWERS

NUMERICAL INDEX TO WRITTEN ANSWERS

Volume 718
No. 64

Monday
29 March 2010

CONTENTS

Monday 29 March 2010

Grand Committee