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PARLIAMENTARY DEBATES  
(HANSARD)

# HOUSE OF LORDS

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## House of Lords

Thursday, 8 April 2010.

11 am

Prayers—read by the Lord Bishop of Gloucester.

### Government Borrowing Question

11.06 am

Asked By **Baroness O’Cathain**

To ask Her Majesty’s Government what is their estimate of government borrowing per capita in 2009-10.

**The Financial Services Secretary to the Treasury (Lord Myners):** My Lords, the Government publish estimates of public sector net borrowing in billion-pound units as a percentage of GDP. The Budget 2010 forecasts show that borrowing in 2009-10 is estimated at £1,067 billion or 11.8 per cent of GDP. The Fiscal Responsibility Act 2010 puts a legal obligation on the Government to halve the deficit over four years and have debt falling by 2015-16.

**Baroness O’Cathain:** I thank the Minister. I always notice that when he gives us statistics such as these, he smiles as though they are a triumph. I just wonder if these are a triumph. The Government inherited a public sector debt of £347.2 billion in 1996-97. I remind the Minister that the latest forecast is that it will be £1,406 billion—an increase of 305 per cent—in 2014-15. The figures are mind-boggling. Is this a triumph? Surely, if the Minister thinks it is a triumph, that is an insult to our collective intelligence.

**Lord Myners:** My Lords, we entered the recession with the next lowest borrowing as a percentage of GDP of any G7 country, according to the OECD—evidence of the wise husbandry and prudence of my right honourable friend the Chancellor of the Exchequer at that time. We come out of this recession with a forecast from the OECD that we will have the strongest rate of economic recovery in Europe in 2010 and the second strongest in the world. Those are statistics of which we are rightfully proud.

**Lord Brooke of Alverthorpe:** My Lords, does my noble friend recall that in 1997 we had a legacy of 3 million people unemployed, and that there was severe unemployment during the 1980s and—induced by our own-made recession in the early 1990s—right through the 1990s. Have the Government made any estimates, from the flip-flop economic policies of the Opposition, of what the likely levels of unemployment will rise to?

**Lord Myners:** My noble friend raises a very important point. Had we not taken the action that we did to support the economy during this global recession, we

undoubtedly would have had higher unemployment, higher rates of business failure and higher levels of repossession. In fact, our experience in all three dimensions has been significantly less than would have been forecast on the basis of past experience. That speaks commendably of the Government’s efforts to ensure that this global recession has had minimal impact on those who are most vulnerable in our society.

**Earl Attlee:** My noble friend’s Question was about borrowing per capita. The Minister gave us some interesting statistics; will he now answer my noble friend’s Question?

**Lord Myners:** The Financial Services Bill, which we will look at later this morning, includes an important provision to create a new responsibility for the FSA to foster education about financial matters. I can see that many Members on the opposition Benches will be signing up. We need to look at borrowing in the context of the use made of it. I remind noble Lords that the borrowing that we have incurred over the past 12 months has been to build schools, hospitals and roads, to support infrastructure and continuing employment in a global recession.

**Lord Oakeshott of Seagrove Bay:** My Lords, two weeks ago the Conservatives rubbished the Government’s claim in the Budget that they were going to make £11 billion of efficiency savings. Days later they produced £13 billion of their own efficiency savings. Is this not a total insult to our intelligence? Is it not deeply dishonest to claim that you are serious about cutting the deficit when you are making spending commitments all over the place, as the Conservatives are, with no idea how they are going to pay for them?

**Lord Myners:** The noble Lord, Lord Oakeshott, makes an extremely good point, as he so frequently does on these matters. The flip-flopping of the Conservative Party on economic matters is a wonder to behold. Its concern about cutting taxation is a relatively new one, driven perhaps by the necessity of the moment, but we will remember how clearly we were being prepared for an age of austerity until it became evident that that political message was not receiving the outcome that the Conservative Party sought. There is a real inconsistency in almost everything that the Conservatives say about the economy, and that, no doubt, will be rumbled when the electorate come to vote.

**Baroness Noakes:** My Lords, we are at least the only Benches able to read the Question—

**Noble Lords:** This side!

**Lord Tomlinson:** My noble friend reminded us just now of the policies that the Government have undertaken to secure economic growth and a stable economy. Can he remind those of us with fading memories like myself what support the Government got for that programme from Her Majesty’s theoretically loyal Opposition?

**Lord Myners:** My right honourable friend the Prime Minister normally says, “Wrong on the banks, wrong on the economy, wrong on supporting those in need”. I think that he is correct. Quite clearly the Conservative Party has been wrong on almost every matter of important judgment when it came to the global financial crisis and the global economic recession.

**Baroness Noakes:** My Lords, I can see that the Minister, and indeed many other noble Lords, are trying very hard to avoid the Question that was put by my noble friend Lady O’Cathain. Let me tell the House that on the basis of the Government’s plans—

**Noble Lords:** Question!

**Baroness Noakes:** I will come to a question, my Lords. Every child born by 2014-15 will be born with a debt of £23,000. Will the Minister confirm that that debt of £23,000 will be doubled by the time we have added off-balance sheet liabilities that have been created by this Government and unfunded pension liabilities?

**Lord Myners:** The noble Baroness has not answered the Question that the noble Baroness, Lady O’Cathain, had asked, which was not the totality of—

**Noble Lords:** Oh!

**Lord Myners:** You ought really to be familiar with your own Question. I thought for a moment I was being rude in suggesting that the opposition Benches might need some financial education, but you cannot even remember the Question that you asked. The noble Baroness asked questions about borrowing in 2009-10. The noble Baroness, Lady Noakes, answered an entirely different question.

**Lord Dykes:** My Lords, is not the Minister rightly fearful about the threat of front-line service cuts if there is a change of government and the consequent Bullingdonisation of the British economy?

**Lord Myners:** We need to address the very real issue that premature cutting of the fiscal stimulus that the taxpayer is providing to support the economy would undoubtedly place employment at risk, not only in the public sector—not only our teachers, nurses and others who work so well for us in the public sector—but in the private sector, which depends on its connections with the public sector. That is why it would be wrong to make early adjustment to the fiscal situation until the economic recovery is firmly established.

## Government Information Communication Technology Projects *Question*

11.15 am

*Asked By Lord Marland*

To ask Her Majesty’s Government what guidance has been given by the Cabinet Office to prevent Government Information Communication Technology projects going over budget.

**Baroness Crawley:** My Lords, the Cabinet Office refers those responsible for projects in departments to the Office of Government Commerce—an office of Her Majesty’s Treasury—for project and programme management guidance. The Office of Government Commerce is the centre of excellence for project and programme management, and is accountable for guidance and control mechanisms.

**Lord Marland:** My Lords, the NHS computer system was budgeted at £2.3 billion and will actually cost £13 billion. Does the noble Lord, Lord Myners, think that this is wrong? Does the Minister believe that this is prudent?

**Baroness Crawley:** My Lords, the noble Lord mentions the National Health Service and the project surrounding that. The NHS National Programme for IT has never been over-budget.

**Noble Lords:** Oh!

**Baroness Crawley:** It has never been over-budget, because we have protected taxpayers’ money; nothing is paid to suppliers until systems are successfully working. Given that the noble Lord mentioned the National Health Service, hundreds of millions of X-rays and other medical images have been digitised, allowing patients to be treated more quickly and far more effectively.

**Lord Harrison:** I recently received a letter from the NHS asking me to acknowledge that information about myself will be able to be made available through the new technology, should I have any accident throughout the United Kingdom. But will my noble friend indeed use the government information and communication technology to communicate to the wider public and Members on the Benches opposite just how many successful government projects have come in either on-budget or under-budget in the past 13 years?

**Baroness Crawley:** My noble friend makes a very good point on the NHS. Patients are directly benefiting from the modernisation of NHS IT, including the ability to book their first outpatient appointment through Choose and Book, new digital X-rays, and the electronic transfer of GP records.

My noble friend asked whether there were any successful IT projects. Twenty million people renew their car tax discs online each year at a convenient time for them. I am told that 6,000 people do it on Christmas Day. For business access there is businesslink.gov.uk which helps businesses to increase their profits by millions of pounds and make additional sales by hundreds of millions. People can now apply to receive free school meals in hours, not weeks; they can book their driving tests; they can claim carer’s allowance and legal aid; and they can even become national blood donors. What would Tony Hancock have thought?

**Lord Trimble:** My Lords—

**Lord Maclennan of Rogart:** My Lords, with reference to the National Health Service, have the Government taken into consideration the recommendation of the Public Accounts Committee in its 20th report that,

“The Department should seek to modify the procurement process under the Programme so that secondary care trusts and others can if they wish select from a wider range of patient administration systems and clinical systems”,

because it found that,

“The use of only two major software suppliers may have the effect of inhibiting innovation, progress and competition”?

In their report in January of this year, the Government paid some lip service to competition but have not by any practical means widened access to that important and expensive market.

**Baroness Crawley:** The noble Lord makes some very good points. There has been rationalisation and modification since the earlier report of the Select Committee of which he spoke. There has been a great deal of robustness on ensuring that scrutiny, overview, accountability and transparency are to the fore. He will know that there are 14 strands in the new ICT strategy published in January, which now put real pressure on suppliers to up their game.

**Baroness Byford:** My Lords, would the Minister accept that not all systems have been successful? Perhaps I may remind her that the Rural Payments Agency is an absolute disgrace. It started back in 2005, it continues to be a disgrace, it still does not pay the payments on time, and it costs some £1,700 to pay each English farmer but only about £300 to pay their equivalent in Scotland.

**Baroness Crawley:** My Lords, the noble Baroness is right. I would have no credibility if I stood at this Dispatch Box and said that every IT project of the Government in the past or future has been or will be perfect or successful. Of course there have been problems. We are dealing with a public service that interacts with more than 60 million people. Of course problems can come up. I acknowledge the real issues that occurred in the payments system that the noble Baroness mentioned. However, it has improved—I think that even she would accept that in the past couple of years it has improved enormously.

**Lord Tyler:** Might I suggest that the Minister should not despair, because the Secretary of State who was responsible for introducing the RPA, which proved such a disaster when it came to paying farmers, was then promoted?

**Baroness Crawley:** My Lords, that is extremely interesting information.

**Earl Ferrers:** My Lords, might I ask the Minister why she would think that her noble friend behind her, the noble Lord, Lord Harrison, would imagine that anyone would be interested in his health details on the internet other than to wish him well?

**Baroness Crawley:** My Lords, I am sure that in a collegiate way we are all interested in each other's health.

### China: Aid Question

11.21 am

Asked By **Baroness Morris of Bolton**

To ask Her Majesty's Government how much they have spent on aid to China in the past five years.

**Baroness Morris of Bolton:** My Lords, I beg leave to ask the Question standing in my name on the Order Paper. In doing so, I declare an interest as a trustee of UNICEF UK.

**Lord Brett:** My Lords, including humanitarian aid allocated in response to the earthquake in Sichuan, which registered eight on the Richter scale, killed 70,000 people and left 300,000 people injured and millions homeless, DfID has spent on average £34.5 million per year over the past five years in China. In its report last March, the International Development Select Committee of the other place noted that DfID had used limited resources to maximum effect, building influential relationships and highly effective aid projects.

**Baroness Morris of Bolton:** My Lords, I am most grateful to the Minister for his Answer. I know that there was disaster relief, but a lot of aid is not disaster relief. If the Minister casts his eye around the world and sees the great and pressing need that there is, does he think it is right that we give such vast sums of money to a country that is in line to become the second largest economy in the world, and which was able to spend £20 billion entertaining us all so lavishly at the Olympics?

**Lord Brett:** My Lords, what we seek to do through our international development aid budget is to eradicate poverty. We must not be dazzled by Shanghai and Pudong, although Pudong is dazzling in itself. Four hundred and fifty million Chinese citizens live on less than \$2 a day, and 200 million on \$1.25 a day or less. The UN has estimated that in 2007 251 million Chinese people had no access to safe drinking water. We are assisting the Government of China to improve their large programmes that deliver to poor people such basic services as primary education, prevention and treatment of AIDS, HIV and TB, water and sanitation and health sector reform.

**Lord Alton of Liverpool:** My Lords, although many will welcome what the Minister said about the positive programmes for the relief of poverty in China, will he tell us what funding is currently being given by DfID to the UNFPA and the IPPF, which in turn give funds to the Chinese Population Association, not least in the light of the reports last week from Shandong province that newborn babies have been thrown into the river

[LORD ALTON OF LIVERPOOL]

there as part of the one-child policy, and the continued imprisonment of Chen Guangcheng, the blind Chinese human rights activist, who was imprisoned for exposing the forced abortions for, and sterilisation of, women in China?

**Lord Brett:** My Lords, I confess that I do not have the information about the amount in sterling or dollars that we have given to the organisations that the noble Lord named. I shall seek that information and write to him. Of course we raise the issue of human rights with the Government of China. There is a review of system twice a year where we discuss these things. We raise them on the basis of what we understand and of what the interested parties, the families and others, want us to raise. On several prominent occasions, including the one referred to by the noble Lord, we have raised these issues with the Government of China and sought to ensure that they will adopt a more enlightened policy on these issues in future.

**Baroness Northover:** My Lords, is it not one thing potentially to consider stopping aid to China and quite another to consider reducing the aid budget, given that it is a very small proportion of what we spend? Given that only 4 per cent of Tory MPs back the Government's public policy of ring-fencing international development, how confident is the Minister that, if the Conservatives were elected, that would be delivered?

**Lord Brett:** The picture that the noble Baroness paints is not one that I would look upon with any degree of comfort or sympathy. However, I take great comfort and sympathy from the latest polls, which suggest that there will not be a Conservative Government.

**Baroness Symons of Vernham Dean:** My Lords, of course the Minister is right that there are pockets of real poverty and deprivation in China—that is indisputable. However, is it right that in the past five years we have spent more than £170 million in China when the primary responsibility for dealing with that poverty should be with the Chinese Government, who are now presiding over a huge and growing economy and an enormous sovereign wealth fund, and who are such a strong competitor to our own companies doing business abroad? The noble Baroness has raised a very important question about the way in which we are prioritising our aid at the moment. I should not have thought that, given its enormous and growing wealth, China could by any standards resile from its responsibility for dealing with its own poverty.

**Lord Brett:** I understand, although I do not necessarily accept, all that my noble friend says. It has to be appreciated that we are assisting China in dealing with its problems relating to poverty. For example, we have brought it into contact with the National Health Service in terms of national health reform in China, particularly clinical assistance, and we have done the same in relation to agriculture. Whether we like it or not, China is a major player on the world stage and will

remain so. It is not the only country in that position—India and Brazil will be too—and it is in our interests to have good, strong, ongoing relations with that country. As the noble Baroness, Lady Northover, said, this is only a very small part of our aid budget, and it will be reviewed at the next Comprehensive Spending Review in 2011. A review of our relationship with China across the whole area will take place before the CSR, and no doubt the points that my noble friend has made will be taken into account in that.

**Baroness Rawlings:** My Lords, I am sure the Minister agrees that we all want to alleviate the stresses of poverty, wherever it may be found. Does he agree that our international development aid—that is, British taxpayers' money—should be directed to the poorest in the world? We heard from my noble friend Lady Morris that China spent more than £20 billion on the Beijing Olympics; it spent several billions on its ambitious space programme; it has its own aid programme, too; and it is sitting on exchange reserves of more than £2 trillion. Can the Minister explain the workings of the present system that is used to calculate this aid, resulting in British taxpayers giving more than £40 million a year to China?

**Lord Brett:** My Lords, the development of a country plan is the DfID mode of dealing with activities in a country. The last one for China was developed in 2006 and it comes to an end in 2011. As I said, a review will take place at the Comprehensive Spending Review. Also, in praising DfID's endeavours in China, the Select Committee on International Development in another place said that there should be a continuing, smaller programme until 2015. Therefore, not everyone seems to see China in the way that some noble Lords do. It must be remembered that ultimately we are seeking to achieve the MDGs, which are about halving poverty by 2015. China has brought 476 million people out of poverty in the past 20 years, and that is assisted by what we do in that country. It is not about helping the Chinese Government; it is about helping poor Chinese people.

**Lord Inglewood:** My Lords—

**Baroness Whitaker:** My Lords—

**Lord Hunt of Kings Heath:** My Lords, we are now into the 24th minute and should move on.

## Finance: Interest Rates

### Question

11.29 am

Asked By *Baroness Turner of Camden*

To ask Her Majesty's Government whether they plan to assist savers, following the analysis by the Office for National Statistics that savers lost out on £18 billion last year because of cuts in interest rates.

**The Financial Services Secretary to the Treasury (Lord Myners):** My Lords, low interest rates benefit many people with mortgages and employers using bank finance. However, they also mean that savers see their returns fall, which has a particular impact on older savers, so last autumn the Government increased the ISA subscription limit for the over-50s, increased the capital disregard in pensions credit, and encouraged pensioners to claim back any overpaid tax on their savings. ISA limits were increased for everyone earlier this week and will increase with indexation in future years.

**Baroness Turner of Camden:** My Lords, I thank my noble friend for that response. In particular, I am grateful for the steps taken by the Government to try to mitigate the impact on elderly savers. That is to everyone's advantage. Does he not agree with me that the rate cut has been of enormous benefit to numbers of people, including, of course, business leaders in this country and to people who had mortgage problems? It means that those who might otherwise have been worried about their home security do not have that worry any more. For that I suggest that the Government are to be thanked.

**Lord Myners:** My Lords, I thank my noble friend for that observation. She is, of course, correct: low interest rates have played an important role in supporting the economy and, in particular, have been of real benefit to those with mortgages. The Halifax building society has estimated that, compared with 2008, the impact of lower interest rates has had the same effect as an 11 per cent increase in real disposable income. The Bank of England has also referred to the fact that reduced interest rates have had an important impact on business and consumer confidence. I think the lower interest rates have been helpful to the economy, helpful to asset values, and, therefore, helpful to the value of people's pensions and other savings.

**Lord Peston:** My Lords, I declare an interest as a small saver who is not getting any calculable interest on most of his nominal assets. None the less, I well understand the need for lower interest rates as a central part of our macroeconomic strategy to produce the kind of excellent growth we are about to see. Will my noble friend consider the fact that when quite a lot of businesses, particularly small businesses, try to borrow, they are quoted enormously high interest rates, despite reading in the *Financial Times* and other newspapers that interest rates are low? Is there not a chance of a failing somewhere in the financial system, which means that people cannot borrow at the interest rates at which the rest of us are lending money?

**Lord Myners:** Nine out of 10 small businesses are now paying lower rates of interest on their borrowing than they were three years ago.

**Baroness Noakes:** My Lords, the Minister will be aware that nearly a quarter of the assets held in child trust funds are held in cash accounts. Can he explain why HMRC's material on child trust funds, including the information on its website, contains no warning of the danger of negative real returns?

**Lord Myners:** I do not think it would be appropriate for HMRC to be giving what would, effectively, be guidance on investment decisions. Nor do I think it is right that Government should seek to direct people. Given the appropriate information available on other websites, including the FSA's, we believe that people will reach their own determinations on the best form of disposition for their child trust funds, ISAs and other forms of saving.

**Lord Oakeshott of Seagrove Bay:** My Lords, with the deficit that will be running over the next few years, under any Government, interest rates are bound to go up. Is not the right way to help savers to take them out of paying income tax on the first £10,000 that they get? There is only one party offering that. The Minister did not seem this time to be talking about his friend Gordon Brown as the friend of savers or pensioners because, if, for the next five years, anyone were to believe that, that would be a monumental triumph of hope over experience.

**Lord Myners:** The noble Lord asked two quite separate questions. The tax policies being proposed by the Liberal Democrats are well known and, no doubt, we shall all watch with great interest to see what the nation thinks of those plans when they come to cast their votes in the election. Low interest rates have played an important role in supporting the economy and in supporting asset values, although undoubtedly interest rates have played a major role in correcting the fall in house prices and keeping companies operating in an effective way in the challenging economic environment.

**Baroness Gardner of Parkes:** Like the noble Lord, Lord Peston, I declare myself as a small saver. Does the Minister not agree that a lot of elderly people find it very confusing that on some accounts the reasonable interest rate suddenly drops overnight to 0.01 per cent or something of that type and the good ISAs that are on offer will not take transfers from other ISAs? Elderly people are being asked to make extremely difficult financial decisions, particularly as many of them rely upon their savings and the interest on them to help their ordinary standard of living.

**Lord Myners:** I am very conscious of the importance of interest income to many people in retirement. However, interest rates are set by the Bank of England and reflect the economic circumstances of the country. We are talking about not only short-term interest rates but long-term interest rates. The House should not forget that investing institutions here and overseas continue to be very attracted by investing in gilts at yields of less than 4 per cent. There are good investment opportunities available. I have checked the FSA's website this morning. It gives guidance on finding the best interest rates available, and there are several products offering interest rates of more than 4 per cent. The implied longer-term trend in interest rates will see an increase in interest rates in due course, but I am aware that some people's patience is being stretched by waiting for that increase to take place.

## Financial Services Bill

### Report (and Third Reading)

11.36 am

#### Clause 1 : Council for Financial Stability

##### Amendment 1

Moved by **Lord Myners**

1: Clause 1, leave out Clause 1

**The Financial Services Secretary to the Treasury (Lord Myners):** My Lords, I shall speak also to Amendments 2 to 6. These amendments remove from the Bill the clauses relating to the Council for Financial Stability. As I set out in Committee yesterday, given the limited amount of time remaining in this Parliament, the Government have agreed with the Official Opposition through the usual channels and in the usual way which parts of the Bill should be enacted. The Council for Financial Stability was a casualty of this process, as were Clauses 8 and 18 to 25 on the FSA's international remit and collective proceedings respectively, as I set out yesterday. In order to secure the passage of the remainder of the Bill, the Government have agreed to withdraw these provisions. That is why I have tabled amendments to remove all clauses relating to the CFS. As I said yesterday, the Government continue to believe that these provisions are necessary, sensible and desirable. However, in the interests of securing other important elements of the Bill, on which greater consensus exists, the Government have agreed to withdraw them.

Alongside removing Clauses 1 to 4, it is logical that the amendment tabled by the noble Lord, Lord Hamilton, that relates to the council should also be removed, and we have tabled an amendment that achieves that outcome. The Government have also tabled an amendment to remove Clause 6 in the new print of the Bill, which was introduced by the noble Baroness, Lady Noakes, and concerns financial assistance. Given that it largely duplicates a pre-existing requirement, and following agreement with the Official Opposition through the usual channels, I have also tabled an amendment to remove this clause. I urge noble Lords to support these amendments and beg to move.

**Baroness Noakes:** My Lords, I shall weep no tears for the removal of Clauses 1, 3, 4 and 5. We spent most of our first two days in Committee talking about these clauses, and I think our views on the Council for Financial Stability were made clear during our discussions. However, I am less happy about losing Clauses 2 and 6. As the Minister said, Clause 2 came from an amendment tabled by my noble friend Lord Hamilton that was agreed to on a Division in your Lordships' House. It asks for a report on the structure of the UK financial system, which we believe is a topic that cannot be ducked. My noble friend's amendment was phrased in terms of the Council for Financial Stability and therefore does not sit easily in the Bill, but the idea behind it remains valid. I say to my noble friend and all noble Lords who supported the amendment that if my party forms the next Government, that topic will not be ignored.

I was disappointed to hear that the Government wished to remove Clause 6 as part of the wash-up procedures. When I moved the amendment to insert that clause, the Minister, and the noble Lord, Lord Davies of Oldham, whom I see in his place, sat mute and the amendment was accepted into the Bill. The amendment addresses a real issue about informing Parliament in a timely way about financial assistance to the Bank of England. It is not met by any other provisions. My amendment was designed to ensure that the Government—any Government—could not keep Parliament in the dark again, as happened last year in relation to more than £60 billion of support for RBS and HBOS. I am saddened to see it go, but accept it as part of the wash-up arrangements.

**Lord Oakeshott of Seagrove Bay:** My Lords, obviously we accept the deletion of the clauses; we are just sorry that so much time has been wasted discussing them and that so much uncertainty has been created for the City of London and for our regulated structure by these half-baked Conservative proposals which have been floating around. Let us hope that they never see the light of day after the election.

*Amendment 1 agreed.*

##### Amendments 2 to 6

Moved by **Lord Myners**

2: Clause 2, leave out Clause 2

3: Clause 3, leave out Clause 3

4: Clause 4, leave out Clause 4

5: Clause 5, leave out Clause 5

6: Clause 6, leave out Clause 6

*Amendments 2 to 6 agreed.*

*Third Reading agreed without debate.*

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

## Flood and Water Management Bill

### Report (and Third Reading)

11.41 am

*Report received.*

*Third Reading agreed without amendment.*

##### Motion

Moved by **Lord Davies of Oldham**

That the Bill do now pass.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** My Lords, I am under the obligation, following last night, to be brief in my comments on the Bill, but I pay due respect to all those in Committee on the Bill and thank them for the

constructive way in which they dealt with a complex and challenging Bill in the limited time that we had available. I think that it was recognised on all sides that we had some extremely constructive debates. The Bill has received a thorough scrutiny in both Houses and is a better and stronger Bill as a result.

I place on record my particular thanks to my noble friend Lord Faulkner for his support during Grand Committee, when I was unavoidably detained by business in the main Chamber. He stepped into the breach and more than made up for my absence; I was delighted to see the progress that the Bill made on that occasion. I also thank the noble Lord, Lord Taylor of Holbeach, and, if I may in his absence—I am sure that he is on some constructive work—the noble Lord, Lord Greaves, both of whom adopted an attitude of great understanding of how important the Bill is for the nation, while at the same time rightly identifying issues that need it to be fully considered. I pay my due regards to those noble Lords and their Back-Bench colleagues who supported them in their contributions. I pay tribute to the Minister for the natural and marine environment in the other place, Huw Irranca-Davies, who guided the Bill through the other place with considerable skill and determination. I also place on record my appreciation of stakeholders who, through their ongoing engagement throughout the Bill, have helped to develop it satisfactorily.

I also take this opportunity to remind the House of the changes made to the Bill as a result of agreements reached during its progress in Grand Committee. There were 25 amendments in total, the vast majority of which were a direct result of the very helpful points that were raised and the excellent work that was done by this House's Delegated Powers and Regulatory Reform Committee for its report, and I thank all members of that committee for that constructive work.

In summary, the amendments that were made in response to the committee's report constrain the power to specify new functions as risk-management functions to the functions that are already set out in statute, to provide for regulations on appeals to be subject to the affirmative procedure the first time they are made, to constrain future changes to the maximum civil penalty in Clause 15 to reflect inflation, to introduce the negative procedure for the national flood and coastal erosion risk management strategy in England and for national guidance on this issue in England and Wales, to introduce parliamentary and Welsh Assembly scrutiny as appropriate for subordinate legislation under the Reservoirs Act 1975, and to require a consolidation Bill to be laid before Parliament before the power to make pre-consolidation amendments by order can be used.

The Government also amended Clause 43, the provision on concessionary schemes for community groups, to protect them from unaffordable surface water drainage charges. The House will recognise that this was an important and significant measure. This amendment was made to put beyond any doubt that Ofwat had to have regard to the Secretary of State's guidance on the need for and structure of concessionary schemes in assessing any charging schemes that water companies propose. We believe that that was the effect of the provision as initially drafted, but we took the

opportunity to address the doubts that had been expressed by noble Lords at Second Reading of the Bill. Indeed, the surface water drainage issue was raised on several occasions before the Bill saw the light of day. The remaining amendments ease an unintended rigidity in the order-making power to change the bodies that are responsible for approving and maintaining sustainable drainage system, which allows greater flexibility should circumstances change.

At Second Reading, I reflected on the impact of the terrible flooding in Cumbria and in other areas of the country on homes, businesses and communities, many of which, as we all appreciate, will take several years to recover properly. The Environment Agency has told us the costs of the 2007 floods—£3.2 billion—so this is a vital Bill that has received cross-party support and is eagerly awaited outside Westminster. We have all seen the havoc that floods have wrought in recent years. Conversely, we all remember the periods of drought, so we have to be ready for a future in which, regrettably, such events are likely to be more common. I am confident that this Bill will equip us to meet the challenges that lie ahead, and I commend it to the House.

**Lord Taylor of Holbeach:** My Lords, I join in the Minister's acknowledgements. This Bill will indeed be welcomed by communities up and down the land, and let us hope that it will form the foundation for greater security against the risks of flooding in the future.

I thank my colleagues in another place, Nick Herbert and Anne McIntosh. As we know, the Bill was introduced in the other place by the Minister, Mr Huw Irranca-Davies, and it was the other place that considered it, but much of the work that was done here built on the work of the Delegated Powers and Regulatory Reform Committee, which has been extremely useful. This Bill, with the strong consensus that has laid behind it at all stages, has provided an ideal opportunity for Parliament to work together to improve it.

I thank my colleagues the noble Duke, the Duke of Montrose, and the noble Earl, Lord Cathcart, for their support, and I am delighted to see the noble Lord, Lord Faulkner, in his place; the Minister rightly acknowledged the work that he did on this Bill the other day. I thank the Bill team, whose work has been exemplary on this Bill. We wish this Bill well.

**Lord Addington:** I apologise for missing the first part of the noble Lord's speech, but it is not a normal day and even I will occasionally take my eye off the monitor. Basically, we think that this Bill is a good thing. I particularly thank the Government for the attitude that they have taken. It is also nice to be able to congratulate the Commons on having done most of the legwork for us.

We have something here which is necessary and seems to be reacting to a real need. For that, we offer congratulations all round. In addition, I give my thanks for the concessionary fares and I am grateful that the rather unnecessary scare that the voluntary sector had about water charging has been dealt with. The answer that the Government came up with, if not perfect, was well handled. I say a profound thank you to them because some of us felt that a lot of damage could have been caused to the structure.

**Lord Davies of Oldham:** My Lords, I am grateful for the contributions of both noble Lords. I conclude by offering my particular thanks, of course, and second the vote of thanks from the noble Lord, Lord Taylor, to the Bill team, who worked under considerable pressure against a background where we had limited time to consider a Bill which had its real complexities and challenges. I place on record my thanks to them.

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

## Personal Care at Home Bill

### Commons Reasons

11.52 am

#### Motion A

Moved by **Baroness Thornton**

That the House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A.

1: Page 1, line 22, at end insert-

“(c) not be made before 1 April 2011”

*The Commons disagree to Lords Amendment No. 1, for the following Reason-*

**1A:** Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

**The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton):** My Lords, with the leave of the House, I will also address Motions B and C. The Government have listened to local government and to the concerns expressed here and in another place. By accepting Lords Amendment 2, the Government recognise that a new Parliament may wish to confirm the arrangements for implementing this important first step towards a future national care service. Local authorities will still have the time that they have told us they need to implement the legislation most effectively, subject to parliamentary approval of the commencement order. This recognises the collective desire for more time to implement these measures and for more time to scrutinise them. It does so by requiring a commencement order to be laid and approved by both Houses before the Act can come into force.

In accepting Motion A, therefore, this House is accepting that Lords Amendment 1, due to its current wording, would delay the implementation of the scheme until June 2011 at the earliest. This is because it prevents regulations being made and signed by the Minister before laying until 1 April 2011 at the earliest. Many people in many places say that April 2011 implementation is what they want, and we have committed in another place to bringing in the regulations which would achieve this.

Accepting Motion C recognises that Lords Amendment 4 inserts what is known as a sunset clause and would require the Act resulting from this Bill to lapse at the end of two years after Royal Assent unless there were regulations in force. This is now not a necessary amendment. The White Paper now makes

clear that the personal care offer enabled by this Bill is an integral part of the staged route to a national care service.

It is clear from Reason 3A why Motion B is being moved. The amendment has been subject to debate in both this House and another place. The Minister for Care Services in another place, Phil Hope, applauded the quality of the debate in the House of Lords. He described it as being of our usual consistent high standard and it has led us to include, among other things, the transitional portability of assessment.

I hope that these proposals now clearly show that we have tried to achieve a consensus on the way forward. I beg to move.

**Lord Best:** My Lords, I moved the amendment to delay the implementation of the Bill until April next year in your Lordships' House, where it was carried by a huge majority. I was representing the views of local government as articulated by the Local Government Association, of which I am president. I might now be expected to be rather disappointed by the rejection of the amendment by the other place; however, by accepting subsequent Amendment 2, which was moved by the noble Lord, Lord Lipsey, the other place has provided the opportunity for implementation of the legislation at a later date than that proposed in my amendment. The Secretary of State, Andy Burnham, and the Minister of Health, Phil Hope, have given commitments that implementation will not begin before 1 April 2011. The Local Government Association has therefore expressed itself as very pleased with this change achieved by your Lordships, for which the LGA is most grateful.

*Motion A agreed.*

#### Motion B

Moved by **Baroness Thornton**

That the House do not insist on its Amendment 3 to which the Commons have disagreed for their Reason 3A.

3: Page 2, line 31, at end insert-

“( ) This Act shall not come into force until the Secretary of State has commissioned an independent review of the affordability of the provisions contained within this Act and has laid the report of that review before both Houses of Parliament.”

*The Commons disagree to Lords Amendment No. 3, for the following Reason-*

**3A:** Because it would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

*Motion B agreed.*

#### Motion C

Moved by **Baroness Thornton**

That the House do not insist on its Amendment 4 to which the Commons have disagreed for their Reason 4A.

4: Insert the following new Clause-

*“Expiry*

(1) This Act shall cease to have effect at the end of the period of two years beginning with the day on which it is passed unless the condition in subsection (2) is satisfied.

(2) The condition is that regulations made under section 15 of the Community Care (Delayed Discharges etc.) Act 2003, having the effect of requiring the provision of personal care at home free of charge for periods of more than six weeks, are in force.”

*The Commons disagree to Lords Amendment No. 4, for the following Reason-*

**4A:** Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.

*Motion C agreed.*

### **Mortgage Repossessions (Protection of Tenants Etc.) Bill**

*Order of Commitment Discharged (and remaining stages)*

11.57 am

*Moved By Lord Best*

That the order of commitment be discharged.

**Lord Best:** My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

*Motion agreed.*

*Third Reading agreed without debate. Bill passed.*

### **Sunbeds (Regulation) Bill**

*Order of Commitment Discharged (and remaining stages)*

11.58 am

*Moved By Baroness Finlay of Llandaff*

That the order of commitment be discharged.

**Baroness Finlay of Llandaff:** My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

*Motion agreed.*

*Third Reading agreed without debate. Bill passed.*

### **Misuse of Drugs Act 1971 (Amendment) Order 2010**

*Motion to Approve*

11.59 am

*Moved By Lord West of Spithead*

That the draft order laid before the House on 30 March be approved.

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

**The Parliamentary Under-Secretary of State, Home Office (Lord West of Spithead):** My Lords, the order was laid before Parliament on 30 March. If it is approved, it will bring mephedrone—m-cat, bubble or miaow-miaow, as it is known—and other cathinone derivatives, a group of so-called “legal highs”, under the control of the Misuse of Drugs Act 1971 as class B drugs, as from 16 April 2010. As required by the Act, the Advisory Council on the Misuse of Drugs has been consulted and the control of these drugs fully reflects its recommendations. I wish to take this opportunity to thank the advisory council for its thorough advice and its continuing commitment and work in this important area.

The advisory council’s assessment is integral to our ability to respond effectively and in an informed way to the threat posed to our society by emerging harmful drugs. We act together out of a shared concern about the harm that these drugs can do and the pace at which they have become available.

Cathinones are stimulants with effects similar to those of amphetamine. The advisory council has provided its assessment of the risks that these drugs pose having undertaken a full review of their status through examination of their use, pharmacology, physical and societal harm. The harmful effects of these drugs include overstimulation of the cardiovascular system, which creates a risk of heart and circulatory problems, and overstimulation of the nervous system, with consequent risk of fits and agitated and paranoid states and hallucinations. Mephedrone has also been linked with a number of deaths in the United Kingdom and one confirmed death of a young girl in Sweden.

The advisory council advises that the harm posed by these drugs is of a level to justify control as class B drugs under the Misuse of Drugs Act 1971. My right honourable friend the Home Secretary has rightly waited for advice from his independent expert advisers. The Government continue to value scientific advice and are committed to evidence-based policy making in this area as elsewhere. Indeed, based on the advisory council’s advice, and very much in keeping with our approach to the control of synthetic substances—such as synthetic cannabinoids, which were controlled by Parliament in December last year—we are introducing generic definition of these drugs. By enshrining in law a generic definition of cathinone drugs, rather than specifying each one individually, we shall capture a wide range of cathinone derivatives, which is, as far as we are aware, a world first for this group of drugs.

[LORD WEST OF SPITHEAD]

We have seen a number of these derivatives in the UK already, including methylone, methedrone and butylone. However, these controls also look to deal with future trends to stop unscrupulous, illicit manufacturers, who work for organised criminals, tweaking substances to circumvent our laws.

The enforcement response will initially concentrate on those people who peddle and traffic these harmful drugs rather than on young people who may be found in possession of them. It is not our intention to criminalise young people, and we expect the police to respond proportionately. However, let us be clear: after 16 April, mephedrone will be an illegal drug; those in possession will be breaking the law and, if caught, face the risk of prosecution and a criminal record. Those who traffick these drugs will face a substantial term of imprisonment, up to a maximum of 14 years, and, where they have profited from what will be an illegal trade, we will look to seize their property and other assets under the Proceeds of Crime Act 2002.

We are also working closely with the Association of Chief Police Officers and other agencies to develop a comprehensive approach to tackle the sale of these drugs. The Serious Organised Crime Agency and the UK Border Agency will take effective enforcement action against those criminal gangs which traffick these drugs across our borders.

On receipt of advice that these drugs were harmful and dangerous, as well as bringing this order before Parliament the next day, the Government took a series of other immediate actions. First, to limit the supply of mephedrone, specified other cathinone derivatives and all products containing those drugs, we banned their importation and instructed UKBA officials to seize and destroy shipments of mephedrone at the border unless the shipment was licensed by the Home Office. UKBA has already successfully seized a number of suspected mephedrone importations as a direct result.

Secondly, my right honourable friend the Home Secretary wrote to local authorities urging them to consider what action they could take under consumer protection legislation where mephedrone was inaccurately advertised as being for use as plant food or bath salts. It certainly has no effect as a plant food; I would be amazed if it had a result as a bath salt. Police forces and other agencies are contacting head shops and other premises thought to be supplying the drugs to warn them of the ban and to make clear the enforcement powers that they have if suppliers fail to comply with the ban once it comes into force.

Legislative control is only part of the solution. As the advisory council recommends in its report, there are a series of actions beyond classification and law enforcement that need to be taken across prevention, public health and education. These very much reflect the remit and concerns of the advisory council. These concerns are shared by the Government. The council's wider recommendations are welcomed and are already part of our response. Therefore—our third action in respect of our health messages—our drugs information service, FRANK, provides information on cathinones, including mephedrone, with clear information about

the risks that these substances pose. FRANK has already updated leaflets providing advice on mephedrone for young people and parents, which will be available via various sources, including the National Union of Students. Our Crazy Chemist information campaign, run in late 2009, included warnings about mephedrone and targeted young people on websites and when they are searching to purchase legal highs. The schools Minister, my right honourable friend the Member for Gedling, has also written to all head teachers, providing guidance for dealing with mephedrone in schools. Mephedrone and legal highs will also be included in the new drug guidance for schools.

Fourthly, the Department of Health has issued a formal health alert through the public health warning system to ensure that all frontline hospital staff, medical staff and drug treatment staff have the most up-to-date information about the harm posed by mephedrone. The concern around mephedrone and other cathinone derivatives has been well publicised in recent weeks. Users of these drugs should therefore be aware of these changes. If the order is approved, the Government will publicise the law changes through a Home Office circular and through the Talk to FRANK and drugs.gov.uk websites. Reference to the law change and health risks relating to the drugs will be included in future government material for young people. The Government will continue to make it clear that legal highs can cause serious and sometimes considerable harm to those who use them, as well as great distress to their families and friends. Our aim is to ensure that people, young people in particular, are well aware of all the risks associated with using these drugs. The Government are determined to crack down on these so called legal highs. We must be vigilant and responsive. We must tackle those that have no other motive but greed with no regard to the harm they cause. We must ensure that our children know about the harms of drugs and do not think that, just because they are legal, they are safe.

The order that the Government ask Parliament to approve today will protect the public, especially young people, from these dangerous drugs. I commend the order to the House.

**Lord Swinfen:** I quite understand what the Minister is doing and agree with it, but has there been any research or is any research planned into why people take these drugs? We might then be able to prevent rather than deal with the problems later.

**Earl Howe:** My Lords, I thank the Minister for his comprehensive explanation of this order, which we on these Benches welcome unreservedly. The scientific evidence on which the Government have based their action is very clear and comprehensive and I congratulate the Government on having acted as promptly as they have to ensure that mephedrone and cathinone derivatives are clamped down upon and that the requisite messages are promulgated to all relevant quarters including, I am pleased to say, schools and National Health Service institutions.

The enforcement action by the UKDA is also extremely welcome. We hope that the measures taken by the Government will serve to ensure that the supply of these substances is rapidly limited and, indeed, eliminated.

**Baroness Hamwee:** I thank the Minister for his introduction. We are about to ban another drug—and would that banning meant that it was no longer taken; indeed, would that banning did not itself increase the risks of criminals taking over the supply, cutting it with goodness knows what in order to reduce its purity and increase their profit, peddling to users other even more addictive and harmful substances. Sadly, there is no simple equation that banning it will stop it. The far more likely equation, in our view, is that banning creates a new market for criminal gangs who will use guns to protect it. I have read that in Guernsey, where mephedrone was criminalised last year but where it is hard to get guns, gangsters have apparently been guarding the supply with samurai swords.

The recent publicity will have had its share in promoting the drug as well as, we fervently hope, acting as a deterrent. Of course we do not know that it is killing young people. The Minister mentioned a death in Sweden. It has been linked with 25 deaths here but with no post-mortem evidence of its role in any of these or of its interaction with other drugs that those poor young people had taken, which probably included alcohol. All of this has highlighted the disputes about the relationship between the Government and the scientists who advise them. I understand that the new principles governing that relationship include a requirement that neither Ministers nor scientific advisers should act to “undermine mutual trust”. I do not know whether that works in both directions.

Those who make synthetic drugs, which are legal until they are outlawed, will always be one step ahead. I was interested to hear what the Minister said about other steps that might be taken to—I wrote down this morning “to deal”; that is not a very good word, but to deal—with such drugs. I have heard it suggested that trading standards could have damped down on it more because, as the Minister says, it is sold as a fertiliser. I shall not myself try it as a bath salt.

I regret that in the last days of this Parliament our response is one that will be described as knee-jerk. I hope that the new Government will see a new approach to the scourge of drugs that is better than the one which society has achieved so far—one that is broad-based, thoughtful, less punitive as regards users, that sees this as a public health issue. We see all this as a priority because, as I am sure we all agree, the law must be credible.

**Lord Bates:** My Lords, I rise very briefly in this short debate just to welcome wholeheartedly the measure that the Minister has brought before us. It may be viewed in some parts of the House as a knee-jerk reaction, but sometimes with these dangerous drugs that come on to the market, a knee jerk is exactly what we need to get across to young people the message regarding the dangers. The reason I am speaking now is that, about an hour ago, I had a text message from a young man, a 20 year-old, who asked me whether this matter was coming up for debate and, if it was, to make sure that I voted for it, because it is crucial that this drug is banned and information about it made available. He also made a very interesting point. He believes that the prevalence of the drug is much wider

than the Government may think and, therefore, that the difficulty of clamping down on it may be substantially greater. He also had some suggestions. As these types of drugs are made available predominantly at night clubs, pubs, bars and city centres which are well known to the police, perhaps education and awareness through such means as leaflets could be promoted at the places and venues where young people are so vulnerable.

The second point was on whether greater use could be made in communicating those messages via social media. One is aware of web announcements and web pages, but most young people get their information and communicate through Twitter, Facebook, Bebo and YouTube. Could those social media be better used to communicate that information, because the moment when the ban comes into place on 16 April is but a few days away? The objective of all of this legislation is not necessarily to fill up our already overcrowded prisons even more with people who have fallen foul of this new law, but in fact to protect young people and save lives. Therefore, education really needs to be at the forefront of this effort from the Government. With those few remarks, I join my noble friend from the Front Bench in wholeheartedly welcoming this measure that the Government have brought forward.

12.15 pm

**Lord Alderdice:** My Lords, I want to intervene briefly at this point, because while we on these Benches understand the pressure for the Government to intervene at this juncture, it seems to me that the Minister himself has acknowledged that the advent not just of this drug but of this way of synthesising drugs effectively changes the picture. It is a little bit like a difficulty that the Minister will be well aware of: in the old days, terrorist groups tended to be consistent and to last for a long time, and so on, but now they fragment and split and grow up, so banning them simply by name, for example, is not particularly effective and we have had to look at other things.

Can the Minister confirm to us that the Government are not depending simply on banning particular new synthetic drugs when they come up, but rather that they are looking at what is at the back of all this, so that we have a more effective process for trying to deal with this whole problem of a developing drug culture? In that, one will not simply be satisfied by saying, “Well, we’ve banned this drug”, or even, “We have banned this group of drugs”, as the Minister has indicated. The whole way that we deal with this problem needs substantially more attention. I wonder whether the Minister can give some indication that that is the Government’s wish and intention.

**Baroness Finlay of Llandaff:** My Lords, I must declare an interest as a member of the technical committee of the Advisory Council on the Misuse of Drugs. I am also on the board of the UK Drug Policy Commission. It is from that background that I, first, congratulate the Minister on summarising the evidence about the cathinones so well. I have gone through the evidence myself and am most impressed at his command of it.

I reinforce the question raised by the noble Lord, Lord Alderdice, and indeed by the noble Lord, Lord Swinfen, because there is a problem. The law needs to

[BARONESS FINLAY OF LLANDAFF]

give a message that this is not safe, while there is a perception among young people that if something is legal then it is probably not too bad. However, we have an increasing experimentation culture and an increasing number of bizarre chemicals coming in, apparently being manufactured—I say apparently because I have only seen second-hand evidence—in parts of China and the far East, and so on. There are those chemical factories producing new substances, and the youngsters will experiment with them. The other problem we have is the gangs, with the gang culture and gun culture that goes along with them, so this is incredibly complex.

I intervene simply to make a plea to whoever comes in after the general election, which I believe we all know we are facing. We need to have a long, hard look at the whole issue of drugs in our society. We may have to completely review how we handle them because when we ban one thing, unfortunately, it sometimes becomes appealing. I personally think that the concept of banning the whole group of cathinone chemicals is very clever, and I completely support it because it means that whichever bit you attach to the molecule you will be capturing the whole group as new ones come along.

However, I hasten to say—although I dread saying it—that as we sit here today there are a whole bunch of new chemicals being manufactured out there, which somebody will try to persuade some young person to experiment with. There is that whole question of what is going on in our society, when those youngsters just want to experiment—and experiment with things that the rest of us would not touch with a bargepole. Having said that, I support the Minister in bringing this order forward.

**Lord Elystan-Morgan:** My Lords, I should like to say a word or two in tribute to the Misuse of Drugs Act 1971, which after nearly 40 years shows how smooth the process can be and how swiftly it can be executed in order to deal with a problem that arises suddenly. I say that without total objectivity because, as a Home Office Minister, I was responsible in 1969 for the Misuse of Drugs Bill, which unfortunately died a death with the 1970 election. Wash-up was not known as a parliamentary institution in those days, although there was complete unanimity, it seemed, in the House of Commons in favour of the Bill. The Bill was reintroduced by the following Conservative Government and, without a word of it being changed, it became the 1971 Act. It works well.

I congratulate the Minister wholeheartedly on the promptness and firmness with which the Government have acted. I wholeheartedly endorse what he says. This is not just a matter of legislation criminalising a drug; there has to be a comprehensive effort socially and educationally at every level to try to bring the message home to people who fall victim to these things. Peddlers invest heavily in the misery and ruin of their fellow humans and, when they are caught, they should face condign punishment.

**Lord West of Spithead:** My Lords, I thank noble Lords for their input into this debate and I am glad that the House generally supports what we have done. The noble Lord, Lord Swinfen, asked about research

into why people take drugs. A certain amount of work has been done by a government research programme, but this is an extremely difficult area. Why do people do this? Why do they have a drink? Why do they do any of this? These things are very difficult to pin down. I have a feeling that, as with our work into what makes someone become radicalised and a violent extremist, there are almost as many reasons as there are people, although there might be strands to give us guidance. However, we do work on this. If we could resolve this question, it would of course be wonderful, as we would be able to come up with an instant answer, but I fear that there is no instant answer.

The noble Baroness, Lady Hamwee, mentioned the importance of all the other aspects of this issue, such as drugs treatment and handling drugs in a different way. We agree entirely with that, but I believe that we also need a bit of stick. We need to point out to young people when something is really dangerous. It is quite clear from stuff that has happened recently that some people did not understand that mephedrone was dangerous. They thought, “Ah, I can get high on this as it’s legal”. It is crucial that the Government should point out what is considered to be dangerous after it has been looked at by the ACMD. The noble Baroness, Lady Finlay, touched on that.

The noble Baroness, Lady Hamwee, said that this was a knee-jerk reaction. I do not think that that is the case, but we have acted quickly. The noble Lord, Lord Elystan-Morgan, talked about the Misuse of Drugs Act. Yes, we are able to use that, which is a wonderful thing. It is nice to have legislation that lets one act quickly. It was in July of last year, at the Isle of Wight music festival, that we first became aware that this strange created drug, mephedrone, was available. That flagged it up to us. We noticed that people were getting nosebleeds. The council became aware of it and started to think about it.

In September, the ACMD wrote to the Home Secretary giving an update on a number of areas of work, one of which was the risk of cathinones. The council was not quite sure at that stage what the risk was, because it did not have enough detail. In December, it wrote to the Home Secretary highlighting mephedrone as a priority. It was getting really concerned about it, saying that there was evidence of harm and that it was sold, as I said, as bath salts, fertiliser or whatever. The Home Secretary then waited for the full, proper advice from the council, which came on 29 March. As soon as that came, he acted immediately, which was absolutely right and appropriate. I think there was something in the newspapers that day about the possibility of someone having harmed themselves. The ACMD report came out on 31 March at around the same time—just in time for that to be taken through the House. It was not knee-jerk, but acting promptly and quickly, as we needed to. I was glad that we received support on that from the Benches opposite and several other noble Lords.

The noble Lord, Lord Bates, touched on where we are and what we are doing in educating people. I touched on that in my initial statement. The answer is that we probably cannot do too much educating so he is absolutely right. Giving out leaflets at various clubs and so on is a very good idea. I think we do that but I

will check and make sure. It is absolutely valid. I know we are pushing out 200,000 leaflets to the National Union of Students so that it can get them out, and doing other such things. That is very important.

We do not want to criminalise youngsters. I think that was the general feeling from the House, as well. I would love to put the traffickers away for the maximum of 14 years. They are the blighters we need to get. There is no doubt, looking back at the Isle of Wight festival, that the traffickers had been caught because we were putting in rules to stop one group of designer drugs, so they came up with another one. They thought, "Here we go", and put it out by selling it as a fertiliser, letting the word go out that it was legal and people could have it. They are the people we want to get and need to put behind bars. I have no trouble with having them banged up, rather than the youngsters. However, one has to have a stick in the background in case it is needed. I know from personal experience what damage drugs can do to youngsters. The action that we are taking is absolutely valid.

I thank the noble Baroness, Lady Finlay, for all the work that she has done and her input into various parts of this area. She is absolutely right: this whole area of drugs is one that we must keep a lot of focus on, taking a long, hard look at whether we are doing it in the right way. There is no doubt that drug misuse wastes lives, destroys families and damages communities. We have got to hit this problem head-on. We know the damage it does. In the past 12 years we have seen progress and notable success but we cannot be complacent. We must be prepared to respond very quickly when something changes. Our way of capturing these things under a generic title answers the point of the noble Lord, Lord Alderdice. By going, generically, for a whole group, we are managing to keep up, but to say that we can get ahead of them is madness. These people are very cunning and do not care about the people they are damaging.

Approval of the order will help to ensure that the controls are in place. I thank everybody for, effectively, round-the-Chamber support and the fact that we are sending out a very clear and united message from this place. I commend the order to the House.

*Motion agreed.*

### **Appropriation Bill**

*Second Reading (and remaining stages)*

12.28 pm

*Bill read a second time. Committee negatived. Standing Order 47 having been dispensed with, the Bill was read a third time and passed.*

### **Finance Bill**

*Second Reading (and remaining stages)*

12.29 pm

*Moved By Lord Myners*

**The Financial Services Secretary to the Treasury (Lord Myners):** My Lords, as my right honourable friend the Chancellor of the Exchequer said when he delivered his Budget Statement, the past few years have been a difficult time for people, not just in the

UK but globally. It has required difficult choices, with Governments around the world taking unprecedented steps to rescue the global financial system and support the economy, business and families. The record shows that the Government have made the right calls, and the effect on the wider economy, families, households and businesses has been much less severe than it would have been had we let the recession run its course. Despite the latest data showing that we are now emerging from the deepest global recession in more than 60 years, uncertainties remain, and there will be risks to confront. It will not be plain sailing from here on.

My right honourable friend set out a Budget which mapped out the next steps in the Government's plan to secure the recovery and build strong, sustainable, growth. The Budget therefore announced: continued targeted and temporary support through the recovery; a package of measures, worth £2.5 billion, to support small businesses and promote innovation; and how the Government will deliver on their obligation to halve the deficit in four years.

These measures are at the centre of the Bill before noble Lords today, and I propose to address each area. The Government are determined to carry all of the tax measures announced in the Budget into law. However, recognising that there was limited time before dissolution of Parliament, we have published a much more limited Finance Bill than in a normal year. As my right honourable friend the Financial Secretary told the other place yesterday, following discussions with the Opposition we moved amendments removing provisions relating to landline duty; the requirement of securities for PAYE; and abolition of furnished holiday lettings from the Bill. We will include these in a Finance Bill to be introduced as soon as possible in the next Parliament.

In addition to these amendments, and following discussions with the Opposition, we have also amended Clause 9 to align the rise in cider duty rates with that for other alcohol rates, limiting the increase to 2 per cent above inflation with effect from 30 June.

It is clear that the support provided to households and businesses over the past two years has worked. The temporary cut in VAT was worth an average of £20 per month for every household, and 200,000 businesses which collectively employ 1.4 million people have been given extra time to pay their tax bills. However, withdrawing support too soon could jeopardise the recovery. While uncertainties remain, we will continue to build on the support that has limited the impact of the recession for families and households. Clause 6 therefore increases the stamp duty threshold for first-time buyers from £125,000 to £250,000, ensuring that nine in 10 first-time buyers will pay no stamp duty at all. To ensure that this does not add to the burden on the public finances, Clause 7 announces an increase in the stamp duty to 5 per cent for residential property over £1 million to fund this.

The Government's support for business has meant that the rate of insolvencies is half what it was during the early 1990s recession. Around 850,000 companies have benefited from our decision to defer the rise in the small companies' rate. Clause 3 maintains the rate of corporation tax for small companies at 21 per cent for 2010-11, as announced in the Pre-Budget Report.

[LORD MYNERS]

Similarly, as the Chancellor announced, although the rate of fuel duty will increase over the next year, we are sensitive to the impact that a large rise would have on families and businesses at this time. We are therefore providing for a staged increase spread over the course of the year. Under Clause 12, fuel duty will rise by only a penny in April, less than inflation. Clause 13 provides for further rises of a penny in October and the remainder in January.

We make no apologies for extending this support to families and businesses. To do otherwise would involve taking a huge risk with people's jobs, incomes and the future growth of the economy. However, in the medium term, the Government must live within their means. As the Chancellor said on 24 March, we intend to achieve this goal by a combination of public spending cuts, growth in the economy and tax rises.

This Finance Bill provides for a number of measures to underpin strong, sustainable growth. Clause 5 doubles the annual investment allowance to £100,000 for expenditure incurred from April 2010, ensuring that 99 per cent of businesses will be able to deduct all qualifying investment from their taxable profits. Clause 4 doubles the limit for entrepreneurs' relief for capital gains tax from £1 million to the first £2 million of gains made over a lifetime. This extends the effective 10 per cent rate, increasing incentives for business growth and those investing in businesses with growth potential.

These are important measures through which we are providing support for small and growing businesses. Together with the rest of the growth package announced at Budget, these will be funded by excess revenue generated by the 50 per cent levy on excessive bonuses of bankers, which was announced at the Pre-Budget Report and provided for at Clause 22, and by switching spending from within existing allocations. I should add that Clause 2 also maintains corporation tax at 28 per cent, ensuring that we continue to have the lowest rate in the G7, and that the UK is still one of the best places to do business in the world.

Finally, the Finance Bill provides the key tax measures at the heart of our plan to halve the deficit over four years. Clause 1 provides for the new 50 per cent rate of income tax for those earning more than £150,000 per annum, which together with the gradual removal of the personal allowance for those earning more than £100,000 provided for in last year's Finance Act, implements our plans from Budget last year.

The Bill also implements the core aspects of our changes to the pensions tax regime at Clauses 24, 49, 50 and 71, restricting tax relief on pensions for those earning more than £130,000 as well as further anti-forestalling provisions. In providing these reforms now, we have had to balance the need to provide certainty and allow industry and individuals time to prepare with the need to consult further on some aspects of implementation. Clause 24 therefore provides a number of powers that allow the Government to return to aspects of the implementation.

The reforms to income tax and pensions affect only the top 2 per cent of earners—those who have benefited the most from the strong growth in previous years. The Bill provides for further measures announced at Budget or before to support the public finances.

Clause 9 confirms the planned increase in alcohol duty of 2 per cent above inflation announced at Budget 2008. Clause 69 provides powers to amend the duty definition of "cider" to ensure that particularly high-strength ciders are taxed more appropriately. The Government intend to make these changes in September. Clause 10 increases tobacco duty by 1 per cent above inflation. Increases of 2 per cent above inflation will be made in each of the next two years. Clause 8 provides for the freezing of the inheritance tax threshold for the duration of the next Parliament until 2015.

As part of ensuring a fair and effective tax system, and to ensure that the Government remain on course to halve the deficit, this Finance Bill provides, at Clauses 25 to 59, for a significant package of measures to tackle tax avoidance, non-compliance and offshore evasion. The avoidance measures in this Finance Bill protect around £18 billion worth of yield and raise a further £1.5 billion of revenue by 2013. I believe the choices that we have made to date in dealing with one of the most turbulent economic periods in modern times have been the right ones. We have stabilised and begun to rebuild financial services. We have supported the economy, businesses and families and the outlook is continuing to improve. The economy is growing again, the labour market is easing and families and businesses have weathered the storm well.

We have to continue to make the right choices, not just to secure the recovery but to reduce borrowing after the costs of the recession and to improve our outlook by investing in the long-term capabilities of the economy. The measures in this Finance Bill will help to support our economy, the public finances and Britain's future, and I commend it to the House.

12.39 pm

**Lord Mackay of Clashfern:** My Lords, I want to take this opportunity in the gap to raise two matters. The first relates to the provisions on the very popular and useful ISAs which are continuing and for which allowances have been raised. This was referred to by the noble Lord, Lord Myners, in his Answer this morning in relation to how savers are being helped.

I was disturbed to read in the press not long ago—although one always has to be careful about what one takes from the press; and that is why I want to raise this issue—that these ISAs provided by the banks are sometimes used in such a way as to deprive the people who invest in them from receiving the full interest on the money that they invest. I believe that globally this amounts to a large sum. A lot of people have taken up these ISAs and it is rather serious if they are in effect being short-changed by the banks. I hope that the Minister can help me on that.

My second point is that the Chancellor mentioned that proceeds from the bonus tax that was introduced are much greater than was anticipated. That shows that the banks have determined to go for the bonuses, notwithstanding the tax. In other words, that particular method has not significantly reduced the amount of money that is going out in these bonuses.

I am grateful to the noble Lord, Lord Oakeshott, for allowing me to speak before him.

12.41 pm

**Lord Oakeshott of Seagrove Bay:** My Lords, I am delighted to do so; the noble and learned Lord, Lord Mackay, made a very good point. Like many of the Government's policies, the bank bonus tax has been totally ineffective in practice, despite the strictures of the noble Lord, Lord Myners, which have often been very well argued and I often sympathise with them.

It has been a long hard slog on the economy over the past year or two—both for Ministers and for opposition spokespeople. Perhaps I may be allowed a brief personal word—it is relevant to this debate and to tax: some of us were here until a very late hour this morning to ensure that non-resident Peers, if they want to sit in this House, should pay full British taxes. The Bill that I first introduced six years ago and have introduced four times was incorporated en bloc in the Constitutional Reform and Governance Bill this morning, apart from a slight change regarding the position of the Bishops. I thank the Government for finally accepting it; but why oh why did they wait until the last minute of extra time?

Let us be fair: the Government initially did what was right and necessary to save the banks in the crisis in late 2007 and to stop our economy from collapse. But they have frittered away the opportunity to rebuild the economy properly after that emergency surgery. I could hardly believe my ears and was amazed—the Minister is verging on complacency—to hear him say that families and businesses have weathered the storm well. That will be pretty bitter news to the many people who, if they are not unemployed, are on compulsory short time. This includes not just, as in previous recessions, factory workers, but many people including solicitors and those in the service sector. There is a great deal of hidden unemployment in our country and there have been many pay cuts.

The housing market is still in a very difficult situation. There has been something of a false dawn over the past few months in terms of house prices stabilising. That has happened mainly in the south of England; there has been no recovery across much of the country. The market remains flat and stagnant in many areas. House prices have been artificially supported by very low interest rates; as interest rates start to rise, as the Minister rightly pointed out in Question Time, and the markets are reflecting, that artificial support will be taken away. We are still in for several difficult years in the housing market.

I do not propose to rehearse the general economic policies. We will all be out on the hustings shortly. I have already mentioned the simple and clear Liberal Democrat policy to make the first £10,000 of people's income tax-free. That will take many lower-paid workers and pensioners out of tax. That is a fully funded tax cut which is covered by actual commitments on things that we will not do, as opposed to the phoney efficiency savings—I can call them only that—being offered by the other two main parties.

The noble Lord also mentioned pensions. I am afraid that we are in a hopelessly complicated system. Again, typically, the Government, having accepted what we have been saying for many years about the unfairness of pension tax relief being offered at high

rates to the richest, have again come out with a very fiddly and complicated system which even the pensions experts do not understand, never mind the Treasury and the Government. Thereby, I am afraid that there are very serious pressures on savers and pensioners. Again, the simple solution initially is to bring back immediately the link between earnings and pensions and not wait for several more years.

I have one other separate point and question on Clause 59 of the Bill. If he cannot answer today perhaps the Minister will consider the matter carefully and write to me on the change highlighted in the *Guardian* and the *Daily Telegraph* in recent days which raised serious issues of civil liberties. It relates to the proposal to amend Section 106 of the Postal Services Act. At the moment the law is that postal packets containing suspected contraband can be opened only in the presence of the person to whom they are addressed—subject to certain safeguards. That will change and those safeguards will be removed. As one would expect, the *Guardian* is very concerned about this and is making comparisons with the Stasi in East Germany. The *Daly Telegraph* quoted a senior tax partner at Grant Thornton as stating:

“This seems like a very small and limited change, but it could be a very big step for increased powers for HMRC”.

That has the ring of truth. He continued:

“Once new powers are in the hands of HMRC they tend to be extended”.

Can we be sure that that does not conflict with Section 6 of the Human Rights Act? Can we also be told what safeguards are being offered? People talk a lot about the surveillance state. There may be a reason for such a measure in individual cases, but we would like it to be properly explained and discussed.

This is not a place where we are able to intervene and argue directly about tax rates, but we have economic expertise to offer from all around the House. I hope and believe that whoever form the next Government we will be able to play a constructive part in rebuilding the nation's economy.

12.48 pm

**Baroness Noakes:** My Lords, we usually take an opportunity of a debate on the Finance Bill to debate the Budget which preceded it, but we had an excellent debate on the Budget, led by my noble friend Lord MacGregor of Pulham Market. The Minister will notice that my usual team of supporters on Treasury matters has not turned out on this occasion because we have no wish to do anything which will hold up the end of this Parliament, and with it the economic management of the UK by this Government. I was, however, pleased that my noble and learned friend Lord Mackay joined us today, and I hope that the Minister will respond to his questions.

I shall not rerun the critique of the Budget that we discussed before Easter, but I should say that it does not represent a credible plan to restore health to our country's finances.

In the past couple of days, the Minister has become fond of quoting the OECD, which has recently said some obliging things about the UK: but that of course is just one judgment. The European Commission has

[BARONESS NOAKES]

been far less complimentary about our deficit reduction plan and our growth prospects. Its analysis was based on the Pre-Budget Report, but the Budget was no better in terms of setting out a credible plan, so I imagine the Commission's judgment will remain unchanged—and we never hear about that from the Benches opposite.

Closer to home, the Budget got little or no support from commentators in the UK. The CBI was deeply unimpressed, as were most other business groups. By ignoring the increase in inflation that we are currently experiencing in favour of the short-term, negative inflation last September, the Government have managed to introduce yet another stealth tax on ordinary people. Based on the Treasury's own calculations, this latest stealth tax is worth £2.2 billion to its coffers.

Worst of all, the Budget failed to take the opportunity to rethink unwise decisions made in earlier years to introduce a tax on jobs from next year. It is not in the Finance Bill. It will require separate legislation, which will not be a money Bill and hence will be scrutinised by your Lordships' House. My party is supported by a growing list of business leaders, and by all business groups, in condemning the increases in national insurance that the Government plan. We are clear that the health of our economy will be harmed if the increase goes ahead in full next year. It will act as a huge disincentive to businesses to create jobs, and hence undermine economic recovery. If introduced, it will cause unemployment to rise. The Chancellor of the Exchequer has admitted this to the Treasury Select Committee in another place. I give way to the noble Lord.

**Lord Lea of Crondall:** I am grateful to the noble Baroness. So this so-called jobs tax is going to create unemployment, as opposed to the alternative, which is so-called efficiency savings. If one is going to reduce expenditure by £10 billion, £20 billion or £30 billion, where is that expenditure saving going to be produced? It will be produced overwhelmingly on wages and salaries. So what the noble Baroness says is pure poppycock—perhaps she would comment about whether another word could be used. She sheds crocodile tears about jobs, but for every £10 billion or £20 billion, would not an equivalent number of jobs, if not more, be lost for the same amount of money?

**Baroness Noakes:** The noble Lord, Lord Lea, raises a question that people often get confused about. They think that tackling inefficiency will lead to job cuts. However, there are a number of ways of saving money. For example, a pay freeze would not cost a single job but would save a large amount of money. A large number of savings can be achieved through efficiency gains with no loss of jobs. We are clear about that. I give way again to the noble Lord.

**Lord Lea of Crondall:** It is very rare to intervene twice, but it is a new definition of an efficiency saving to include a pay freeze. That is not what has been said by the Conservative Party, which is magically going to find savings on work being done. Some of the savings could be made at the margin with purchasing, but overwhelmingly the savings will be made on wages and salaries through losing people-hours.

**Baroness Noakes:** The noble Lord is quite right that procurement savings form part of our strategy. However, we have not said that the rest of the savings will come from jobs. I have given the noble Lord one way in which efficiency savings can be made by reducing the costs of the same output. That is the definition of efficiency. If the noble Lord thinks about it, he will see that there are many ways in which the costs of production can be reduced without cutting jobs. It is not our aim simply to cut jobs.

I also say to the noble Lord that, when we talk about the impact of the tax on jobs, the unemployment will be in the productive sector. There is a big difference between creating new jobs in the productive sector and protecting jobs in the unproductive public sector. That is why it is extremely important. Does the noble Lord really want to have another go?

**Lord Lea of Crondall:** Yes. I am sure that I am on the edge of breaking a rule by intervening a third time, but as regards every service provided, from dustbins through to economic regeneration, in what sense does the noble Baroness think that this is not money well spent? On that basis, would she say not only that we should not pay people so much, but that we should provide fewer services as well? Is that the doctrine that is now being suggested?

**Baroness Noakes:** My Lords, I do not wish to prolong this. We have not said that we will cut front-line services, and we will stick to that position. This is not the right debate in which to examine the policies of my party. I would be happy to talk at length to the noble Lord, Lord Lea of Crondall, about my party's policies, in the hope that he might join us at the ballot box—if he had a vote, of course—on 6 May. I live in hope that he might see that this would be a sensible thing for him to support.

**Lord Oakeshott of Seagrove Bay:** My Lords, I promise that I shall say this only once. Is the noble Baroness seriously saying that nurses, teachers, police officers and others who work in the public sector are unproductive? "The unproductive public sector" was an extraordinary thing to say that will be noted in the country.

**Baroness Noakes:** There are parts of the public sector that are unproductive. I was not referring to front-line services. However, there are a number of activities that do not add value to our nation. I do not think that the noble Lord would disagree with that.

As I was saying, the Chancellor of the Exchequer has already admitted that the jobs tax will lead to rising unemployment. He did not deny the estimate made by the Centre for Economic and Business Research that it will lead to 57,000 people losing their jobs. Of course, it is a tax on people earning more than £20,000 per year, which is significantly below average earnings.

When the Minister introduced the Bill, he said that the Government had made all the right calls. However, he ignored the fact that before the recession, the Chancellor made some very wrong calls. He peddled the false notion of having abolished boom and bust. The fact is that he borrowed too much, he spent too

much, and he spent it inefficiently and unwisely. If he had not done those things, we would have entered the recession in a much stronger position and would have been much less badly affected. The Chancellor failed to fix the roof while the sun was shining and now we are all suffering from the effects of the storm that came with the bust.

I turn now to the Bill. The Government wisely decided not to proceed with the immediate increase in the duty on cider, with the telephone tax and with the furnished lettings tax changes. We are glad that they agreed to remove these impositions, as well as some other technical provisions that needed more scrutiny. Nevertheless, the Bill creates another set of complex tax rules. The Minister said that this was a shorter Finance Bill than normal, and that is true; but it still has 70 clauses and 20 schedules. Many provisions are very complex. The Institute of Chartered Accountants and the Chartered Institute of Taxation have warned against the dangers of legislating in haste, and it is clear that a large amount of material in the Finance Bill will become law without any effective scrutiny, because a couple of hours in another place yesterday does not constitute effective scrutiny. My party's policy is that tax changes would be introduced only at the Pre-Budget Report stage, so that effective scrutiny would be held on a pre-legislative basis before the Finance Bill was published around the time of the Budget. In that way, we would never again be in this unsatisfactory position if an election were held at the time of the year when the Budget and Finance Bill were published.

The Finance Bill has some lost opportunities. I will take just a couple of examples. In Clause 2, corporation tax rates are kept where they are, and the Government have missed an opportunity to recoup some of the ground that we have lost since 1997. In 1997 we were below the OECD average for corporation tax, and now we are above. Our tax competitiveness is significantly reduced, as we have seen in many of the league tables.

Another example of where the Government have missed an opportunity is with air passenger duty in Clause 14, where the pre-announced increased rates are put into effect. They have missed the opportunity to shift to a plane duty, which could raise the same amount of revenue but in a way which was much more consistent with environmental commitments.

Most of all, the Bill misses an opportunity for simplification. It has, as usual, a lot of complex anti-avoidance provisions. I refer briefly to the changes to pension taxation contained in Schedule 2. That schedule has 12 pages of the most complex rules for modifying relief on pension contributions. They were introduced largely to stop people avoiding the 50 per cent tax rate, so they are linked to avoidance. Perhaps I may read out one formula from page 63. We are told that something called the "appropriate increase" is:

$(ACR \times CARARF) - (UOR \times OARARF)$ .

I submit that this is not understandable by normal people, and it is quite complicated for tax advisers. It is clear that the Government have still not grasped the notion that we need our tax system to be significantly simplified, and not only in the area of pensions, which is hugely complicated and will doubtless be changed again because these formulae will be found not to

work in some respects. Our own policies are designed to achieve tax simplification and we are committed to creating an office of tax simplification, which will start the long process of taking our tax law and turning it into something much simpler. By that, I do not mean rewriting it—that is a big project which has been done very effectively—but making the system much easier to use by those who are subject to it and also taking out a lot of the inefficiency that goes with working around such complex tax legislation.

The Budget was not the Government's finest hour and this Finance Bill is not the Government's finest Finance Bill. Businesses know that after 13 years of economic management from this Government we have slipped down all the economic league tables. In the world economic performance league tables, we are now in the 80s for tax and regulation. These are not things to be proud of. People know that they have been taxed, both directly and by stealth.

I shall not hold up our debate on this Finance Bill any longer. The verdict on the Government's economic and fiscal management is due on 6 May and we know what the answer should be.

1.03 pm

**Lord Myners:** My Lords, we have had a short but interesting debate and I thank all noble Lords who have contributed. As one would expect with such a wide-ranging Bill, a number of points have been raised. Perhaps I may start with those raised by the noble and learned Lord, Lord Mackay of Clashfern, who drew our attention to two issues: ISAs and the bank bonus tax.

ISAs have proved to be an extremely popular investment method. There are now 19 million ISA account holders and £275 billion has been invested in tax-sheltered ISAs, with a maximum annual allowance of £10,200 per annum. This is a very effective way of saving in a tax-protected manner. However, there is always scope for improvement, and Consumer Focus—a statutory organisation campaigning for a fair deal for consumers in England, Wales and Scotland and for postal services in Northern Ireland, led by my noble friend Lord Whitty, who made an effective contribution to our debate on consumer issues last night—has submitted a super-complaint to the Office of Fair Trading about the ISA market. Consumer Focus has three main concerns: first, that providers' processes make switching between cash ISAs difficult; secondly, that there is a lack of clarity on interest rates, particularly on older ISAs; and, thirdly, so-called bait pricing, where a high level of interest is paid initially but is followed by a lower one after a few weeks or months. The super-complaint is being made under the terms of the Enterprise Act 2002 and obliges the OFT to respond within 90 days with a decision on what action, if any, it plans to take. We look forward with interest to the OFT's deliberation on that matter.

The noble and learned Lord, Lord Mackay of Clashfern, also raised the question of the bank payroll tax. It was never going to be easy to estimate the proceeds because, importantly, that depended on the decisions taken by the banks. The observation made by both the noble and learned Lord, Lord Mackay,

[LORD MYNERS]

and the noble Lord, Lord Oakeshott of Seagrove Bay—that the banks chose to pay the bonuses and the tax rather than avoid the tax and conserve the capital—is, to a certain extent, true, although there is evidence from banks such as Deutsche Bank, Credit Suisse and Goldman Sachs that the bank payroll tax had an impact on their bonus decisions. However, it continues to be a matter of considerable regret that the owners of banks are not taking a sufficient interest in the levels of remuneration at the very top of these organisations.

As we have seen in more recent reports from other companies, this problem is not limited to banks alone; excessive remuneration for a small managerial elite at the tops of our companies is now spreading across all sectors. This can be addressed only if the ultimate beneficial owners—pension fund trustees, insurance companies and those saving through mutuals—take an active and effective interest in challenging what strikes me as being a profound economic anomaly. This enormous growth in high-level remuneration, dealt with admirably in so many ways by Sir David Walker's report, cannot be explained by simple supply and demand. It is not as though there is now a more limited supply of extraordinarily talented men and women to lead companies or that the demand has in some way increased. I think that it speaks to a profound failure of agency responsibility by those who stand in prime position for the beneficial owners. To avoid any doubt, I do not put the primary responsibility on institutional fund managers; I think that it lies with the clients of institutional fund managers who are not giving those fund managers appropriate direction. In a moment, we will come to another issue concerning packages raised by the noble Lord, Lord Oakeshott, but not bankers' packages.

The support that the Government have provided in the face of a global recession has worked. The economy has returned to growth and the effects of recession on both households and businesses have been less severe than many feared. The noble Lord, Lord Oakeshott, picked me up for suggesting that families and businesses had weathered the storm well. I do not for one moment wish to minimise the impact of this global recession on those who have lost their jobs or those whose businesses have had to close because of the global recession brought upon us by the bankers. However, at the same time, I pay tribute to those who have, through their energy, diligence and sheer commitment, proved that they can weather the storm and carry us through. We must not be seduced into the habit which is so often seen from the opposition Benches of talking Britain down. We need to celebrate the fact that, in an extraordinarily difficult time, so many British families and businesses have, through their sheer energy, drive and determination, proved that they can work their way through, supported by government policies, until we now look forward to much better economic prospects for the future.

We know there are still uncertainties and we set out the actions that we will need to take as we confront the challenges that lie ahead. Support for businesses and families is absolutely vital in those circumstances. I pointed to the programmes that we have taken to

support more than 200,000 businesses, which have been given time to pay and which have had their cash flows eased. Under the vehicle scrappage scheme, more than 388,000 orders for new cars and vans have been received and the enterprise finance guarantee has provided support to 9,000 SMEs since January 2009. It is right that we continue to support business and ensure that that support is not withdrawn too soon. This Bill builds on that support, helping businesses to continue to invest and grow. We are doubling both the annual investment allowance limit in Clause 5 and the lifetime limit on entrepreneurs' relief in Clause 4. We are also further deferring the increase in the small profits rate of corporation tax, maintaining the current rate at 21 per cent, which is highly competitive on a global basis.

Let me be absolutely clear: we must reduce borrowing but we must do it at the right time and not damage the economy through a lust for overly rapid correction in public expenditure. As the economy recovers, the Government will halve the level of borrowing and it is right that those with the highest incomes make the greatest contribution. Only the top 1 per cent of taxpayers will pay the 50 per cent rate of income tax; only the top 2 per cent of pension savers will be affected by the restrictions on pensions tax relief; and only the top 4 per cent of estates will be expected to be liable for inheritance tax by 2014-15.

A fair tax system will support sustainable growth and public finances in the future. This Bill also continues to strengthen our ability to tackle avoidance, non-compliance and offshore evasion. The length of the Bill is driven, more than anything else, by the creativity of the accounting profession, from which the noble Baroness comes, and which, through its wish to protect the interests of its clients, has been ever more imaginative in coming up with schemes to avoid the intentions of Parliament. That is why we have a long tax Bill. If the accounting profession showed a willingness to be more restrained in that respect, it is probable that we would need less legislation. I hope the noble Baroness will bear that in mind in her future contributions from the opposition Front Bench when we discuss matters relating to tax and finance Bills.

There was much discussion about NIC. I remind noble Lords that when the right honourable Kenneth Clarke was Chancellor of the Exchequer, he raised national insurance by 3 per cent and employment grew and unemployment fell. There is no logical connection which mandates that an increase in NIC will lead to a reduction in employment. Indeed, one of the reasons why my right honourable friend the Chancellor of the Exchequer has delayed the increase in NIC until next year is precisely because it will come into effect in an increasingly strengthening economy and, as I reminded noble Lords earlier today, an economy which the OECD forecasts will be the strongest growing economy in Europe in 2010.

**Baroness Noakes:** My Lords, if the Chancellor believed that, why did he tell the Treasury Select Committee in another place that there would be job losses from the increase in the jobs tax?

**Lord Myners:** I am making the point that it is not—I was going to say “possible to make overly simplistic extrapolations”, but regrettably the Opposition frequently

do—wise or sensible to make simplistic extrapolations such as saying that an increase in this or that will have such an effect. Other economic forces are at work. We are suggesting that this increase in NIC will be coincident with a strong recovery in the economy and, therefore, if there is any effect on employment at all it will be very modest. I pointed out that previous Conservative Administrations had not only increased NIC—

**Lord Sheikh:** Can the Minister say whether the employers and the heads of the various companies, when making a statement against the increase of the NIC, were deceived?

**Lord Myners:** I am very aware of the statement made. I think there is a sleight of hand here in the way in which the shadow Chancellor of the Exchequer has talked about NIC reductions. Some of the businesspeople who have expressed views on this are perhaps rather guilty of behaviour similar to contestants on “University Challenge” who press the button a little too soon. If asked, “Do you think that a reduction in NIC is good?”, one would not be entirely surprised if a reduction in employer NIC were welcomed by businesspeople. However, if one waited until the end of the question, one would hear it heavily caveated. If the consequence of that were to place important front-line programmes at risk and mean that you had to rely on entirely ephemeral savings through efficiency—savings through efficiency which the right honourable David Cameron and the right honourable George Osborne were dismissing in the past as not being a sensible basis for making a tax gesture—then these businesspeople might give a slightly different answer.

As my right honourable friend the Chancellor of the Exchequer said, most of those businesspeople, if presented with a proposition which said, “We think you should spend more money here and more money there”, and the chief executive said, “How will we finance that?”, would say, “Through efficiency savings”, without actually identifying them. It would be very generalised and much less detailed than those that we identified in the PBR 2009. I encourage the noble Lord, Lord Bates, to read the PBR 2009 as there was much more granularity to our proposals than anything suggested by the Conservatives to justify their proposal. I hope that provides an answer to the noble Lord, Lord Sheikh.

Of course, historically, the tax of choice for the Conservative Party has been VAT and it has been very interesting to see that neither Mr Cameron nor Mr Osborne is willing to make a clear commitment on VAT. Past experience has shown that given any opportunity, any Conservative Prime Minister and their Administration will increase VAT.

I am also very grateful to the noble Lord, Lord Oakeshott, for underlining the comments of the noble Baroness on the unproductive public sector. What damning words those are; how hurtful that must be to those who care for the elderly, to those who work in our hospitals, to those who look after our children in schools—the dismissive hand with which freezes in pay are proposed. Again, that reminds us that a Conservative Administration, should we have one, would be a deeply uncaring one, giving priority to lifting inheritance tax rates, abolishing children’s trust funds and damning

those who work in the public sector. That is the very clear choice that the electorate will face on 6 May. If my noble friend Lord Lea of Crondall were allowed to vote, I know how he would vote, and I rest assured that the fine British people will vote in the correct way and return this Government to a further period in office. I beg to move.

*Bill read a second time. Committee negatived. Standing Order 47 having been dispensed with, the Bill was read a third time and passed.*

## Sustainable Communities Act 2007 (Amendment) Bill

*First Reading (and remaining stages)*

1.21 pm

*The Bill was brought from the Commons and read a first time.*

### Second Reading

*Moved by Lord Whitty*

That the Bill be read a second time.

**Lord Whitty:** My Lords, we have just received this Bill from the Commons, but I think that noble Lords who take an interest in these matters will know that it has received considerable attention there and has widespread support from the Government and from Members of Parliament of all political persuasions.

The Act that this amends, the Sustainable Communities Act 2007, is widely seen as a success. It provided new ways in which communities could bring forward proposals for action by their councils and the public authorities and in conjunction with other private third parties.

It has been widely recognised that that Act has stimulated great innovation in those areas, with over 100 councils taking it up and 300-plus proposals being generated to promote local sustainability and reflect the views of local people and local groups. The Bill is designed to carry forward, speed up and broaden that process and ensure that it goes on to the next stage after the successful round 1.

The detailed provisions are that Clause 1 recognises that decisions on proposals coming from the community may be complex, and that it is not necessarily sensible to leave all action on those proposals until a single decision that has covered all the points. The clause therefore enables decisions to be taken in whole or in part and carried forward, whereas the present wording constrains that and therefore slows things down.

Clause 2 inserts four new sections into the original Act. Inserting new Section 5A simply clarifies what was always intended and sets a date by which the Secretary of State must specify when the next round of proposals will be invited.

Inserting new Section 5B will improve the process of agreeing proposals, including consultation on the procedure for administering councils’ and communities’ suggestions, and requiring the Secretary of State to seek agreement on them. Those procedures are clearer. The new section also provides for the rights of parish

[LORD MYNERS]

councils to be involved, an important improvement, and the rights of voters themselves to petition councils about submitting proposals. It also identifies who will shortlist and select proposals that are to be taken forward.

New Section 5C will extend the right to submit proposals to county associations and parish councils, as was promised by a CLG Minister in another place. Inserting new Section 5D adds some other procedural improvements, particularly that regulations shall be made under the negative resolution procedure in both Houses.

This is therefore a straightforward Bill, building on something that is already successful and well appreciated in communities up and down the land and by councils of all political persuasions. These are modest improvements but they can make a real impact on extending local democracy and local engagement. I beg to move.

1.24 pm

**Lord Tope:** My Lords, I thank the noble Lord, Lord Whitty, for bringing the Bill to us in this House. I echo his opening comments—the original Sustainable Communities Act indeed had a wide measure of support.

At this early stage I should declare an interest once again as an executive member in the London Borough of Sutton, because that is one of the 100 or so councils that have submitted proposals under the original Act. We certainly join enthusiastically in the support for that Act.

We all recognised that it was important that that was not seen as a one-off proposal, something that simply happened—or not—and then faded away. It is clearly important that the process is ongoing and has widespread support, not only from all sides of this House and the other place but, perhaps even more importantly, from the community at large. Those local authorities that have embraced the original Act will build upon that work.

We now have Total Place, which has recently been introduced to us. That has certainly produced interesting information but, as with all interesting information, its real purpose is to be of some use, not simply to be interesting. We therefore need to see how much local authorities and their partners and others in the community can build on the evidence and the work that is in Total Place to take these measures forward. From these Benches, I give keen support to what I think the noble Lord described as the limited additional measures in the Bill—limited but very necessary. I look forward to hearing what further comments the Minister may be able to give us when he responds here.

I have one particular question. I know that the Bill extends the powers to parish councils. By definition, that includes town councils, which are regarded as parish councils for legislative purposes. I cannot resist the temptation once again to express my personal regret that Greater London is the one part of the country that is not allowed by law to have parish councils. I simply put that in because I never lose an opportunity to mention it, ever since I introduced a Private Member's Bill in the other place back in 1973 to try to deal with that. Unfortunately, the Government

were so alarmed by the proposal that they called the February 1974 general election and my Bill was lost, along with my seat at the time.

New Section 5C(1) says:

“The Secretary of State may by order specify persons or classes of persons, in addition to local authorities”.

I seek clarification on what is in mind for,

“persons or classes of persons”,

perhaps in addition to community groups or parish councils. Is it intended, for instance, to include local strategic partnerships? It is a wide and loose expression to find in a Bill, and I would welcome some clarification of what is in mind for that. With that single question, I give an unqualified welcome to the Bill and am pleased to support it.

1.28 pm

**Lord Bates:** My Lords, I offer the support of these Benches for the Bill. Into the wash-up period, which perhaps does not exactly show the conduct of Parliament in its best light with regard to the process and scrutiny of legislation, comes this legislation which is an example of best practice. The Bill was introduced in this place by my noble friend Lord Marlesford. It was then rolled out across the country on a pilot basis and was seen to work. My honourable friend Alistair Burt introduced the Bill in another place to extend it on a more rolling basis, and now the noble Lord, Lord Whitty, has picked it up in your Lordships' House, where it enjoys support on all sides because it has been shown to work.

There are some very heartening examples that have been focused on at Second Reading and in Committee in the other place. They do not necessarily need to be rehearsed here, but there are some very exciting initiatives. There is a crisis at the heart of our communities. Many of them are changing. Rural communities are losing their post offices, their pubs and their focal points, and there is a sense of distance and alienation from the democratic process. This measure, albeit in a fairly modest way, breathes new life into those structures. It tells people to love where they live. If they want to demonstrate that, they can get engaged and come forward with initiatives, whether in Hackney, where, if they are worried about an overconcentration of betting shops on the high street and want to change the planning laws, they can do that; or whether they want to have a levy on chewing gum in local newsagents to pay for the cost of cleaning it up, they can do that.

That is tremendously liberating and invigorating for local communities. It is the complete embodiment of localism, which we are all heading towards because its opposite, big government, has been seen to fail. We certainly enthusiastically welcome that on this side of the House and look forward to hearing many more examples of how the Bill is being used to allow communities to engage with the democratic process and improve the environment where they live.

1.30 pm

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** My Lords, I am grateful to my noble friend Lord Whitty for taking this Bill through your Lordships'

House and delighted to be able to give it the Government's full support. I am also pleased that it has support across all parties.

I will not take up too much of the House's time, given the matters that we still have to discuss, but would like to make just a few comments. I offer my congratulations and thanks to Mr Alistair Burt, the honourable Member for North East Bedfordshire, for championing the Bill through another place. His efforts have ensured that 287 Members of Parliament have signed Early Day Motion 1095 calling for the Bill to be debated before the end of the Session. That was extremely helpful.

I pay tribute to the noble Lord, Lord Marlesford, who took the original Bill through your Lordships' House in 2007. During Second Reading on that Bill, he said that it offered the Government the chance of a real shift of influence from the centre to the grass roots. He was right. This week I had the pleasure of repeating a Statement made by my right honourable friend the Secretary of State for Communities and Local Government, in which he updated the House on progress being made under the 2007 Act. Grass-roots ideas from a number of councils across the country are influencing government thinking and have the potential to change the lives of thousands of people. I also offer thanks to Local Works and Mr Ron Bailey, whose enthusiasm has been instrumental in the development of the provisions that we are debating today.

For those not intimate with the logistics of the Sustainable Communities Act, it may be worth reiterating how the current arrangements have been carried out. The previous Secretary of State for Communities and Local Government, the Member of Parliament for Salford, wrote to local authorities on 14 October 2008. In that letter, she restated her belief that the Act creates a useful opportunity for local authorities to propose new ways to improve local neighbourhoods for their residents, visitors and businesses. She requested that local authorities submit proposals which they felt would improve the economic, social or environmental well-being of the authority's area, including participation in civic and political activity.

Under the Act, the Government appointed the Local Government Association as the body which naturally represented the views of local government. It would be known as the "selector", the gatekeeper of local authority opinion and communities' inspiration. I publicly thank Councillor Mitchell and the LGA for their hard work and scrutiny of the many proposals which were submitted. As my noble friend outlined, a total of 301 proposals were submitted to the LGA for shortlisting, 18 of which were joint proposals. Those 301 proposals came from 90 lead authorities, with a further 10 district councils contributing to joint submissions. That represents 28 per cent of the total authorities in England—100 out of 353 authorities.

The Government have co-operated with the LGA as it examined each proposal, but when the final shortlist was published on 23 December 2009, it still contained 199 proposals. Under the Act, the Government are currently consulting the LGA and trying to reach agreement with it about which proposals the Secretary of State believes should be implemented.

As I said, we are making progress with the original Act, but we want to do more. The principles behind the Act have the potential to drive real change, to go far further than we can at present. My honourable friend the Parliamentary Under-Secretary of State and Member of Parliament for Stevenage said in another place that, as with all things in life, legislation must evolve in order to become stronger.

The Bill being taken through by my noble friend Lord Whitty will enable that evolution to take place. Although 199 proposals were submitted to the Secretary of State by local authorities, there were 242 requests for the Government to take action: 242 bright ideas to improve the social, economic and environmental well-being of local areas. The Bill will enable the Government to respond individually to each one. That is just common sense. Councils will look at us in disbelief if we turn to them and say that we are required by law to give one blanket response to all the different requests that they make, just because they submitted them on one form as one proposal.

Local democracy starts with citizens. The Government have strengthened the rights of local people to shape the area that they live in, including increasing the power of elected local councillors and local authorities to represent their interests. It makes sense that local councillors at both local authority and parish level should assist us in developing and shaping the implementation of the Act ready for the next decade and beyond. My noble friend's Bill will allow them to do so by providing a full opportunity to contribute to consultation and debate on the regulations that will govern the process of submitting, considering and deciding on proposals in future. That process will ensure that there will be an opportunity for communities to help to influence and shape the future implementation of the Act.

The noble Lord, Lord Tope, asked about the particular significance of new Section 5C(1) concerning persons or classes of persons. It was originally intended to include parish and town councils under certain circumstances, but it will be subject to the consultation process under the regulations. The current Act enables grass-roots ideas to be heard and acted on. The Bill will enable grass-roots ideas to influence the Sustainable Communities Act process itself.

This Government have given local authorities a much stronger and more expansive role than ever before, placing them firmly at the centre of decision-making. The Bill will make the role of local government stronger still. It will allow the Sustainable Communities Act to evolve, to become more responsive to the needs of citizens and to ensure that it has a future as a permanent part of the architecture of local government.

I congratulate my noble friend on moving Second Reading today, and I commend the Bill to all noble Lords.

1.37 pm

**Lord Whitty:** My Lords, I express gratitude and appreciation for the support from all sides in this Chamber for the Bill and to those in another place—to Alistair Burt and to all those who signed the EDM, as the Minister said.

[LORD WHITTY]

We have got this on the agenda. It is building on success and, as the noble Lord, Lord Bates, implied, is devolving power not only to local authorities but from local authorities to the people on the ground. That is an important development in our democracy and one that we are all committed to sustaining. I also thank Mr Ron Bailey, as did my noble friend. He is probably one of the super-lobbyists for Private Members' Bills—to no gain whatsoever to himself, but to the great benefit of the community at large in the area of democracy and the environment. It is important that a Bill such as this can fill a gap and get a process going which we are all agreed is important and positive.

*Bill passed and sent to the Commons.*

## Debt Relief (Developing Countries) Bill

*Second Reading (and remaining stages)*

1.39 pm

*Moved by Baroness Quin*

**Baroness Quin:** My Lords, I am delighted to be able to act as sponsor of this Bill, which was passed in the other place yesterday, and I pay tribute to the Members in another place who worked hard to secure its passage there. In particular, Andrew Gwynne chose to put the Bill forward after securing a high position for it in the ballot for Bills. Sadly, he was unable to speak to it because of illness, so I also pay warm tribute to Sally Keeble, who both presented it on Andrew Gwynne's behalf and piloted it through its various stages. The Bill has attracted widespread cross-party support in Parliament, and has also been very widely supported outside, particularly by NGOs and voluntary organisations that are interested in development and debt relief for the poorest countries in the world. I congratulate the Jubilee Debt Campaign in particular on all its work and efforts on this matter.

The Bill's main aim is to curtail the activities of what have come to be called vulture funds—commercial entities that buy developing countries' sovereign debt at discounted prices when those countries are in economic distress and aggressively litigate to recoup the debt's full value, thereby causing financial difficulties and consequent severe economic, and indeed social, hardship in the countries concerned. Not only do such activities by vulture funds strike many people as indefensible, it is also a huge problem that the activities of such funds run directly counter to the debt relief schemes and initiatives such as the HIPC—heavily indebted poor countries—initiative that many countries, including the UK, have operated successfully in recent years.

As a House of Commons brief on this Bill states, the activities of vulture funds undermine debt relief initiatives such as HIPC. Ironically, as debt relief improves the financial situation of a developing country, it increases the prospect of repayment of the debt owned by the vulture funds. Where litigation is successful, the resources that are freed up by debt relief and intended for poverty reduction and development are diverted instead to the vulture fund, which very often receives more than it paid for the previously discounted debt that might otherwise have been written off.

There have been several instances of this. Zambia, in the 1990s, tried to reach a settlement on a loan that dated back to the 1970s, but a fund purchased the debt for the knock-down price of \$3.3 million and proceeded to pursue Zambia through the UK courts for the full amount of the debt, plus interest and fees, demanding an astonishing \$55 million in total. My honourable friend Sally Keeble made this point very effectively in the other place. In the end, the courts awarded \$15.5 million, but that was five times the amount that the fund had paid for the debt, and that money would have paid for 30,000 primary school places in Zambia. In a similar case in Liberia, the funds were awarded \$20 million on a loan that also dated back to the 1970s and was worth \$6 million. That \$20 million represented 5 per cent of the Liberian Government's entire budget. As Dr Cephas Lumina, the UN Human Rights Council's expert on the effect of foreign debt, said:

"It is illogical to cancel poor country debt and at the same time allow unconscionable 'vulture fund' claims".

The Prime Minister, when Chancellor, recognised this problem as long ago as 2002 when, in a speech to the United Nations, he called on the UN to consider giving assistance to any heavily indebted poor country that was being sued by a vulture fund, stating:

"Whenever a country has to defend a legal case it has to divert considerable time, attention and resources away from focusing on poverty reduction, health and education and we must do everything we can to stop this shameful practice".

Clauses 1 and 2 define the debts to which the Bill applies. Basically, they refer to debts that are included or expected to be included under the HIPC programmes: the debts of the 40 most heavily indebted poor countries in the world. Clauses 3 and 4 reduce the proportion of the debts that are to be recovered to the level that corresponds to the HIPC initiative. I should point out that those amounts are assessed internationally according to a set assessment procedure.

The Bill is quite tightly drawn. It does not affect new lending, but basically deals with historical debts. It allows creditors to get back a share of their money, which they would otherwise be very unlikely to get, but it allows them a return and is therefore consistent with development goals and the HIPC initiative. I accept that the Bill comes to us very late, but it has been discussed and debated in the other House. Indeed, as a result of discussion in Committee there, the Conservative Opposition tabled an amendment, which was passed, to include a sunset clause whereby the Act will expire after one year unless the Government and Parliament decide through the affirmative procedure either to extend it for another year or to make it permanent.

I hope that the passing of that amendment will help to reassure Members of your Lordships' House, who may be understandably concerned about the shortage of time in which to consider these issues, as they have been about other measures, and that they will at least realise that the Bill's effect will be fully evaluated in Parliament after a year. I hope that informed decisions about its long-term future can then be taken. The sunset clause addresses some of the concerns about last-minute legislation and also, in a way, picks up on the very important points which my noble friend Lord Rooker made yesterday about the wash-up procedure.

Finally, the Bill begins to tackle the distressing situation that sometimes allows vulture funds in effect to make excessive and unjustified profits from developing countries and therefore creaming off the relief and aid which British taxpayers, our international partners, and other more ethical commercial creditors provide. It builds on the excellent record of the Government in debt relief and in enlightened aid and development policy, and is an important measure that we should be proud to implement today. For that reason, I hope that it can be accepted today in your Lordships' House.

1.47 pm

**The Earl of Sandwich:** My Lords, I am very grateful to be able to speak briefly in the gap and to follow the noble Baroness, who, along with her colleagues in the other place, has performed a valuable service to developing countries. She introduced this apparently uncontentious but important Bill, which has had a remarkable passage through another place and has somehow survived to find an after-life in this House. I certainly did not expect to see it here today.

As someone who has supported the Government's heavily indebted poor countries initiative in the past, I congratulate the Jubilee Debt Campaign, as the noble Baroness did, on its perseverance over many years on vulture funds. It is nothing less than immoral extortion to deal in debts that are held by countries such as Liberia, which she mentioned, which have suffered more than we can imagine from civil war and other situations. It is the people there, not the elites, who have suffered, and the elites are the ones who may have incurred the debt in the first place.

I well remember the role played by the churches and aid agencies such as Christian Aid in the original HIPC campaigns. It is not often that a voluntary organisation conducts street protests against City firms in one month and is rewarded by a Bill virtually to abolish these funds in the next. It is very rare indeed that a Private Member's Bill survives the wash-up, and we shall no doubt hear from the Conservatives how they, after having been vilified by Labour campaigners for scuppering the Bill, ultimately saw the light.

Finally, perhaps I may commend the latest report of the All-Party Group on Debt, Aid and Trade on aid effectiveness. The quality of aid, with this continual commitment of 0.7 per cent of GNP, I believe deserves more urgent attention in both Houses from politicians of all parties after the election.

1.50 pm

**Lord Roberts of Llandudno:** My Lords, as we approach a general election in which there will be much emphasis on our own economic situation, we must not hide from ourselves or the electors we seek to serve the far more desperate situation of so many countries. We are very grateful to the noble Baroness for introducing this Bill, which will be another step forward in relieving the desperate plight of some people. It is something that we have not experienced and cannot imagine. I would suggest that there is nothing worse than grinding poverty, which can lead to so many other unacceptable facets. It leads to crime, desperate illness, disease and even war. People will do anything to survive.

In accepting this Bill and in commending it, I hope that we will be saying to our candidates and others to put this high on their agenda in the coming election. We will be very much concerned with our own situation, but this Parliament, over the centuries, has had a noble record of realising the needs of others and of trying to relieve their desperate situations. It gives me tremendous pleasure from these Benches to say that we welcome this Bill. We hope that it will alleviate the dreadful situation of these 40 nations which are suffering in a way that is far beyond any experience or imaginings that we might have.

1.52 pm

**Baroness Noakes:** My Lords, I thank the noble Baroness, Lady Quin, for introducing this Bill. We are now nearing the end of wash-up and we find ourselves with a rather odd Bill, which implements an international aid policy on which there is international agreement and on which the Treasury carried out a formal consultation.

However, the Government did not bother to find government time for it in the parliamentary timetable. Instead, the Treasury followed the well worn route of a hand-out Bill. In fact, the only Private Members' Bills that I have ever handled in my capacity as a shadow Treasury Minister in your Lordships' House have been hand-out Bills from the Treasury, which seems to have form on that. I have to correct that: there was one exception, but that was my own Private Member's Bill, which needless to say was not a handout from the Treasury.

As we have heard, the Bill comes to your Lordships' House not through the normal processes of scrutiny of Report and Third Reading in another place, because those stages were achieved only by virtue of the Government finding space in wash-up in another place yesterday. Of course, the Bill will become law only because the Government have found a space in wash-up today. The noble Baroness, Lady Quin, has kindly agreed to sponsor this Bill in its final stages as a Private Member's Bill, but the House should be under no illusion that this is none other than a government Bill in Private Member's clothing.

We do not oppose this Bill. Indeed, we strongly support its aims in seeking to ensure that heavily indebted poor countries obtain relief from the burden of debt which they cannot realistically support. We have espoused this course for many years. Indeed, when we were in government it formed part of our policies and I expect that we will have the opportunity to display our credentials in this regard again soon.

However, we have concerns at the way in which this Bill has been rushed through, in particular without having proper scrutiny in your Lordships' House. It had a good Committee stage in the other place, but it is always right to think that Bills have the quality of scrutiny of which your Lordships' House is rightly proud. It is easy to approach a Bill such as this and to take comfort in the belief that it will do nothing but good in relieving the debt burden on heavily indebted poor countries and that the so-called vulture funds can be easily despised for seeking to enforce contractual terms.

[BARONESS NOAKES]

I have not had enough time to look in depth at the detailed papers sent to me about the issues involved, which was largely because I did not believe that I would see this Bill reaching your Lordships' House. But from briefly looking at them over the past couple of days, some careful and well reasoned arguments have been put about the need for well functioning debt markets to be able to rely on contracts being honoured and debts being capable of being enforced.

This Bill and corresponding legislation in other countries is very likely to reduce the availability of private sector involvement in debt for heavily indebted countries in future. It is also likely to involve a premium for the risk involved in dealing with those countries and therefore be more expensive. Our old friend, unintended consequences, may well mean that other countries, which are not currently highly indebted poor countries, might have less access to finance or access only to expensive finance because they might be deemed to be likely to fall into a category which would be covered by this kind of legislation in future.

In the past, the Treasury has asserted that it believes that it is unlikely that any of this will occur. But that remains to be seen, especially if the result of this Bill becoming law is to make the debt covered by it worth next to nothing in the market. There are also concerns about the conformity of the Bill with the European Convention on Human Rights, which is amply demonstrated by the fact that three of the 11 pages of the Explanatory Notes are taken up with trying to deal with the issues that have been raised. We clearly do not have time today to delve into those intricacies, but it may be the case that this will end up being settled in the courts.

Perhaps the biggest issue about the Bill, which would have benefited from being examined in detail in your Lordships' House, is whether the remedy—the reduction of the debt of highly indebted countries—will in fact lead to an increase in the funds for economic management or for the relief of poverty in those countries. There is too much evidence that greed, corruption and sheer bad management will account for most of any resources released as a result of this Bill. Indeed, the countries which stand to benefit are at the bottom end of Transparency International's corruption index.

If we had had the opportunity to scrutinise this Bill in your Lordships' House in our normal way we could have examined these issues in more detail. I emphasise again that we do not oppose the principle of alleviating the debt burden on heavily indebted poor countries, but we need to ensure that when we interfere in markets we will achieve the kind of good outcomes that first inspired the Bill. If we are not to achieve those outcomes by this Bill, we should seek other solutions to achieve the same ends.

My honourable friend David Gauke unsuccessfully tabled in another place an amendment requiring the Treasury to produce a report within a year on the impact of the Bill on the availability and cost of lending and on the monetised value created by the Bill. It would also have considered the impact on the choice of law or jurisdiction on contracts as one other fear—an

unintended consequence of the Bill—is that the UK's otherwise excellent reputation as a good legal system in which to do business will be harmed. Unfortunately, my honourable friend's wise amendment did not find favour in another place and we shall not have the opportunity today of exploring the value of that approach.

As the noble Baroness, Lady Quin, said in her introductory remarks, my honourable friend David Gauke did, however, do the Bill a great service in successfully moving what is now Clause 9. This allows for more consideration of the efficacy of the Bill in a year's time and gives the Treasury the opportunity to bring before Parliament either the confirmation of the Bill permanently or to give it another 12 months of life, or, if that is the choice, to let it lapse. This goes some way to dealing with the difficult issues that are likely to or may arise from the Bill—I cannot say what will be the result of the Bill.

Unfortunately, we will not have a Committee stage to tease out how the benefits will be realised and how they will be weighed in the scale against the costs or the possible costs that may arise. But we have Clause 9, which gives us great comfort that in our haste to do the right thing by heavily indebted poor countries we also have some backstop against unintended consequences. We support the Bill.

2 pm

**The Financial Services Secretary to the Treasury (Lord Myners):** My Lords, as anticipated by the noble Baroness, Lady Noakes, I confirm the Government's full support for the Bill. I thank my noble friend Lady Quin for her leadership on the Bill here and her clear explanation of the rationale underlying it.

The Government's support for the Bill is motivated by twin purposes: first, that the legislation proposed will help to achieve our aims for international development; secondly—this is crucial—it is also economically justified. The Bill retains and reinforces creditors' rights to recover a fair proportion of their debts; it acts to further equality among creditors in circumstances where there is no prospect for all of them to be repaid in full; and there are clear reasons to expect its benefits to substantially outweigh any costs. I welcome the recognition of this by the Opposition and Liberal Democrats in the other place that has led to the Bill receiving cross-party support. I hope noble Lords will agree that this is carefully considered and valuable legislation which we should ensure becomes law.

The Bill has its roots in the unique and exceptional international effort to relieve the unsustainable debt burden on the 40 heavily indebted poor countries—the so-called HIPC's. By the mid-1990s these countries were, on average, paying more to service their debt than on health and education combined. They also had little or no prospect of ever repaying their debts in full. These countries account for much of the world's most severe poverty. They have a total population of over 600 million but an average annual income per person of less than \$530. It was clear that their unsustainable debts posed a serious barrier to development. As a result, and with a considerable measure of UK leadership, the international community

took a series of decisive actions to tackle the problem and reduce the debts of the HIPCs to sustainable levels.

The HIPC initiative established in 1996 and strengthened in 1999 provides the key framework. The World Bank and IMF assess countries' progress in making reforms that will improve financial and economic management and enable the benefits from debt relief to be effectively directed at reducing poverty and enhancing economic growth. They also calculate the level of debt relief that an eligible country needs from all creditors—bilateral, multilateral and commercial—to reduce its debts to a sustainable level.

Once they assess a country as having made the necessary progress, all creditors are expected to provide a common level of relief. Many do so. All the major multilateral creditors and the principal bilateral creditors that are members of the Paris Club do this as a matter of course—indeed, some, including the UK, go further and voluntarily provide 100 per cent debt cancellation to countries completing the HIPC initiative—but the majority of commercial creditors also decide to participate in the HIPC initiative and provide the level of reduction expected.

The problem arises from the minority of commercial creditors that instead litigate for the full value of debt owed and seek to extract its payment. To do so exploits a market failure in the sovereign debt market—the co-ordination problem among creditors when a debtor is unable to fully repay. As there is no analogue to insolvency law for sovereign debt, all creditors retain a legal right to full repayment even though there is no likely prospect for all creditors to realise this right.

Through the HIPC initiative, the majority of creditors have recognised the unsustainability of the debt burden facing HIPCs and have provided the degree of debt reduction necessary to resolve it. However, this has opened the door to other creditors free-riding on the relief, litigating and recovering the full value that they would have been unable to secure had others not provided debt relief. This behaviour is economically inefficient and inequitable and leads to damage to those countries' prospects for development. I am all the more concerned by this as the resources implicitly siphoned off include the debt cancellation and development assistance provided by UK taxpayers.

The Government have already taken a range of measures to limit this problem. We support and part-fund the World Bank's buy-back of commercial debt, which enables many of the commercial creditors willing to accept terms compatible with the HIPC initiative to receive that payment and settle their claims. We have committed funding to the new African legal support facility that will help countries facing litigation for full repayment to contest their cases robustly. We, along with other members of the Paris Club and the European Union, have committed not to sell on our own debts to others, so ensuring that they cannot end up with litigating creditors. However, despite these actions, the problem of some creditors litigating for and recovering the full value of the debts owed by HIPCs remains. As long as it is both legal and potentially highly lucrative to do so, it may well continue to hamper the development of HIPCs.

The most recent and reliable information on the scale of the problem, provided by the World Bank's annual survey of HIPC Governments, reported that there are 14 known active or unresolved cases of creditor litigation against HIPCs worldwide with a total value of \$1.2 billion. In a vivid example from last November, the High Court gave judgment for \$20 million against Liberia in a claim brought by two commercial creditors against the country allowing them to seek to enforce full repayment in the UK. The average Liberian earns only \$170 a year and 13 per cent of children die before their fifth birthday. Plainly their Government cannot afford to see some of the resources they expect from debt relief going to repay creditors above HIPC terms.

This clear market failure has prompted the Treasury to consult on legislation to limit the proportion of a debt which a creditor could recover, and now to support this Private Member's Bill. Discussion of the Bill has quite properly examined closely the justification for legislation which will affect the extent to which existing debts can be enforced. We all recognise that the principle of legal certainty that a contractual right can be fully enforced is an important one which provides an underpinning for smoothly functioning financial markets. However, the circumstances relating to HIPCs' historical debts are far from usual. There is no realistic prospect that all creditors can enforce their contractual rights in full. A high degree of debt relief to reduce creditors' claims to their true economic value is a financial necessity. Indeed, the typical market value of HIPCs' commercial debt is around or below the level to which the HIPC initiative expects claims to be reduced. Bringing about this necessary and equal reduction is the purpose of the HIPC initiative as administered by the IMF and the World Bank. In this situation there is a compelling case for legislation that supports a restructuring that is fair among creditors and which, by eliminating free riding, improves economic efficiency.

We also note the extent to which the Bill recognises and supports the legitimate interest of creditors and the safeguards it includes to protect against negative impacts on financial markets. First, the Bill sustains a creditor's right to litigate for repayment. This legal underpinning for sovereign lending remains key. Secondly, the Bill is tightly targeted; it specifically excludes new lending and is limited to the debts of the HIPCs, which compose a very small proportion of emergent market finance. Thirdly, it seeks to improve a creditor's prospects for prompt recovery of the proportion of a debt which can be repaid consistent with the HIPC initiative. Clause 6 provides an incentive for debtors to settle claims on these terms by excluding them from the scope of legislation if they fail to do so. Finally, the amendment to provide for a sunset clause means that the Bill would lapse after one year unless Parliament decides, by affirmative resolution, to extend it. I am confident that this Bill will not have a negative effect on development finance but, if it did, Parliament could allow it to lapse.

I conclude that we face a choice. We can today pass a Bill that would do much to protect 40 of the world's poorest countries from the actions of a minority of commercial creditors who exploit the relief provided by others. We can help ensure that the debt relief and

[LORD MYNERS]

development aid provided by the UK helps to tackle poverty rather than provide profit for investors. We can do so through a measure which is carefully designed, based on sound economic logic as fully as it is on a moral principle, and which we can and must reconsider after a year to confirm that it has been of net benefit. Alternatively, we could shy away from a decision and leave those countries' development exposed to the attacks of litigating creditors while we considered the issue again.

I am grateful for the most informative contribution of the noble Earl, Lord Sandwich, and for those from the noble Lord, Lord Roberts of Llandudno, and the noble Baroness, Lady Noakes. I think that there is marked unanimity in the House in our support for this measure. There were occasions when I found myself at odds with the Front Bench of the opposition party and the Liberal Democrats over issues of legislation, but it is a delight that, on this occasion, we can find ourselves of common mind.

Perhaps I may say in closing how much I have enjoyed and benefited from the engagement of the Front Benches of the Conservative Party and of the Liberal Democrats on issues relating to finance and the economy, and thank them for the kindness that they have shown me during my first parliamentary session as a Minister. I hope that we can all agree, however, that the argument for passing this Bill is clear and that we will give it our full support.

2.11 pm

**Baroness Quin:** My Lords, I thank noble Lords from all parts of the House who have spoken in this debate and who have so effectively given their support to the Bill. Support has come from the Cross Benches, the Liberal Democrats, the Official Opposition and in the words that have just been spoken by my noble friend the Minister.

The noble Baroness, Lady Noakes, said that the Treasury had form on hand-out Bills. However, I maintain that this Bill is the work not just of government; in many respects, it introduces provisions put forward in another place in a Private Member's Bill—it was a Ten-Minute Rule Bill. It is a government and Private Member's Bill combined, if such a thing were possible, because of the support given to it from both Front Benches and Back Benches. I thank the Minister and his officials for their helpfulness towards me and my colleagues in another place in dealing with some of the issues in the Bill.

The noble Baroness, Lady Noakes, mentioned the need for well regulated markets and expressed concern about unintended consequences. I hope, however, that she will accept—as I think she did—that the sunset clause will enable us to re-examine those issues in due course. While I hope and believe that the legislation will prove its worth, there will none the less be an opportunity to examine it properly at that subsequent stage. For all those reasons, I hope that the Bill enjoys success today.

*Bill read a second time. Committee negatived. Standing Order 47 having been dispensed with, the Bill was read a third time and passed.*

## **Bribery Bill [HL]** *Commons Amendments*

2.14 pm

### *Motion on Amendment 1*

*Moved by Lord Bach*

That the House do agree with the Commons in their Amendment 1.

**1:** Page 6, line 29, leave out subsections (3) to (5) and insert—

“(3) No proceedings for an offence under this Act may be instituted in England and Wales or Northern Ireland by a person—

(a) who is acting—

(i) under the direction or instruction of the Director of Public Prosecutions, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions, or

(ii) on behalf of such a Director, or

(b) to whom such a function has been assigned by such a Director,

except with the consent of the Director concerned to the institution of the proceedings.

(4) The Director of Public Prosecutions, the Director of the Serious Fraud Office and the Director of Revenue and Customs Prosecutions must exercise personally any function under subsection (1), (2) or (3) of giving consent.

(5) The only exception is if—

(a) the Director concerned is unavailable, and

(b) there is another person who is designated in writing by the Director acting personally as the person who is authorised to exercise any such function when the Director is unavailable.

(6) In that case, the other person may exercise the function but must do so personally.

(7) Subsections (4) to (6) apply instead of any other provisions which would otherwise have enabled any function of the Director of Public Prosecutions, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions under subsection (1), (2) or (3) of giving consent to be exercised by a person other than the Director concerned.

(8) No proceedings for an offence under this Act may be instituted in Northern Ireland by virtue of section 36 of the Justice (Northern Ireland) Act 2002 (delegation of the functions of the Director of Public Prosecutions for Northern Ireland to persons other than the Deputy Director) except with the consent of the Director of Public Prosecutions for Northern Ireland to the institution of the proceedings.

(9) The Director of Public Prosecutions for Northern Ireland must exercise personally any function under subsection (2) or (8) of giving consent unless the function is exercised personally by the Deputy Director of Public Prosecutions for Northern Ireland by virtue of section 30(4) or (7) of the Act of 2002 (powers of Deputy Director to exercise functions of Director).

(10) Subsection (9) applies instead of section 36 of the Act of 2002 in relation to the functions of the Director of Public Prosecutions for Northern Ireland and the Deputy Director of Public Prosecutions for Northern Ireland under, or (as the case may be) by virtue of, subsections (2) and (8) above of giving consent.”

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach):** My Lords, during the passage of the Bribery Bill through your Lordships' House, there was considerable debate about whether the function of consenting to a prosecution should be vested in the Attorney-General or, as Clause 10 provides, the director

of the relevant prosecuting authority. The noble Lord, Lord Henley, and others argue that any changes to the Attorney's current functions in this regard should be addressed in the round and not piecemeal, offence by offence. It was also suggested that the offences in the Bill are of such seriousness that the function of consenting to a prosecution should in any even be vested in the Attorney.

We also heard contrary arguments in favour of the consent function being vested in the director of the relevant prosecuting authority. I also pointed out in our earlier debates that the approach taken in Clause 10 had been supported by the Law Commission and the Joint Committee that considered the draft Bribery Bill. I am happy to say that the other place agreed with our approach.

However, the Government have accepted that the question of whether to consent to a prosecution for one of the new bribery offences could give rise to more difficult and sensitive considerations than is the case with other offences. In recognition of this, the other place agreed that special arrangements should apply. Amendment 1 would therefore require that the function of consenting to a prosecution be exercised personally by the director of the relevant prosecuting authority. While the normal powers to delegate the director's functions would not apply, provision has been included for a nominated person to act in the event of the director being unavailable; for example, because he or she was out of the country or was incapacitated.

The amendment affords sufficient recognition of the sensitivities that can apply to the offences under the Bill. I commend it to the House. I beg to move.

**Lord Henley:** My Lords, my colleagues in another place accepted the Government's amendment yesterday, so I intend to keep my comments very brief. We have a satisfactory Bill. We gave a commitment some time ago that we hoped to see it on statute book, and, on this last day, I think that we are getting very close to that point.

However, we must not be complacent about the Bill once it passes from this House and receives Royal Assent. We are creating new law to replace the antiquated collection of rules that were in place before the Bill came about, so we must take care to see that it works in practice.

The Minister will be aware that some nervousness on the part of the business community remains—not because it wants to continue corrupt practices, of course, but because it wants to be 100 per cent sure that it is complying with the law. For that reason, I want an assurance from the Minister about the guidance. When will the Government publish that? Will he confirm that prosecutions will not commence under this Act until the Government have published clear guidance, prepared in consultation with the relevant groups?

**Lord Mayhew of Twysden:** My Lords, the amendment, as described by the Minister, represents a skilful and adroit compromise, and a balancing of matters and considerations which occupied the scrutiny committee and subsequent investigations. I welcome it.

**Lord Mackay of Clashfern:** I, too, think that the amendment is an improvement on the Bill that we sent to the House of Commons. I assume that the situation in Scotland is sufficiently dealt with by the general arrangements for administration of criminal justice in Scotland, so we do not need anything equivalent for that.

**Lord Goodhart:** My Lords, I declare an interest in the Bill as a member—not an officer—of Transparency International UK, perhaps the leading NGO in this field. I was also a member of the Joint Committee which gave pre-legislative scrutiny to the Bill.

I warmly welcome the Bill. It is important, because we all know of the amount of damage that is done by corruption, particularly in developing countries. It is also a Bill that is seriously overdue. The last major legislation on bribery took place in 1916, and it is nearly 13 years since the process that eventually led to this Bill began. I am very glad that the Bill's substance has been supported from the start of the pre-legislative scrutiny to today by all three main parties. Unlike most Bills dealt with as part of the wash-up, this Bill has been fully scrutinised.

Amendment 1 is acceptable in this case. However, I would be interested to know when it is likely to be possible to obtain the guidance that was added into this Bill as a result of the pressure from the Joint Committee. This Bill clarifies the meaning of bribery and extends the jurisdiction of British courts over bribery committed aboard, as well as imposing liability on companies that fail to take proper steps to guard against bribery being committed by their staff or agents. This is an excellent Bill and I am very glad that it will now receive Royal Assent.

**Lord Thomas of Gresford:** My Lords, I, too, welcome Amendment 1. I happened to speak at a conference last week of ICC UK, which was attended by a large number of people from the defence industries and from exporters. I was struck by the concern that they have about Clauses 7 and 8, which are quite tightly drawn, which put criminal liability on a commercial organisation if a person on their behalf commits a bribery offence. In particular, they were concerned with what were adequate procedures. The guidance promised in Clause 9 is essential to assuage the fears of the business community about what amounts to adequate procedures. The clause itself strengthens the position of the directors of the various services, including the director of the Serious Fraud Office and the other prosecutorial bodies, and underlines the fact that the only way in which companies and business organisations feel that there is some protection for themselves may be prosecutorial discretion. I am sure that it will be of great comfort to those organisations to know that prosecutorial discretion will be exercised by the directors of those various prosecutorial organisations personally or by their nominated delegate. The Government are very wise to have introduced Amendment 1.

**Lord Bach:** My Lords, I am very grateful to all noble Lords who have spoken on this amendment. We are grateful to the opposition parties and those on the

[LORD BACH]

Cross Benches for the assistance and help that they have given to take this Bill through Parliament. It is very much a consensual Bill which is not before time in modernising the law of bribery. It would not have been possible to have got a Bill like this without there being general agreement from Second Reading on—indeed, before Second Reading—for this Bill. When we have had points of difference, they have shown up in debate, as they ought to. I hope that we have found a successful resolution to them. We are coming on to another amendment in due course.

I thank the noble and learned Lord, Lord Mayhew, for his support for this amendment, as I do other noble Lords who have spoken to it. The answer to the question asked by the noble and learned Lord, Lord Mackay of Clashfern, is yes. I think that he can be content with that answer. The noble Lord, Lord Henley, and others asked about the guidance. We will publish the guidance well in advance of Clause 7 of the Bill coming into force, which goes a little way to satisfy those in the business community who are understandably wary of how the Bill will work. The noble Lord, Lord Thomas of Gresford, mentioned their concern, too.

As to when the guidance will be published, without for goodness' sake wanting to bring the general election into this debate, I can say that this Government's intention is that the guidance should be published before the Summer Recess. However, if there is another Administration, they must be free to have their priorities one way or another. We cannot say for sure that the guidance will be published before the Summer Recess, although I would hope that given the consensual nature of the Bill any Government would want to have the guidance published as soon as possible, because it is important to bring in the Bill as soon as possible so that it can be effectively the law of the land.

*Motion on Amendment 1 agreed.*

#### *Motion on Amendments 2 to 8*

*Moved by Lord Bach*

That the House do agree with the Commons in their Amendments 2 to 8 en bloc.

2: Page 6, line 37, leave out subsections (6) to (14)

**Lord Bach:** With these amendments, we return to a thorny issue that divided us at an earlier stage—the defence in respect of conduct by the intelligence services and Armed Forces which would otherwise amount to an offence under the Bill. The House will recall that we grappled with this issue at some length during the proceedings on the Bill in January and February. That seems a little while ago now.

At Third Reading, the House passed an amendment to Clause 10 which sought to introduce a discretionary authorisation scheme in respect of conduct which would attract the Clause 13 defence. I made it clear at the time that it was not an amendment that the Government could support. We have set out two key defects with what became subsections (6) to (14) of Clause 10, as introduced in the other place. First, the provisions would enable the Secretary of State to

authorise conduct which amounted to an offence under Clause 6, namely the offence of bribing a foreign public official. This would have been at odds with the United Kingdom's international obligations and, in particular, the OECD convention. David Howarth for the Liberal Democrats in the other place acknowledged that this was a critical defect and was reason enough on its own to remove the Lords amendment.

The second major defect from the Government's perspective was the fact that the amendment passed by your Lordships' House undermined the utility of the Clause 13 defence in seeking to provide legal certainty for members of the intelligence services and Armed Forces. The amendment put forward by the noble Lord, Lord Pannick, and other noble Lords and noble and learned Lords purported to be a discretionary authorisation scheme, but its effect was to cast doubt on the operation of the Clause 13 defence in any case where prior ministerial authorisation for the conduct had not been given. In addition, we had concerns about the workability of the proposed authorisation scheme, given that it required conduct to be "specifically authorised". As I explained during our earlier debates, it is our firm view that a case-specific authorisation scheme would not provide the necessary flexibility to cater for complex and fast-moving operations in Afghanistan and elsewhere.

For those reasons the Government invited the Public Bill Committee of another place to remove these subsections of Clause 10. The Committee agreed to the government amendment without Division. However, the Government have accepted the case put forward by the Constitution Committee of this House that there needs to be a measure of ministerial oversight on the operation of the defence in Clause 13. This is the thrust of Amendments 3, 4, 6, 7 and 8.

2.30 pm

Amendment 4 is the key amendment. It places a statutory duty on the heads of the three intelligence services and the Defence Council to put in place arrangements designed to ensure that any conduct that would amount to a relevant bribery defence is necessary for the proper exercise of any functions of the intelligence services and the Armed Forces. Such arrangements must be ones that the relevant Secretary of State considers to be satisfactory.

As Amendment 4 provides, it would be for the heads of the intelligence services and the Defence Council to determine what arrangements to put in place, subject to the requirement that the Secretary of State considers them to be satisfactory. However, the matters which these arrangements might be expected to cover include, for example, internal guidance on the offences in Clauses 1 and 2 and the scope of the Clause 13 defence, and, in addition, the taking of internal legal advice in specified circumstances. I hope that our acknowledgement that there should be a degree of ministerial oversight is accepted by the House.

Perhaps I may deal briefly with Amendment 5; and here we are grateful to the noble Lord, Lord Thomas of Gresford. In Committee, the noble Lord suggested that it would be invidious for two individuals to find

themselves in the dock, one charged with an offence under Clause 1 and the other with an offence under Clause 2. The first person was a member of the intelligence services who had paid a bribe, while the second person has accepted the bribe in return for providing some information or other assistance to his co-accused. I indicated at the time that it was our policy that both individuals should be able to avail themselves of the defence. However, the noble Lord questioned whether the recipient of the bribe could meet the necessity test in Clause 13(1). On reflection, we agree that the policy intention could be better expressed. Accordingly, Amendment 5 makes it clear that if it is necessary in pursuit of a function of one of the intelligence services or Armed Forces for a bribe to be paid then it will be treated as necessary for the other person to receive it, thereby triggering the defence for the recipient of the bribe.

The Clause 13 defence is a fundamental part of the Bill. The Government accept, however, that conduct by agencies of the state that would amount to an offence under the Bill needs to be subject to appropriate ministerial oversight. The amendments made in the other place provide for this while ensuring that such oversight can be exercised proportionately without undermining the operational effectiveness of the intelligence services and Armed Forces. I therefore commend the amendments to the House and beg to move.

**Lord Henley:** My Lords, before I deal with the amendments as such, I join the noble Lord, Lord Goodhart, in his comments on the previous amendment when he accepted that there has been full consideration of all matters in the Bill. This is really rather welcome when we think of what has been happening to a great many other Bills in the so-called wash-up that have not had the consideration they deserve. This Bill certainly has had that.

The second group of amendments is obviously somewhat more contentious than the first in that it removes from the Bill the amendment to Clause 10 that was voted in by your Lordships' House on Third Reading after a very thoughtful and powerfully argued debate. Sadly, due to transport difficulties, I missed that debate—my noble friend Lady Hanham spoke in my place—but I have considered very carefully what was said by various noble Lords throughout the House then and what the Government said in another place when that clause was debated in Committee there. My honourable friends in another place were not left with much time to consider the Government's proposals before being required to agree them, but we have since reflected on the arguments put forward by the noble Lord's colleague, Claire Ward, who dealt with the Bill in another place. I note that, thankfully, the Government have not simply overturned the amendment that we put in but clearly have sat and thought about the very valid criticism that it is inappropriate to allow the state to commit bribery without any real oversight or limitation.

What the Government are proposing in place of the amendments passed in this House is, therefore, obviously something a compromise. Amendment 2 takes out the specific requirement for prior consent in Clause 10, while Amendment 4, which is the key amendment,

moves the focus back to the defence clause, Clause 13. That amendment places a duty on the heads of the intelligence services and the Defence Council to make arrangements that show the necessity of committing a particular act of bribery, and that act would therefore be covered by the legitimate purposes defence in Clause 13(1), thereby providing a defence to prosecution to members of the relevant services.

The arrangements that have been put in place must be satisfactory to the Secretary of State—which, as the Minister has emphasised, will be an ongoing requirement. Presumably that means that any arrangements will need to be tweaked or overhauled if the Secretary of State does not feel that the result is satisfactory. I should therefore be very grateful if the Minister would give us a flavour of what those arrangements might be. We are taking quite a lot on trust if we are to accept these amendments, and we will have to rely on the various heads of the services to draw up satisfactory arrangements. We must also rely on the Secretary of State to ensure that he is not too easily satisfied with what they put forward. I should therefore also like the noble Lord to give us an indication of just what yardstick the Secretary of State would use to gauge his satisfaction.

The proposal that the noble Lord has put forward is not perfect; it is a compromise. We accept that the Government have thought about the criticisms that were made at earlier stages of the Bill, particularly when it was in this House, and have come up with an approach that has some ministerial oversight built into it. We will not oppose the amendments—in fact we will accept them—but I think that it will be necessary to keep a very close eye on how this part of the Bill operates once it is up and running.

**Lord Thomas of Gresford:** My Lords, I am grateful for Amendment 5, which has put into statutory form the objection that I made when the matter was before us. I am pleased to see that that is there.

My criticism of Clause 13, however, remains. I said before that it would be very difficult for a person who is a member of the intelligence services and charged with an offence to prove his defence, on the basis that he would not have access to the necessary documentation and information and, in the case of the Armed Forces, to witnesses who could assist him in proving his case. I thought, and think now, that the burden of proving that defence is impossible. But it is even more impossible with the amendments that have now been introduced, particularly Amendment 4, which states:

“The head of each intelligence service must ensure that the service has in place arrangements designed to ensure that any conduct of a member of the service which would otherwise be a relevant bribery offence is necessary”.

So the offence can arise only if the person has ignored a direction or where there is no direction from the intelligence service or the defence counsel in question. In those circumstances, one simply cannot conceive of it ever happening and consequently Clause 13, this alleged defence, is otiose. It is perhaps not surprising that it involves the security services, because it has been a feature of this Government—and here we are at their very end—to defer to them on things such as intercept evidence and on other legislation that has

[LORD THOMAS OF GRESFORD]  
 passed over the last 10 or 12 years. But there it is; I have made my objections. I welcome the Government's attempt to improve upon what was in the Bill before.

**Lord Mackay of Clashfern:** My Lords, this group of amendments that the Government have put in place, in lieu of the one made by this House on Third Reading, is reasonably satisfactory. I understand the position that the noble Lord referred to if somebody has acted outwith the terms of the arrangements. If that happened, it would be very difficult for them, but so long as they are within the terms of the arrangements they are pretty well automatically covered. That is what the amendment which we put forward on Third Reading was really about; trying to ensure that the ordinary member of the security services or the Armed Forces who was involved would be able to point to some arrangement which covered him or her in relation to the allegation of bribery made against him or her.

I regard this as a satisfactory way of dealing with the matter. It is also important that these arrangements are subject to the approval of the Secretary of State; therefore, there is accountability to Parliament for the way in which this particular aspect of the security services and the Armed Forces is conducted. I shall go back for a moment to the question about guidance. The noble Lord, Lord Bach, said—I do not think that he was forecasting—that there might be a new Administration after the general election. So far as the Administration of which he is an honourable Member are concerned, they would hope to have the guidance out by the summer. That might not bind a successor, but it does bind a successor that the guidance must be published before Clause 7 comes into operation. It seems to me to be a governmental undertaking, which would be binding on a successor Administration before they brought Clauses 6 and 7 into operation.

**Lord Mayhew of Twysden:** My Lords, when introducing these amendments the Minister referred to the fact that we had grappled in Committee, and subsequently, with the difficult questions that this particular legislation throws up. To some extent, we have seen today that the grappling is not yet entirely over. I gratefully adopt what my noble and learned friend Lord Mackay of Clashfern said just now. I believe that what we have here finds a clever way round some really difficult questions. In an imperfect world, we need to have intelligence services; equally, it is very important that our intelligence services should stay within the law, as must all agencies of the state if we are to uphold the rule of law, as we must.

There has to be a measure of ministerial accountability and oversight, and that is found here. I believe that this represents a clever compromise on the part of the Government and, if I may say so, the parliamentary draftsmen. It was entirely legitimate for the Minister to say, in introducing this group of amendments on 18 March:

“The defence now provides a secure legal footing for the activities of the services concerned, while ensuring an appropriate level of oversight and accountability”.—[*Official Report, Commons, 18/3/10; col. 148.*]

Looking forward as we all do to the guidance that will be issued, which will be important for the reasons that have been mentioned, it is a great pleasure for me—after

the rather turbulent 24 hours that the Government have sustained—to be able to congratulate them on what they have done.

2.45 pm

**Lord Goodhart:** My Lords, speaking briefly for myself, I agree with what has been said by the noble and learned Lords, Lord Mackay of Clashfern and Lord Mayhew.

**Lord Wallace of Tankerness:** My Lords, to follow the point made by the noble and learned Lord, Lord Mackay of Clashfern, in the earlier debate when the Minister indicated that administrative arrangements in Scotland did not require the kind of legislation for consent that we have here for England, Wales and Northern Ireland, could the Minister also clarify the position regarding the issuing of guidance in relation to Scotland?

**Lord Bach:** My Lords, I am grateful again to noble Lords who have spoken, and particularly for the support for the compromise, as it is, that finds itself back with us today in Amendment 4. To have the general support of the noble and learned Lords, Lord Mackay of Clashfern and Lord Mayhew, as well as that of the noble Lord, Lord Goodhart, who are all eminent lawyers and experts in this field, is really welcoming for the Government. It makes us think that we may actually have got it about right. I am also grateful to the noble Lord, Lord Henley, for his party's acceptance of this arrangement, and to the noble Lord, Lord Thomas of Gresford—although I know that nothing I can say will persuade him that the Clause 13-defence is the right approach to this Bill.

At the risk of repeating what I have said, we think that the DPP, when deciding whether to prosecute, will be very much affected by the existence of Clause 13. There will be very rare cases indeed where it does begin; if there is a prosecution, of course the accused has the right to a jury decision, however strong or weak the evidence may be. We will see whether the Clause 13-defence works.

The noble Lord, Lord Wallace, asked about Scotland. The answer to his question is to be found in Clause 9—soon, I hope, to be Section 9 of the Act. Clause 9(3) says that:

“The Secretary of State must consult the Scottish Ministers before publishing anything under this section”.

Finally, the noble and learned Lord, Lord Mackay of Clashfern, said again that the important point about the guidance was not so much when it would be published—although we all hope that it will be published soon—but that any Government would be committed to the principle that guidance has to be published well before the relevant section comes into effect. We agree; if there is a change of Government, that should prevail whoever is in power.

**Lord Mackay of Clashfern:** It has just occurred to me that the noble Lord, Lord Goodhart, was saying that this Bill is different from others dealt with in the wash-up. I think that, technically speaking, this Bill is not in the wash-up, because that is where there has

been some kind of setting aside of the ordinary procedures. Thankfully, this Bill has gone through every stage properly and has come just in the nick of time to Royal Assent.

**Lord Bach:** As so often, the noble and learned Lord, Lord Mackay of Clashfern, has got the exact point. No, this is not part of the wash-up. Speaking personally, I am pleased about that.

*Motion agreed.*

## Digital Economy Bill [HL]

### Commons Amendments

2.49 pm

#### Motion

Moved by **Lord Young of Norwood Green**

That the House do agree with the Commons in their Amendment 1.

1: Clause 1, leave out Clause 1

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green):** My Lords, I beg to move that the House do agree with the Commons in their Amendment 1, as well as Amendments 9, 10, 13 and 14. The first amendment leaves out Clause 1, thus removing the requirement in the Bill for Ofcom to promote investment in electronic communications networks and public service media content. The second amendment leaves out Clause 29, removing the powers from the Bill that would allow Ofcom to appoint providers of regional or local news. The final amendments leave out Clause 43 and Schedule 2. Effectively, this group of amendments removes the provisions on orphan works and extended collective licensing from the Bill.

**Lord Clement-Jones:** My Lords, this is a sad outcome to a Bill that started with promise. At the outset of the passage of the Bill through this House, almost all noble Lords accepted that we needed provisions that would avoid the scenario so graphically set out in the recent EU study that forecast the loss of 250,000 jobs by 2015 if current copyright piracy trends continue. There is no doubt that many parts of the Bill were greatly improved in the two and a half months that the Bill spent in this House, particularly in expressly stating that subscribers are presumed innocent until proof is provided otherwise.

Subsequent to the Bill's passage here, however, the process has been totally unsatisfactory. Second Reading could easily have been held three weeks earlier. The Bill left this House on 15 March and Second Reading could have taken place well before 6 April, when it actually took place in the Commons. Some Committee days on crucial areas such as file-sharing, website blocking and orphan works could have been allocated. Instead of that, we have had the unedifying prospect of a wash-up stitch-up between the Conservative and Labour Benches on many elements of the Bill. Allied to the lack of time was the Government's unwillingness in some cases to consider amendments or to give assurances that would have delivered a sensible, consensus

solution. It is no wonder that so many internet users, Back-Bench MPs and now the Front Bench of my party are firmly of the view that the Bill has not received adequate debate and should not proceed further.

The stitch-up is clearly illustrated by the deletion of Clause 1, which would have given Ofcom valuable new powers. It is also illustrated in particular by the deletion of Clause 29, which would have enabled rollout of the IFNCs. As to the latter, the Government appear not even to have the courage of their own convictions. The clause would have enabled Ofcom to establish independently funded news consortia to provide innovative new methods of providing local and regional news on the Channel 3 network. On these Benches, we worked hard to strengthen this clause so that consortia could be appointed only if they were able to provide high-quality news.

The omission of IFNCs from the Bill is even more disappointing because the clause did not require them to be set up; it made it only a possibility in the future, dependent on successful pilots and a suitable source of funding. Deleting the clause means that we lose this possibility and gain nothing in return. ITV has made it clear that it does not think that it can afford to continue with the provision of local news, which leaves the BBC as the monopoly provider. A constant refrain from all sections of this House, including the Conservative Front Bench, is that that is not a good thing. We find it hard to understand why the Conservative Front Bench has insisted on scuppering IFNCs in this way.

The fact is that, as planned, the trials could have taken place in the Borders, Wales and the north of England without legislation. That would have received majority support here and in another place. However, the Government have said that they are no longer going to continue with letting those contracts for the pilots. That is a major missed opportunity. The Government have abjectly bowed to the Conservative Front Bench.

We support the deletion of Clause 43 at this stage. Throughout the Bill's passage through the House, we championed the cause of commercial photographers threatened by the orphan works provisions and we secured some improvements. In a proper Commons process, further amendments could have been made exempting contemporary photography, and ministerial assurances could have been given to ensure that only where moral rights applied across the board and there was proper attribution would photography be reinserted. In this way, the cultural sector could have been catered for by the process. However, because of the truncated time in the other place, that could not be done, so the only solution has been to delete Clause 43.

We will not be voting on these Commons amendments, but I hope that we have made the views of these Benches clear and that never again will such a complicated Bill be dealt with in this way at the fag end of a Parliament.

**Lord Fowler:** My Lords, my criticisms of these amendments are not quite as general as those of the noble Lord. I regret very much that, under Amendment 9, Clause 29 will perish. The House and the public need to recognise that we are likely to face an even greater

[LORD FOWLER]

problem in regional news in this country. We are going back to the 1950s. If ITV continues on its present path and policy, there will be no ITV regional news and none of those regional news programmes that have a major audience in this country. However, it is worse than the 1950s. At least in the 1950s there were strong regional and local newspapers. I speak as someone who chaired two regional groups. No one would say that this is the best time in the history of British journalism for regional newspapers.

As the noble Lord said, unless we are careful, we will have a BBC monopoly at the regional and local news level. That seems to me entirely wrong. I do not think that anyone in any part of the House wants that outcome. I am an enormous supporter of the BBC's reporting standards, which, both at home and overseas, are among the best in the world. However, I also think that the BBC needs competition from another major organisation. If we lose that competition from independent television, that will be totally counterproductive for the national interest and democracy.

Clause 29 would have provided a mechanism to allow for that to happen. It was not a particularly radical solution; it would have allowed consortia to be put together. Frankly, it is difficult to see what alternatives there could be to Clause 29. I do not know what the alternative will be. I hope that the noble Lord will give the House some help in his response. The noble Lord who spoke for the Liberal Democrats asserted that the pilot schemes, which had already been announced, have perished. Is that the case? Have they perished? It is one thing to have the policy absolutely withdrawn, but does that mean that all these weeks and months of negotiation in which the consortia have been put together will just be struck through? If so, what about the costs? Will the local newspapers that have taken part in these negotiations simply be told, "Awfully sorry, but we have changed our mind and there is no recompense"? Frankly, this is a sad move. It needs to be established and recognised that there has always been an implied subsidy and support for independent television companies under the analogue system. One of the reasons why ITV is moving away from its support for independent regional news is because that subsidy is being withdrawn. I do not think that the public money issue is as crucial and unique as some might claim. I think this is a very regrettable step. My Select Committee made this clear and I am not in any way going to resile from what it said. We need to tackle this problem and all we are doing at the moment is allowing a position to take place where regional news in this country becomes a BBC monopoly. That is not in the public interest.

3 pm

**Lord Maxton:** My Lords, I do not share the concerns expressed so far about the ending of these consortia having control of local news for two reasons. First, the noble Lord, Lord Fowler, with whom I have disagreed in the past over new technology, expresses himself unfortunately when he says that we are going back to the 1950s. We are not. There is a whole range of local news provided by a whole range of different organisations through, I accept, the internet. Every school now has

its own website, as does every sports club and local authority. All the news is available on those websites for anybody who wishes to get it.

**Lord Fowler:** The difference, surely, is that under the current system that news is provided by professional journalists. Under what the noble Lord is describing, there are no professional journalists.

**Lord Maxton:** As someone who is not a professional journalist and has no high regard for them, I think it is of major benefit that the news is not provided by professional journalists.

My second reason is that the consortium for the Scottish region had been granted to a consortium made up of the two major newspapers—the *Scotsman* and the *Herald*—and one television company. I think there was one other organisation involved. They said that they would use their journalists to provide the local Scottish news on television. I am sorry, but I do not see how the arguments about being balanced, rational and impartial can be followed if the same journalists who write in newspapers, expressing their views, then appear on television, trying to be impartial. It just does not work. Therefore, I am quite happy to see this clause disappear.

**Baroness Howe of Idlicote:** My Lords, I agree with the noble Lord, Lord Clement-Jones, and the chairman of the Select Committee. I declare an interest, having served on it. This is a terrifyingly worrying step that is being proposed. It is absolutely crucial that the BBC news—for which I, too, have huge regard in every other possible respect—has a competitor of the same standing, with news presenters of the same quality. This is not least because there are so many moves within the BBC to different parts of the country. We heard this in the last session of the Select Committee only yesterday. That would be another illustration of how its dominance can, perhaps, be far too great. I bow to the expertise of the noble Lord, Lord Maxton, on many technical matters, but in this case I cannot agree with him and thoroughly support the noble Lords, Lord Clement-Jones and Lord Fowler.

**Viscount Bridgeman:** My Lords, I have been involved in the debate exclusively on Clause 43. It had admirable intentions to free up orphan works and make possible extended collective licensing. It was a victim of the bad programming by the Government, which results in the messiness that we have had to experience through the wash-up. The noble Lord, Lord Clement-Jones, has made the valid point that there were some points which ought to have been discussed in another place, particularly the releasing of—and giving attention to—photographers.

It is interesting that, yesterday, the noble Lord, Lord Rooker, made a significant contribution about post-legislation scrutiny. Of all Bills, this is one which should have had pre-legislation scrutiny. It would have been, I am sure, a very effective Bill had the time been made available for that. I am assured by my own party that if it forms the next Government, it intends to bring back at an early stage a Bill to rectify the deficiencies which sadly exist in the present one. I hope

that the party opposite, if it should be in power, would have similar intentions. Lastly, I thank the noble Lord, Lord Young, for the help that he has given us with the Bill and, certainly in my case, to meet certain of my objections and concerns.

**Lord Young of Norwood Green:** My Lords, I will respond generally to what seems to be the Lib Dems' rallying cry in this process about the wash-up being a stitch-up. Inevitably, during the wash-up process I cannot help thinking of that quote from Hobbes about life being "nasty, brutish and short". There is an element of that to the wash-up, but I do not think it is any different from how it has been previously. We had that debate yesterday so I do not want to reiterate that.

I think there were two comments about the Bill not having received adequate debate from the noble Lord, Lord Clement-Jones, and then the noble Viscount, Lord Bridgeman. I cannot help smiling and thinking about the many days we have enjoyed each other's company in this Chamber as we went through approximately 750 amendments to a 48-clause Bill. There are many things that one could say about the Bill but that there has been a lack of scrutiny in this Chamber is not one of them. Maybe it would have benefited from pre-legislative scrutiny; my inner jury is still out on that, having seen the process elsewhere, but I bow to others with more experience. Maybe they are right.

Inevitably, compromises have been made. It is no secret where this Government stood on the question of IFNCs in relation to the points made by the noble Lords, Lord Fowler, Lord Clement-Jones, and others. It was a good move on the part of the Government. We would have been able to establish some effective pilots in an area where competition would certainly be beneficial. Following that bit of dialectic between my noble friend Lord Maxton and the noble Lord, Lord Fowler, in one respect I agree with my noble friend: we are not going back to the 1950s. There is a different media landscape. Nevertheless I also agree with the point made by the noble Lord, Lord Fowler. I do not dismiss the quality of professional journalism quite so readily.

I think the question was, does this mean that IFNCs are dead? It means that securing the plurality of local and regional news becomes even more difficult, and that the risk of a decline of local and regional television news is even more acute, as the noble Lords, Lord Fowler and Lord Clement-Jones, drew to our attention. While IFNCs may still come together in some form as a market-based proposal, the question of whether public funding should be used will need to be dealt with by whichever Government are in office after the election.

Reference was made to the costs of the parties who bid for the pilots. Throughout the procurement process we have made it clear that the Government will not fund, nor are liable for, third-party costs associated with the bidding process.

**Lord Clement-Jones:** My Lords, the specific question was: are the Government going ahead with the pilots? Our understanding on these Benches is that the Government are not going ahead with the pilots.

**Lord Young of Norwood Green:** I cannot say any more than I have done. As I say, whichever Government are in office after the election will have to take that decision. They will need to decide whether public funding should be used.

**Lord Clement-Jones:** My Lords, I am sorry to make the Minister jump up and down in this final session and I hope that I will not have to make him do that many times today but the fact is that the identity of those running the pilots is already known. The contracts were about to be signed. The Government could have signed those before the start of purdah but have not done so and therefore the pilots fall. They will not take place. Is that not utterly clear?

**Lord Young of Norwood Green:** The pilots are separate from the provisions in the Bill as the pilot process has been run by the Government. It will be for whichever Government are in power after the election to decide whether they will award and fund the IFNC pilot contracts. Signing the contracts will again be a matter for whichever Government are in power after the election.

**Lord Clement-Jones:** So the answer is very clearly yes—those pilots will not be going ahead in the immediate future unless this Government are re-elected.

**Lord Young of Norwood Green:** I cannot add any more to the points that I have made. I do not disagree with the noble Lord.

With regard to the points made on copyright by the noble Viscount, Lord Bridgeman, I thank him for his thanks. It was a pleasure to co-operate to try to resolve this but criticism should be levelled rather at his own Front Bench. Other options were possible. We could have handled this in a different way but this is the best, or the least worse, compromise that we could achieve in the wash-up. I believe that I have answered the points that were raised in the debate.

*Motion agreed.*

*Motion on Amendments 2, 6, 7 and 8*

*Moved by Lord Young of Norwood Green*

That the House do agree with the Commons in their Amendments 2, 6, 7 and 8.

**2:** Page 11, line 23, leave out from "transparent" to end of line 26

**Lord Young of Norwood Green:** My Lords, I beg to move that the House do agree with the Commons in their Amendments 2, 6, 7 and 8. This will have the effect of removing the Clause 18 text inserted in this House. Amendments 7 and 8 introduce two new clauses to replace Clause 18. I will focus on these last amendments since this sets out the way the Government think we should proceed.

As I said in this House when Clause 18 was debated during the Bill's Third Reading, the Government did not believe that Clause 18 as inserted during Report

[LORD YOUNG OF NORWOOD GREEN] would work. I also highlighted to noble Lords our concerns with introducing such provisions in such a way and at such a time.

The new clauses introduced by Amendments 7 and 8 achieve the same effect desired by Clause 18, but with proper consideration and safeguards. The key benefits of this approach are that, as a power to introduce regulations, it is enforceable. It does not immediately fall foul of the technical standards directive as the existing text would. There will be proper opportunity to consult on the measure, and for Parliament to consider it via the super-affirmative procedure, with any recommendations having to be taken into account. The Secretary of State must consider the proportionality of the regulations, and the evidence that they are necessary to address infringement that is having a serious adverse effect. We can also ensure that any security and law enforcement concerns are properly taken on board.

In addition, should such regulations be introduced, the court will also need to consider carefully legitimate uses and users affected by any injunction as well as having due regard to freedom of expression. We have no intention of this clause being used to restrict freedom of speech. That concern has been expressed by a number of people in the past few days. We are also seeking to ensure that these safeguards are properly considered and ISPs will have no incentive to block sites purely on the basis of an allegation for fear of bearing costs, though at the same time we would need to ensure that ISPs are not allowed to flout the court.

All in all I would say that new Clause 18 does the job of addressing online infringement that is not done through unlawful file-sharing, with the safeguards needed to ensure that the position of internet intermediaries and citizens is properly protected. On that basis, I hope that noble Lords will agree. I beg to move.

3.15 pm

**Lord Howard of Rising:** My Lords, the Government's amendments contain several technical and substantive improvements to the original. The improved consultation measures that Amendment 8 contains are welcome. I will therefore support these amendments should the noble Lords to my right continue to object to the very clause they moved and supported on Report.

**Lord Clement-Jones:** My Lords, on Report—the Minister clearly set out the history of the provisions—these Benches, together with the Conservative Benches, proposed a new clause to give courts the power to grant injunctions for internet service providers to block access to certain online locations which host copyright material. This new clause was inserted in good faith with the very best of intentions to remedy a major problem relating to overseas websites. However, it soon became clear that it was too blunt an instrument.

At Third Reading, on these Benches we attempted to tidy up the amendment, and the Government promised to bring forward their own amendments. We have now seen those amendments. We had reasonable expectations that our amendments would be subject to proper debate in the other place. But, frankly, we must conclude

that we cannot support these new proposals. They are very distant cousins to those that we originally proposed. They have many faults. For example, the proposed new Clause 18 penalises sites that facilitate access or that are used,

“for or in connection with an activity that infringes copyright”.

This is far too wide-ranging and puts even sites such as Google at risk. Google naturally throws up links to sites that encourage online copyright infringement or make peer-to-peer file sharing possible.

Injunctions can be used against not just sites that are making this material available in the present, but sites that have done so in the past or are likely—I repeat, likely—to. This is a very wide range of definitions which mean that innocent sites could be caught out. This brings to mind the Tom Cruise film, “Minority Report”, in which people could be arrested for crimes that they might commit. There is insufficient indication that the rights holders must take reasonable steps to notify the site owner before seeking an injunction. The proposed new clause states that the courts will have to take account of evidence that the rights holder has taken steps to prevent infringement of their material. There is no specific stipulation that the site owner must be contacted first or what this contact must consist of.

The proposed injunctions would be indefinite, which is inappropriate, although there is room for this issue to be addressed through further, unstated, regulations. Injunctions will not cover all service providers. This would allow infringing customers simply to go to a different provider and put ISPs to a great deal of trouble for no reason or, even worse, warp the market by disadvantaging the big internet service providers which are relatively easy targets and driving copyright infringers towards the smaller ISPs that are less likely to be hit with injunctions.

There are some saving graces. The new super-affirmative procedure is of course an improvement, but this should not be enough to save the proposed new clause. The highly unsatisfactory nature of the process in the other place and the wash-up means that a flawed clause could remain on the statute book. We are faced with a take-it-or-leave-it situation. On these Benches, we would leave it.

**The Earl of Erroll:** My Lords, I should like to make a few comments on this proposed new clause. I agree with the noble Lord, Lord Clement-Jones, that we should leave out the proposed new Clause 18 which the Liberal Democrats produced at the last moment and we should leave out the Government's proposed new clause also. It was a very good effort, and I thank the Minister and his Bill team for working on this and producing something as good as this. It tries to reflect very much the tenor of the debates on this wide-ranging power and how it should be limited to blocking internet websites.

The challenge comes with the wording. This is important because, at the end of the day, the courts will decide how this will be interpreted on the basis of what is written down. It is not up to ministerial statements. The Secretary of State may be making the regulations, but if he is not careful about how the

clause is worded the regulations may also contain ambiguous wording, as is the case with proposed new Clause 18.

For instance, it includes the term,

“or is likely to be used”,

in relation to a site that may contain infringing material. The previous time that I had this debate was on amendments to the Computer Misuse Act when we were talking about hacker tools. The Government said that that phrase meant, “more likely than not”. In other words, there was a 50:50 test on that. This is how lawyers regard it. I do not know if that will apply this time, and whether the issue will be interpreted that way in regulations.

The next problem is with the words “service provider”. Noble Lords who have spoken thus far have referred to internet service providers. An ISP is defined as,

“a person who provides an internet access service”.

An internet access service is defined as,

“an electronic communications service that ... is provided to a subscriber”.

That is not a service provider. The definition of a service provider is defined in Section 97A(3) of the Copyright, Designs and Patents Act 1988. It states:

“In this section “service provider” has the meaning given to it by regulation 2 of the Electronic Commerce (EC Directive) Regulations 2002”.

Those regulations state:

“service provider” means any person providing an information society service”.

They also state that an “information society service” relates to services within the meaning of Article 1(2) of directive 98/34/EC, as amended by directive 98/48/EC. At that point, I needed to obtain the help of the Library staff.

They found the directives which defined “service” as being,

“any Information Society service, that is to say, any service normally provided for remuneration”,

and so on. That did not help very much, so the Library found two pages from a guide to the Electronic Commerce (EC Directive) Regulations 2002 published by the Department of Trade and Industry, as it then was. We eventually find that a provider of information society services is anyone doing all sorts of economic activities online, and in particular,

“offering online information or commercial communications”—  
for example, advertisements—

“or ... providing tools allowing for search, access and retrieval of data”.

So it is not just the person providing access, but everyone who provides tools for the access or facilitates it, whether or not any remuneration is involved. There is not just one service provider, but multiple service providers apart from the person who owns or hosts the site and the material. I mention this so that perhaps, even if the clause is forced through, the Secretary of State may look at this when drawing up regulations, because it is far too loose and will cause chaos. It will end up being a dream for lawyers, because at the end of the day it will be tested in the courts.

The main difference between Clause 18 and Section 97A of the Copyright, Designs and Patents Act 1988, which allows for this sort of injunction to be taken out by a court, is that the latter refers only to the High Court, so that people who find their copyright infringed will find taking action too expensive. This will allow it to be done by any court. Therefore, it could be done in a very junior court: I do not know if that could include a magistrates’ court, or whether it would have to be a county court. This will lower the bar so that the people considering it will not necessarily be so well qualified. It will be interesting to see what happens.

I declare an interest as a director of a very small start-up search engine for business purposes. It is not a rival to Google or anything like that. However, if someone decided to knock us out, they would only have to threaten an injunction and we could not do anything about it. We would definitely come under the definition of service provider. That is not special pleading: I am pleading on behalf of all the people who provide services online, which might involve copyrighted text. It is not just film and music: this covers photographs, text and all sorts of other things. That is the problem. The Bill is trying to cover everything instead of distinguishing different forms of online provision.

I would prefer to see Clause 18 knocked out. I agree with the noble Lord, Lord Clement-Jones: we should come back to this very serious question in the next Parliament. That would be a far more sensible way to behave, instead of seeing lawyers make a lot of money and seeing money transferred from the general public, from universities and from all sorts of other establishments to large copyright holders who are mostly resident abroad.

**Lord Young of Norwood Green:** My Lords, I was pondering the response of the noble Lord, Lord Clement-Jones. I did not know whether to describe it as a Damascene conversion or a volte-face. Nor did I know the cause of the change, although I suspect that it may have had something to do with the Liberal Democrat conference not that long ago.

We responded to the demands of this Chamber that we should take away the suggestion about site blocking. We pointed out at the time that it was a very complicated area that would not be resolved by the previous suggested amendment. We have come back with our own amendment, which was endorsed by the Commons and which takes into account some of the concerns expressed, including, as the noble Lord, Lord Clement Jones, accepted, the super-affirmative procedure to provide additional scrutiny. I remind noble Lords that we were willing to incorporate that also into the ill-fated Clause 17 as another way of dealing with future concerns.

The noble Earl, Lord Erroll, raised the point about the definition of ISPs. We would not demur from the conclusions of his research. We agree that it would be an issue for any regulation, which is why consultation is required. I seek also to reassure the noble Earl that an injunction could not be dealt with by a magistrates’ court: it would have to be a higher court. With this amendment we have endeavoured to take into account the complexity of what we are trying to do. We are keen to ensure that we safeguard freedom of expression

[LORD YOUNG OF NORWOOD GREEN]  
and do not in any way bring into being something that would impact adversely on the internet or on internet service providers.

*Motion agreed.*

3.30 pm

*Motion on Amendments 3 and 4*

*Moved by Lord Young of Norwood Green*

That the House do agree with the Commons in their Amendments 3 and 4.

3: Clause 11, page 15, line 25, after “unless” insert—

“(a) the Secretary of State has complied with subsections (6) to (10), and

(b) ”

4: Page 15, line 27, at end insert—

“(6) If the Secretary of State proposes to make an order under this section, the Secretary of State must lay before Parliament a document that—

(a) explains the proposal, and

(b) sets it out in the form of a draft order.

(7) During the period of 60 days beginning with the day on which the document was laid under subsection (6) (“the 60-day period”), the Secretary of State may not lay before Parliament a draft order to give effect to the proposal (with or without modifications).

(8) In preparing a draft order under this section to give effect to the proposal, the Secretary of State must have regard to any of the following that are made with regard to the draft order during the 60-day period—

(a) any representations, and

(b) any recommendations of a committee of either House of Parliament charged with reporting on the draft order.

(9) When laying before Parliament a draft order to give effect to the proposal (with or without modifications), the Secretary of State must also lay a document that explains any changes made to the proposal contained in the document laid before Parliament under subsection (6).

(10) In calculating the 60-day period, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.”

**Lord Young of Norwood Green:** My Lords, as this House debated on several occasions during the Bill’s passage, imposing technical obligations is undoubtedly a significant, and probably controversial, decision. That is why Clause 11 requires the Secretary of State to have regard to the assessment prepared by Ofcom as to whether they should be imposed, as well as to the reports prepared under Clause 9 of the Bill, and this House agreed that these should be published so that everyone can see the evidence that will inform the decision.

It is also right that Parliament should have the greatest opportunity to scrutinise and debate the order. The amendment made in the Commons introduces a super-affirmative procedure with a 60-day period, allowing ample time for Parliament to consider the order fully.

I hope that this step will reassure noble Lords who expressed concerns about safeguards and scrutiny with regard to introducing technical measures. Therefore, I beg to move that the amendments made in the other place be agreed to.

**Lord Clement-Jones:** My Lords, when Clauses 4 to 17 were discussed by my honourable friends in the other place at Second Reading, they were broadly supportive of the provisions but made it clear that their support would be conditional on three additional conditions which they believed needed to be put in place and which became apparent after the Bill’s passage through this House. The first was the subject of this amendment: that we needed the super-affirmative procedure to ensure that the next Parliament could properly scrutinise any proposals to include technical measures, which we believe should be introduced only as a last resort based on clear evidence of the need for them. Therefore, we welcome the amendment.

However, we still believe that other provisions are needed in relation to Clauses 4 to 17. My honourable friends said that they needed to resolve the serious problems faced by universities, schools and wi-fi cafes to ensure that they did not fall foul of this legislation, given that they often have one IP address and a very large number of users. In addition, my honourable friends said that we needed to address the timescale within which the initial obligations code was produced by Ofcom. They argued that it could not possibly be given full justice if it were done within a six-month period, given that three of those months have to be spent in consultation with our European colleagues.

All that illustrates yet again the poor process that this Bill has undergone in its latter stages. It would have been relatively straightforward for the Government to accede to those requests if a proper consultative wash-up process had taken place, or indeed if any Committee days had been allocated and certainly if Second Reading had taken place straight after the Bill left this House. In that context, we welcome one-third of the additions that we believe are necessary to make sure that Clauses 4 to 17 are acceptable.

**Lord Whitty:** My Lords, although I share with the noble Lord, Lord Clement-Jones, some of the reservations about additional safeguards, I welcome these two amendments. Indeed, I could hardly do otherwise as I moved a similar amendment at an earlier stage of the Bill in the Lords. However, they do not go as far as I would like. As noble Lords who have been following this debate know, I should have preferred this whole section to be withdrawn in the wash-up, with our coming back to it at a more considered rate in a new Parliament.

I regret that this, my last, speech in this Parliament sounds critical of the Government, but in fact it is critical of the totality of the political establishment. All three Front Benches here and in another place have adopted a wrong-headed and unworkable approach to the problem of unlawful file-sharing. Above all, they have failed to grasp that it is an approach that will not yield returns to the creative artists whom these procedures are supposed to protect.

I appreciate that there are noble Lords who do not have the technological grasp of the internet that my noble friend Lord Erroll has, nor of the intricacies of copyright law. I was seeking a way to illustrate this to noble Lords who have participated and, although we are at the fag end of the Session, I shall use an historic analogy which I came across over Easter.

There was once a beautiful and sublime piece of music which, by papal decree, was allowed to be performed only once a year in one chapel in Rome. That restriction lasted for nearly 100 years, until, one day, among the tourists who squeezed in to that closed, single recital, was an early teenager from Austria. He listened to the music and, in today's parlance, he downloaded it to his memory. Back home in Salzburg, Wolfgang Amadeus—for it was he—downloaded it again from his memory and format shifted it onto paper. Through his social network, he made that format available to the other musical centres of Europe. That piece of music, as many noble Lords will know, was Allegri's *Miserere* and, as a result, it has been made available to millions.

What is interesting is not what happened to Mozart, but what happened to the Pope. The Pope saw that his ban was unpopular and totally unworkable. Instead of trying to impose restrictions, he made it available to all the churches in Rome and the papal states for a very small and proportionate donation to the collection plate. In other words, he found an alternative, workable and acceptable business model.

The analogy is not 100 per cent accurate because by Mozart's time, Allegri's work would have been out of copyright, although only just. However, I think the Government and the other political parties should learn from that. The Pope recognised reality, but the danger here is that the political leadership is beginning to appear, particularly in relation to the message from the music industry, more protectionist and less pragmatic and less entrepreneurial than the 18th century papacy.

However, these amendments from the Commons allow us to get round that and to think again before we move to the imposition of the sanctions. We have had very widespread scrutiny in this House, although participation has not been high, and I pay particular tribute to the Minister for his patience and forbearance in dealing with those periods of scrutiny. In the likely event of his reappearance at the Dispatch Box after the election, I have no doubt that he will look forward to another session when, through the affirmative resolution procedure that these amendments provide, we shall discuss the whole situation again. During the intervening period and the drawing up of the secondary legislation, I hope we rethink this whole prospect and that we start again, recognising that a broader and a longer-term approach would be more appropriate. Luckily, I think these two amendments from the Commons, at a minimum, give us the opportunity to do that. Therefore, I support them.

**The Earl of Erroll:** My Lords, I very much associate myself with the remarks of the noble Lord, Lord Whitty. They were very well put. I think his analogy is closer than he likes to admit in relation to memorising and format shifting—it is almost exactly what has happened. The world has only just woken up to the real impact that this Bill will have on the digital economy, the digital world and on our moving forward in a digital age. People are extremely concerned. Therefore, I very much welcome these amendments as they might give us a chance to have another look at this when we wake up to the true impact. Perhaps they will give us a

chance to roll back some of the provisions so that we do not kill a highly mobile, highly fluid network, in which people can connect to the internet anywhere. I also hope that we do not have such a restrictive world that people relocate out of Britain because it is difficult to do business or because they feel under threat from lawyers. This is a good way forward, so I support the amendments.

**Lord Young of Norwood Green:** My Lords, I want to address some of the points that have been raised, starting with those made by the noble Lord Clement-Jones, who expressed a concern once again about the position of libraries, universities and wi-fi cafes. It might be helpful if we put on record a number of occasions our view that we can deal with those organisations in a way that is proportionate and fair. We realise that the provisions of the Bill mean that organisations such as libraries, universities and other educational establishments, as well as public and commercial wi-fi, will face particular challenges. We do not want to hamper their activities in providing internet access or to place unnecessary burdens or procedures on them.

At the same time we cannot set up an obvious loophole that would impact on such bodies in terms of degrading the service that they can offer. We think that there is real scope for proportionate, pragmatic solutions to help universities and libraries to comply with the provisions and minimise any administrative burden. As I said earlier, I was at a university recently where there was a large sign up in the library warning students of the penalties and disciplinary procedures that they would face if they indulged in illegal file-sharing and downloading.

We think that this is something that the code is best suited to deliver, and we urge university and library representative bodies to get involved in the code process. We would find it hard to approve any code that did not recognise in some way the particular position of these and similar institutions, and we would not regard any assessment by Ofcom under Clause 10 as satisfactory unless it took account of the impact on those institutions.

We have given assurances in the past on the question of timescale. We extended it. I have to acknowledge that imitation is perhaps the sincerest form of flattery in relation to super-affirmative measures; we took account of what my noble friend Lord Whitty and others said on this matter.

I was reflecting on the papal analogy that my noble friend Lord Whitty drew to our attention, one that I had heard before. We certainly do not claim infallibility—that would be tempting fate—but neither do we believe that this is a wrong-headed approach. I also reflected that if those, in many cases, young people who indulge in downloading really did have the talent and ability to produce what the young Wolfgang Amadeus produced, we would not have any problems with this situation. However, that is not exactly what they are doing. It was Stravinsky—or someone like him—who made the comment that poor composers borrow and good composers steal, but in many cases these people who are engaging in file-sharing are not composers.

The noble Earl, Lord Erroll, said that people out there were extremely concerned. Well, they are concerned because unfortunately the media, in its desire to report

[LORD YOUNG OF NORWOOD GREEN] on this issue, cares very little for the facts and simply implies that we are moving to technical measures tomorrow and that people will be disconnected the day after that. I think I heard on the radio the alternative view being put: that there is a long and educative process before we even consider the introduction of technical measures.

I am glad for the support that these measures are receiving, and in those circumstances I beg to move.

*Motion agreed.*

*Motion on Amendment 5*

*Moved by Lord Young of Norwood Green*

That the House do agree with the Commons in their Amendment 5.

5: Page 19, line 42, after “provider” insert “or owner”

**Lord Young of Norwood Green:** My Lords, the aim of Commons Amendment 5 is to tidy up the text of enforcement of obligations and correct a small drafting error. It has no other purpose. Likewise, Amendment 11 in the group is a tidying amendment that aligns the commencement of the substantive provisions on the public lending right in Clause 45 and associated repeal in Schedule 3.

On Amendment 5A, standing in the name of the noble Earl, Lord Erroll, we do not agree that “and” should be substituted for “or”. The word “provider” used at the beginning of the sentence should be used at the end of it. That is what the amendment made in another place achieves. On that basis, I hope that the noble Earl will agree to withdraw his amendment.

*Amendment 5A, as an amendment to Commons Amendment 5*

*Moved by The Earl of Erroll*

5A: Line 1, leave out “or” and insert “and”

**The Earl of Erroll:** I do not intend to waste any time on this; it is just that when I looked at the amendment, I could see that “or owner” followed exactly the pattern of the rest of the clause. It suddenly occurred to me that the steps taken to mitigate or prevent a contravention could be taken by either the provider or the owner. Perhaps it would be wise for them both to be notified, because you could not be certain which one should or should not be taking the steps. You could have a mistake whereby one had been notified whereas the other had, or should have, taken the steps, but did not know about the notification.

The trouble is that I was reading the clause and did not have time fully to research Sections 94 to 96 of the Communications Act 2003. There may be more text in there that might tell us some more about that. I move the amendment for clarification that you could not have a mistake whereby one complied and the other got the notification. That is why I thought that it should state “and”. That is a point of detail and I do not intend to press it.

On taking steps to make sure that you do not contravene, I noticed that Parliament is already doing that. I was just tracking down some comments on the Bill. One from the University of Cambridge happened to have a link which I discovered went to Pirate Bay, except that you cannot get there from Parliament any more. It has already started blocking sites that it thinks are likely to be infringing. Are they or are they not? It amused me that Parliament has already taken proactive steps.

With that comment, I am sure that “or” is the right way round and that buried in Section 94 is the clue to it all which forces it down a particular route. I beg to move.

**Lord Elton:** Briefly, I did not quite seize what the noble Earl was saying at the end of his delivery to us. It seemed to me that the government answer was a syntactical one, merely saying that the construction of the sentence was right. The noble Earl’s objection is that there is a mechanical defect, in that the wrong person may be alerted as the result of the current form of the Bill. We have not had an answer to that. The noble Earl has already said that he will not press the amendment, which I hope will not relieve the Minister from telling us what are the mechanical results.

**Lord Young of Norwood Green:** My Lords, I was intending to respond—to reassure the ever watchful noble Lord, Lord Elton.

It is clear that the effect of the amendment is that Ofcom is to have regard to steps taken by a provider in relation to contravention of obligations notified to that provider, and steps taken by an owner in relation to contraventions notified to the owner. The noble Earl, Lord Erroll, asked whether notification could be to one and steps taken by another. The answer is no. I hope that that is suitable clarification and that the noble Earl, Lord Erroll, will feel able to withdraw his amendment.

**The Earl of Erroll:** My Lords, I will take the Minister’s assurance, because I suspect that that is true. I am not quite sure how it works in certain circumstances, but I do not want to delay the House at this stage. I am sure that others are much more aware than I am of the intricacy of these things, but it would be a lot easier if we wrote simple law in plain English so that you could trace these things through rather than having to refer to multitudes of regulations and Bills to find the effect of one on the other. No wonder there is so much chaos and the lawyers make so much money. With that, however, I beg leave to withdraw the amendment.

*Amendment 5A withdrawn.*

*Motion agreed.*

*Motion on Amendment 6*

*Moved by Lord Young of Norwood Green*

6: Leave out Clause 18

*Motion agreed.*

*Motion on Amendment 7*

Moved by **Lord Young of Norwood Green**

7: Insert the following new Clause-

*“Power to make provision about injunctions preventing access to locations on the internet*

(1) The Secretary of State may by regulations make provision about the granting by a court of a blocking injunction in respect of a location on the internet which the court is satisfied has been, is being or is likely to be used for or in connection with an activity that infringes copyright.

(2) “Blocking injunction” means an injunction that requires a service provider to prevent its service being used to gain access to the location.

(3) The Secretary of State may not make regulations under this section unless satisfied that-

- (a) the use of the internet for activities that infringe copyright is having a serious adverse effect on businesses or consumers,
- (b) making the regulations is a proportionate way to address that effect, and
- (c) making the regulations would not prejudice national security or the prevention or detection of crime.

(4) The regulations must provide that a court may not grant an injunction unless satisfied that the location is-

- (a) a location from which a substantial amount of material has been, is being or is likely to be obtained in infringement of copyright,
- (b) a location at which a substantial amount of material has been, is being or is likely to be made available in infringement of copyright, or
- (c) a location which has been, is being or is likely to be used to facilitate access to a location within paragraph (a) or (b).

(5) The regulations must provide that, in determining whether to grant an injunction, the court must take account of-

- (a) any evidence presented of steps taken by the service provider, or by an operator of the location, to prevent infringement of copyright in the qualifying material,
- (b) any evidence presented of steps taken by the copyright owner, or by a licensee of copyright in the qualifying material, to facilitate lawful access to the qualifying material,
- (c) any representations made by a Minister of the Crown,
- (d) whether the injunction would be likely to have a disproportionate effect on any person’s legitimate interests, and
- (e) the importance of freedom of expression.

(6) The regulations must provide that a court may not grant an injunction unless notice of the application for the injunction has been given, in such form and by such means as is specified in the regulations, to-

- (a) the service provider, and
- (b) operators of the location.

(7) The regulations may, in particular-

- (a) make provision about when a location is, or is not, to be treated as being used to facilitate access to another location,
- (b) provide that notice of an application for an injunction may be given to operators of a location by being published in accordance with the regulations,
- (c) provide that a court may not make an order for costs against the service provider,
- (d) make different provision for different purposes, and
- (e) make incidental, supplementary, consequential, transitional, transitory or saving provision.

(8) The regulations may-

- (a) modify Chapter 6 of Part 1 of the Copyright, Designs and Patents Act 1988, and
- (b) make consequential provision modifying Acts and subordinate legislation.

(9) Regulations under this section may not include provision in respect of proceedings before a court in England and Wales without the consent of the Lord Chancellor.

(10) Regulations under this section must be made by statutory instrument.

(11) A statutory instrument containing regulations under this section may not be made unless-

- (a) the Secretary of State has complied with section [Consultation and Parliamentary scrutiny], and
- (b) a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(12) In this section-

“copyright owner” has the same meaning as in Part 1 of the Copyright, Designs and Patents Act 1988;

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

“modify” includes amend, repeal or revoke;

“operator”, in relation to a location on the internet, means a person who has editorial control over material available at the location;

“qualifying material”, in relation to an injunction, means the material taken into account by the court for the purposes of provision made under subsection (4);

“service provider” has the same meaning as in section 97A of the Copyright, Designs and Patents Act 1988;

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.

(13) In the application of this section to Scotland-

“costs” means expenses;

“injunction” means interdict.”

*Amendment 7A to Motion 7*

Moved by **Lord Clement-Jones**

That this House do agree with the Commons in their Amendment 7, leave out “agree” and insert “disagree”.

**Lord Clement-Jones:** I spoke to this amendment when I spoke to Motion 2.

**The Earl of Erroll:** I spoke to this earlier, so it is probably better to say simply that I support the noble Lord, Lord Clement-Jones, in that it would be better to leave this to another Parliament. The very dangerous original Clause 17 has now been eliminated and replaced by Clause 18 put forward by the Liberal Democrats, which was a good try but had flaws. As I said earlier, there are flaws here. For instance, where I think they mean to refer to an internet service provider, they refer only to a service provider, which is a completely different animal. That is dangerous, so I would move that this was left to another Parliament.

3.52 pm

*Division on Amendment 7A*

*Contents 32; Not-Contents 124.*

*Amendment 7A disagreed.*

## Division No. 1

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Addington, L. [Teller]	Nicholson of Winterbourne, B.
Alderdice, L.	Northover, B.
Alton of Liverpool, L.	Phillips of Sudbury, L.
Avebury, L.	Razzall, L.
Barker, B.	Rennard, L.
Bonham-Carter of Yarnbury, B.	St. John of Bletso, L.
Clement-Jones, L.	Shutt of Greetland, L.
Dholakia, L.	Teverson, L.
Dykes, L.	Thomas of Gresford, L.
Erroll, E.	Thomas of Winchester, B.
Goodhart, L.	Tope, L.
Hamwee, B.	Tordoff, L.
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[Teller]	Howell of Guildford, L.
Bates, L.	Howells of St. Davids, B.
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Brooke of Sutton Mandeville, L.	King of Bridgwater, L.
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Thornton, B.	Wilkins, B.
Tomlinson, L.	Williamson of Horton, L.
Trefgarne, L.	Young of Norwood Green, L.
Tunncliffe, L.	

*Motion agreed.*

4.02 pm

*Motion on Amendment 8*

*Moved by Lord Young of Norwood Green*

That the House do agree with the Commons in their Amendment 8.

**8:** Insert the following new Clause-

*“Consultation and Parliamentary scrutiny*

(1) Before making regulations under section [Power to make provision about injunctions preventing access to locations on the internet] the Secretary of State must consult-

(a) the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland,

(b) the persons that the Secretary of State thinks likely to be affected by the regulations (or persons who represent such persons), and

(c) such other persons as the Secretary of State thinks fit.

(2) If, following the consultation under subsection (1), the Secretary of State proposes to make regulations under section [Power to make provision about injunctions preventing access to locations on the internet], the Secretary of State must lay before Parliament a document that-

(a) explains the proposal and sets it out in the form of draft regulations,

(b) explains the reasons why the Secretary of State is satisfied in relation to the matters listed in section [Power to make provision about injunctions preventing access to locations on the internet](3)(a) to (c), and

(c) contains a summary of any representations made during the consultation under subsection (1).

(3) During the period of 60 days beginning with the day on which the document was laid under subsection (2) (“the 60-day period”), the Secretary of State may not lay before Parliament a draft statutory instrument containing regulations to give effect to the proposal (with or without modifications).

(4) In preparing draft regulations under section [Power to make provision about injunctions preventing access to locations on the internet] to give effect to the proposal, the Secretary of State must have regard to any of the following that are made with regard to the draft regulations during the 60-day period-

(a) any representations, and

(b) any recommendations of a committee of either House of Parliament charged with reporting on the draft regulations.

(5) When laying before Parliament a draft statutory instrument containing regulations to give effect to the proposal (with or without modifications), the Secretary of State must also lay a document that explains any changes made to the proposal contained in the document laid before Parliament under subsection (2).

(6) In calculating the 60-day period, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than 4 days.”

*Amendment to the Motion**Tabled by Lord Clement-Jones*

8A: As an amendment to the motion that this House do agree with the Commons in their Amendment 8, leave out “agree” and insert “disagree”.

*Amendment to the Motion not moved.**Motion agreed.**Motion on Amendments 9 to 11**Moved by Lord Young of Norwood Green*

That the House do agree with the Commons in their Amendments 9 to 11.

**9:** Leave out Clause 29**10:** Leave out Clause 43

**11:** Page 59, line 44, at end insert “and the entry in Schedule 3 relating to the Public Lending Right Act 1979 (and section 47 so far as it relates to that entry)”

*Motion agreed.**Motion on Amendment 12**Moved by Lord Young of Norwood Green*

That the House do agree with the Commons in their Amendment 12.

**12:** Page 60, line 3, leave out subsection (2)

**Lord Young of Norwood Green:** My Lords, this is the privilege amendment. This is one of the last amendments and, before I conclude my remarks, this is a fitting moment for me to pay tribute to my Bill team—or part of it—over there in the Box, ably led by Colin Perry. They have performed a marathon task with great ability and, on occasions, humour as well, which has made my task that much more pleasant. I beg to move that the amendment made in the other place is agreed to.

**Lord Clement-Jones:** My Lords, I do not want to delay the House, as I can see serried ranks around me—unusually for the Digital Economy Bill. I thank the Minister for his courtesy throughout the passage of the Bill. We have had our disagreements, most latterly over the product of the wash-up. That has been common across a number of Bills, so my criticism was not directed at him in particular. He has dealt with a great swathe of the Bill with good humour, and many amendments to it have been made. Sadly, it is not yet good enough, but I hope that, in making the regulations, the Government will mitigate some of its worst impacts.

**Lord Trefgarne:** My Lords, I have the utmost respect for the Minister. It is not a rule, I think, that the privilege amendment is moved by a privy counsellor, but it is the usual custom. Although the Minister is enormously distinguished, I do not think that he is yet a privy counsellor. It is a pity that the amendment was not so moved.

**Lord Howard of Rising:** I, too, thank the Minister for his patience with all the opposition parties. I only hope that his damaged hip is not a direct result of the Digital Economy Bill.

**Lord Young of Norwood Green:** I thank noble Lords. It has been a long and winding road. I cannot quite agree with the noble Lord, Lord Clement-Jones, about the nature of the finished product. The Bill may not be perfect, but in doing its best to protect the creative economy, which is what is at its core, it is a step in the right direction. Of course, time will tell whether that analysis is right. I thank noble Lords for the way in which they have participated in our debate. I think that we would all agree that it has been one for the connoisseurs.

*Motion agreed.**Motion on Amendments 13 and 14**Moved by Lord Faulkner of Worcester*

That the House do agree with the Commons in their Amendments 13 and 14.

**13:** Leave out Schedule 2

**14:** Line 2, leave out from “copyright” to “to” in line 3 and insert “and about penalties for infringement of copyright and performers’ rights”

*Motion agreed.*

## Constitutional Reform and Governance Bill

### *Commons Amendments*

*4.07 pm*

*A message was brought from the Commons, That they agree to the amendments made by the Lords to the Constitutional Reform and Governance Bill with an amendment, to which they desire the agreement of your Lordships.*

*Motion on Amendment 20A**Moved by Lord Tunncliffe*

That the House do agree with the Commons in their Amendment 20A consequential on Lords Amendment 20.

**20:** Clause 57, leave out Clause 57**20A:** Page 35, line 4, leave out subsection (3)

**Lord Tunncliffe:** My Lords, the only amendment made in the other place was to delete a redundant cross-reference to the disclaimer of peerage. The provisions to which it originally related are no longer in the Bill, and this consequential amendment removes the reference.

It is probably appropriate that I am here to apologise for detaining the House on this amendment, because it is through my error that it has arisen. What we are seeking to remove applies to Clause 57, with which we agreed not to proceed last night. It was with us last night as Amendment 118. During the many constructive discussions that we had yesterday, for which I thank all noble Lords on behalf of the Government, it was

[LORD TUNNICLIFFE]

my job to track what should be agreed to, disagreed, moved and not moved. My instruction on that amendment, in the name of the noble Lord, Lord Trefgarne, was not to oppose it. The noble Lord had got into the habit of not moving amendments by that point in the evening. He did not do so, and I was not fast enough to light upon it. For that reason, I have to bring it back. The amendment is purely mechanical, to take out a reference in the Bill to a clause which no longer exists. I beg to move.

**Lord McNally:** My Lords, I am not sure that there was such slackness when the noble Lord, Lord Tunncliffe, was chairman of bar at University College, London, Students' Union more than 40 years ago, and I am sorry that this has slipped into his behaviour. I wait to hear from the noble Lord, Lord Trefgarne, but I fear that this may well unstitch the whole of the agreement that we came to yesterday, and I await the noble Lord's guidance on this.

**Lord Trefgarne:** I, too, have sat on the government Front Bench in the sort of role filled by the noble Lord, Lord Tunncliffe, and I have huge sympathy for him. I immediately forgive him for his one and only very modest error. But there is a lesson to be learnt. The difficulty of putting major legislation through in this way, as we have been doing, opens the way for inadvertent errors of this kind and is no doubt one lesson that will be learnt for the future.

**Lord Henley:** I add my voice to that. I saw the noble Lord, Lord Tunncliffe, getting to his feet and thought, "Where is the noble Lord, Lord Bach, who has been dealing with this Bill?" However, I think that we would all accept the noble Lord's apology. It is very difficult. Like the noble Lord, Lord Trefgarne, I have been in that position before; we all make mistakes as we watch the amendments go through, particularly in the so-called wash-up. The Government and any future Government should learn some lessons from this about what they do about wash-up. They might think very carefully about what Bills go into it. I leave the noble Lord with that—but I think that the whole House is grateful to him for making his gracious apology for a mistake that his Government made in proceeding with the Bill.

**Lord Trefgarne:** My other comment would be, "Stick like a limpet to the Clerks".

*Motion agreed.*

## Arrangement of Business

### Announcement

4.12 pm

**Lord Bassam of Brighton:** My Lords, as proceedings in this Parliament draw to a close, I briefly draw your Lordships' attention to the start of the next. The new Parliament will meet on Tuesday 18 May and there will be two swearing-in days for this House, on that day at 2.30 pm and Wednesday 19 May at 3 pm.

Before this Parliament finishes, I take this opportunity on behalf of the usual channels and, I am sure, all Members of the House, to express my thanks to all the staff of the House. In particular, I pay tribute to those staff who played a part in supporting the House in sitting until 2.50 am this morning. That includes the attendance of the police, one of whom wandered into the Not-Contents Lobby during a vote very enthusiastically, Clerks, Librarians, catering staff, the Government Chief Whip's Office, which did a brilliant job in marshalling the business, the Public Bill Office and the administrative and support staff. They all helped to sustain us through the evening and the night with good grace and good humour. We should all be very grateful to them.

I also place on record my thanks to my own Whip's team and to the Whip's Offices for the opposition parties, particularly the noble Baroness, Lady Anelay, and the noble Lord, Lord Shutt, for the way in which they conducted themselves throughout the wash-up period. I give my thanks, too, to the Cross-Benchers. The House thankfully no longer sits into the wee hours on a regular basis, so it is all the more impressive that on rare occasions like this, when it does happen, staff are still able to deliver the same old late-night magic. I am sure that we are all eternally grateful.

**Baroness Anelay of St Johns:** My Lords, it is with pleasure that I thank the noble Lord the Captain of the Gentlemen at Arms for giving us information about the ceremonies that start the new Parliament and for his reflection on the privilege that we have in working with staff in this Palace who look after us throughout every hour of the day and, last night, throughout the night. He mentioned all those in the Public Bill Office and beyond who help us. They do so on a regular basis but during wash-up they are under particular pressure—including, as he so rightly remarked, in the Government Whips' Office—to turn round information and new Marshalled Lists and to ensure that all noble Lords, whether we attend regularly on the Front Benches or, particularly on particular Bills, on the Back Benches, are well and promptly informed.

I am also aware that Hansard had to be with us until particularly late this morning. One of my colleagues, my noble friend Lord Hunt, reminds me that he indeed received the official record of this morning's proceedings promptly at 7.30 this morning. It is a record of service to us all that we are fortunate to see.

**Lord Shutt of Greetland:** My Lords, I, too, would like to add my thanks to the staff for the work that was done yesterday. I left this place at 3 am, and it was then a matter of getting home. Getting home is a matter for everybody, and if public transport exists at that hour, it is also a matter of getting home from where public transport ends. I am not to know—none of us is to know—where all of our staff live or the detail of those journeys, but there will have been very tortuous journeys at very strange hours of the day in terms of transport. So we certainly thank them all for the toil of yesterday and the difficulties that they may well have had in getting home.

As we have had the announcement of the signing-in days, it occurs to me that, beyond that, we also have expectations that Her Majesty the Queen will be coming.

It would be useful for her as well as for us if we knew when to come and there was someone here to receive her. I am wondering whether the noble Lord has any news on that front, or whether he can tell us when there will be news on that front. That would be helpful to Members of the House.

**Lord Trefgarne:** My Lords, I do not know whether I am allowed to speak very briefly, but perhaps I may just add a word to the staff. I had enormous assistance from the staff in the Public Bill Office, as your Lordships can imagine, in connection with one of the measures that we were considering yesterday. I am most grateful to them.

**Lord Bassam of Brighton:** There is not really anything for me to reply to other than to say: of course noble Lords will be informed.

**Lord Tunncliffe:** My Lords, I beg to move that the House do now adjourn during pleasure. The House will resume to receive a message from the Commons and the time will be displayed on the Annunciators.

4.17 pm

*Sitting suspended.*

## Children, Schools and Families Bill

### Energy Bill

### Financial Services Bill

## Flood and Water Management Bill

*Message from the Commons*

4.46 pm

*A message was brought from the Commons that they have agreed to the amendments made by the Lords to the Children, Schools and Families Bill without amendment; that they have agreed to the amendments made by the Lords to the Energy Bill without amendment; that they have agreed to the amendments made by this House to the Financial Services Bill without amendment; and that they have agreed to the amendments made by this House to the Flood and Water Management Bill without amendment.*

*Sitting suspended.*

## Royal Commission

5.15 pm

*The Lords Commissioners were: Baroness Royall of Blaisdon, Baroness Hayman, Lord Strathclyde, Lord Shutt of Greetland and Baroness D'Souza.*

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** My Lords, it not being convenient for Her Majesty personally to be here present this day, she has been pleased to cause a Commission under the Great Seal to be prepared for proroguing this present Parliament.

*When the Commons were present at the Bar, the Chancellor of the Duchy of Lancaster continued:*

My Lords and Members of the House of Commons, Her Majesty, not thinking fit personally to be present here at this time, has been pleased to cause a Commission to be issued under the Great Seal, and thereby given Her Royal Assent to divers Acts, the Titles whereof are particularly mentioned, and by the said Commission has commanded us to declare and notify Her Royal Assent to the said several Acts, in the presence of you the Lords and Commons assembled for that purpose; and has also assigned to us and other Lords directed full power and authority in Her Majesty's name to prorogue this present Parliament. Which commission you will now hear read.

*A Commission for Royal Assent and Prorogation was read, after which the Chancellor of the Duchy of Lancaster continued:*

My Lords, in obedience to Her Majesty's Commands, and by virtue of the Commission which has now been read, We do declare and notify to you, the Lords Spiritual and Temporal and Commons in Parliament assembled, that Her Majesty has given Her Royal Assent to the several Acts in the Commission mentioned; and the Clerks are required to pass the same in the usual Form and Words.

## Royal Assent

5.32 pm

*The following Acts were given Royal Assent:*

Appropriation (No. 2) Act,  
Finance Act,  
Anti-Slavery Day Act,  
Equality Act,  
Northern Ireland Assembly Members Act,  
Crime and Security Act,  
Personal Care at Home Act,  
Mortgage Repossessions (Protection of Tenants etc) Act,  
Sunbeds (Regulation) Act,  
Sustainable Communities Act 2007 (Amendment) Act,  
Debt Relief (Developing Countries) Act,  
Bribery Act,  
Digital Economy Act,  
Constitutional Reform and Governance Act,  
Children, Schools and Families Act,  
Energy Act,  
Financial Services Act,  
Flood and Water Management Act,  
Bournemouth Borough Council Act,  
Manchester City Council Act.

## Prorogation: Her Majesty's Speech

5.36 pm

*Her Majesty's most gracious Speech was then delivered to both Houses of Parliament by the Chancellor of the Duchy of Lancaster, in pursuance of Her Majesty's Command, as follows.*

My Lords and Members of the House of Commons, my Government's overriding priority has been to restore growth to deliver a fair and prosperous economy for families and businesses, as the British economy

recovers from the global economic downturn. Through employment and training programmes, restructuring the financial sector, strengthening the national infrastructure and providing responsible investment, my Government has taken action to support growth and employment.

My Government has also strengthened key public services, ensuring that, increasingly, individual entitlements guarantee good services, and has worked to build trust in democratic institutions.

My Government has sought effective global and European collaboration, including through the European Union, to combat climate change, including at the Copenhagen summit in December last year, and to sustain economic recovery through the G20.

The Duke of Edinburgh and I were pleased to visit Bermuda, and Trinidad and Tobago for our State Visit and to attend the Commonwealth Heads of Government Meeting in the Commonwealth's 60th anniversary year. We were glad to welcome the President of South Africa on his successful visit to this country earlier this year.

The Duke of Edinburgh and I were saddened to learn of the devastation brought on Haiti and Chile by recent earthquakes and hope that relief and reconstruction efforts, which my Government and the British people have supported, can build on the spirit and resilience displayed by their people.

My Government has continued to reform and strengthen regulation of the financial services industry to ensure a stable financial sector that supports the wider economy, with greater protection for savers and taxpayers.

As the economic recovery is established, my Government has taken steps to reduce the budget deficit and ensure that national debt is on a sustainable path. Legislation has been enacted to halve the deficit.

An Act has been passed to enable the wider provision of free personal care to those with the highest needs.

An Act has been passed to protect communities by ensuring that parents take responsibility for their children's antisocial behaviour and by tackling youth gang crime.

An Act has been passed to ensure the communications infrastructure is fit for the digital age, supports future economic growth, delivers competitive communications and enhances public service broadcasting.

Legislation has been enacted to support carbon capture and storage and to help more of the most vulnerable households with their energy bills.

My Government has set out proposals for high-speed rail services between London and Scotland.

Legislation has been enacted to protect communities from flooding and to improve the management of water supplies.

My Government has remained committed to ensuring everyone has a fair chance in life and an Act has been passed to promote equality, narrow the gap between rich and poor and tackle discrimination. The Act also

introduces transparency in the workplace to help address the differences in pay between men and women.

An Act has been passed to enshrine in law the commitment by my Government to abolish child poverty by 2020.

Legislation has been enacted to provide agency workers with the right to be treated equally with permanent staff on pay, holidays and other basic conditions after twelve weeks on an assignment.

Legislation has been enacted to take forward constitutional reform.

An Act has been passed to strengthen the law against bribery.

My Government has continued to work closely with the devolved Administrations in the interests of all the people of the United Kingdom. My Government has remained committed to the Northern Ireland political process and has continued to work with Northern Ireland's leaders to ensure the continued stability of the devolved institutions and to complete the process of devolution by transferring policing and justice functions in April this year.

In Scotland, my Government set out plans to further strengthen devolution in its response to the Final Report of the Commission on Scottish Devolution. My Government has continued to devolve more powers to Wales and has remained committed to a referendum on further devolution.

Members of the House of Commons, I thank you for the provision you have made for the work and dignity of the Crown and for the public service.

My Lords and Members of the House of Commons, my Government has worked for security, stability and prosperity in Afghanistan and Pakistan and for peace in the Middle East.

Legislation has been enacted to ban cluster munitions.

My Government has continued to work towards creating the conditions for a world without nuclear weapons, including addressing the challenges from Iran and North Korea.

Draft legislation has been published to make binding my Government's commitment to spend 0.7 per cent of national income on international development from 2013.

My Lords and Members of the House of Commons, I pray that the blessing of Almighty God may rest upon your counsels.

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** My Lords and Members of the House of Commons, by virtue of Her Majesty's Commission which has been now read we do, in Her Majesty's name, and in obedience to Her Majesty's Commands, prorogue this Parliament to the 20th day of April, to be then here holden, and this Parliament is accordingly prorogued to Tuesday, the 20th day of April.

*Parliament was prorogued at 5.41 pm.*

## Written Statements

*Thursday 8 April 2010*

### **Appropriation Bill** *Statement*

**The Financial Services Secretary to the Treasury (Lord Myners):** I have made a Statement under Section 19(1)(a) of the Human Rights Act 1998 that, in my view, the provisions of the Appropriation Bill are compatible with the convention rights. A copy of the Statement has been placed in the Library of the House.

### **Blood Sunday Inquiry** *Statement*

**Baroness Royall of Blaisdon:** My right honourable friend the Secretary of State for Northern Ireland (Shaun Woodward) has made the following Ministerial Statement.

In my Written Statement to this House on 22 March, I set out the steps that would need to be taken before publication of the Bloody Sunday inquiry report. These included a checking process which would enable me to meet the obligations on me in relation to Article 2 of the European Convention on Human Rights and national security. I can confirm that this checking process has now been completed and I have received advice from the checking team which confirms that there is nothing in the report which, if published, could breach Article 2 of the European Convention on Human Rights by putting the lives or safety of individuals at risk, or put national security at risk. I am therefore satisfied that the report can be published in full and I have advised Lord Saville of this.

However, given the time needed to print the report, it will not be practically possible to publish the report to Parliament before this Parliament is dissolved for the general election. As I informed the House in my Statement of 22 March, Lord Saville has indicated that if such a situation were to arise his tribunal would agree to retain custody of the report until after the general election. I have now written to Lord Saville to ask the tribunal to retain custody of the report.

The report has not been shown to me or to any other member of the Government, or to any officials except the five members of the team which carried out

the checking process. Before the checking process began, I confirmed in writing to Lord Saville that it was not my intention that the checking team should brief me or any member of my department on the content of the report; they have not done so and will not do so. The report will not be submitted to the Government until after the general election, and I hope that it can then be published as soon as practicable. I have placed copies of my letters to Lord Saville in the Libraries of both Houses.

### **Skills Funding Agency** *Statement*

**The Parliamentary Under-Secretary of State, Department for Business, Innovation and Skills (Lord Young of Norwood Green):** My honourable friend the Minister of State for Further Education, Skills, Apprenticeships and Consumer Affairs has made the following Statement.

I am today announcing that the new Skills Funding Agency, an agency of the Department for Business, Innovation and Skills, became operational from 1 April 2010. This follows the announcement in the White Paper *Raising Expectations: enabling the system to deliver*, which was published jointly with DCSF on 17 March 2008.

The Skills Funding Agency takes over responsibility for funding post-19 education and skills training from the Learning and Skills Council for England, which has been abolished under the Apprenticeships, Skills, Children and Learning Act 2009. The budget and overarching priorities and targets for the agency have already been published in the Government's Skills Investment Strategy, a copy of which can be found on the department's website at [www.bis.gov.uk](http://www.bis.gov.uk).

The chief executive of Skills Funding, as a statutory office holder, will report to the Secretary of State on the performance of the Skills Funding Agency, and will prepare an annual report and accounts for each financial year which will be laid before Parliament.

Ministers of the Department for Business, Innovation and Skills are accountable to Parliament for the work of the Skills Funding Agency.

Further information on the accountability and governance framework for the Skills Funding Agency and the relationship with the department is set out in the Skills Funding Agency framework document, copies of which will be placed in the Libraries of both Houses.



## Written Answers

Thursday 8 April 2010

### Animal Health Agency

#### Question

Asked by *Lord Taylor of Holbeach*

To ask Her Majesty's Government how much the Animal Health Agency will spend in each of the next three years on information technology to support the modernising of working practices and save £7 million, as set out on page 86 of the Department for Environment, Food and Rural Affairs' Autumn Performance Report 2009. [HL3048]

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** Animal Health plans to spend £14.2 million in 2010-11 on its IT Change Programme which supports the modernising of working practices. Spend in 2011-12 is planned at £12.1 million, but funding has not yet been agreed and will be subject to the Defra budgetary process. Delivery of the £7 million savings is dependent on the completion of all the modules of the IT Change Programme.

### Armed Forces: Dependents

#### Question

Asked by *Lord Astor of Hever*

To ask Her Majesty's Government what resources are available to commanding officers to provide support for the families and dependants of Armed Forces personnel. [HL3208]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** There are considerable resources available to Commanding Officers to enable them to support service families. These resources are usually co-ordinated by a dedicated unit welfare officer who is able to assess what sort of support is required and then make bespoke arrangements for appropriate provision, accessing relevant service, local authority or third sector specialists where necessary. The resources upon which a commanding officer can draw include:

- professional social workers;
- station and unit community groups including HIVE information centres;
- families welfare grant money to support of families of deployed personnel confidential support lines Families Federations; and
- dedicated support groups for the bereaved (SSAFA-Forces Help).

### Armed Forces: Iraq

#### Question

Asked by *Lord Astor of Hever*

To ask Her Majesty's Government how many Royal Navy personnel deployed to Iraq are involved in the training of the Iraqi navy. [HL3210]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** Under the UK-Iraq agreement on training and maritime support, up to 100 UK military personnel may be deployed to Iraq in support of Iraqi navy training. The precise number of Royal Navy personnel involved in the training of the Iraqi navy will fluctuate at any one time and on a daily basis for a variety of reasons, including mid-tour rest and recuperation, temporary absence for training, evacuation for medical reasons and the roulement of forces. We do not therefore publish actual figures.

### Armed Forces: Languages

#### Question

Asked by *Lord Astor of Hever*

To ask Her Majesty's Government whether officer cadets at (a) Britannia Royal Naval College, (b) the Royal Military Academy Sandhurst, and (c) RAF Cranwell, receive language training in Dari Persian or Pashto. [HL3207]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** Officer cadets do not receive language training in Dari Persian or Pashto at Britannia Royal Naval College, RMAS Sandhurst or RAF Cranwell.

### Armed Forces: Retraining

#### Question

Asked by *Lord Astor of Hever*

To ask Her Majesty's Government what civilian retraining is available for Armed Forces personnel who have been seriously wounded. [HL3209]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** We take our responsibility to injured service personnel very seriously and, regardless of the amount of time served, all service personnel who are medically discharged are entitled to receive a full resettlement package through the MoD's Career Transition Partnership. This consists of time, money for training and facilitated workshops to help enable a seamless transition to civilian life. Furthermore, free lifetime job finding support is available through the Officers Association or the Regular Forces Employment Association.

Additionally, we are currently working with Skill Force, who following a grant of £30,000 from the Ministry of Defence, are delivering a pilot internship programme for personnel recovering from physical and psychological injuries and illness as part of their rehabilitation pathway.

Where an injury or condition prevents resettlement being undertaken while in service, the entitlement can be deferred for up to two years after discharge or transferred to a service-leaver's spouse or partner.

## Bangladesh

### Question

Asked by **Lord Alton of Liverpool**

To ask Her Majesty's Government what action they are taking to provide assistance to address humanitarian issues in the camps for Rohingya refugees on the Bangladesh-Burma border. [HL2847]

**Lord Brett:** UK support is channelled through our central contributions to the European Commission and United Nations agencies. The United Nations High Commission for Refugees (UNHCR) manages the official camps. UNICEF, the World Food Programme, the World Health Organisation and the United Nations Population Fund also work with the refugees within the camps or in the surrounding communities. The European Commission is providing financial support.

We have raised the plight of the Rohingyas and their status with the Government of Bangladesh, both bilaterally and in concert with EU partners. Officials from the British High Commission in Dhaka, including the High Commissioner, have visited the camps for displaced Rohingyas.

## Banking: Iceland

### Question

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Lord Myners on 22 February (WA 174-5), whether they will apply the common law powers permitted by the Ram doctrine to enable Treasury Ministers to repay those retail deposits in the Presbyterian Mutual Society not protected by the Financial Services Compensation Scheme; and what is the total amount paid under the Ram doctrine to United Kingdom depositors in Icelandic banks. [HL2426]

**The Financial Services Secretary to the Treasury (Lord Myners):** The Ministerial Working Group continues to explore all options in pursuit of mitigating the effects of the collapse of the Presbyterian Mutual Society on its members. Details of the financial support provided to UK banks, including support for retail depositor compensation payouts in Icelandic banks, for the years 2007-08 and 2008-09, are set out in the Treasury's Resource Accounts for 2007-08 (HC 539) and 2008-09 (HC61 1) respectively. Total support to Icelandic banks at 31 March 2009 amounted, at latest estimates subsequently to be revised, to £8.1 billion.

## Chemicals: REACH Regulation

### Question

Asked by **Lord Hoyle**

To ask Her Majesty's Government further to the Written Answer by Lord Davies of Oldham on 6 April (HL3057), what are the reduced fees for small and medium-sized enterprises when they apply for authorisation of a critical substance under the European Union Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). [HL3239]

## The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):

In order to provide assistance to small and medium-sized enterprises (SMEs) in complying with their REACH obligations, reduced fees for authorisation applications and reduced charges for authorisation reviews apply. Currently, these are the same in both cases. The reduced fees/charges are given in Commission Regulation (EC) No 340/2008 as follows:

### Reduced fees/charges for medium enterprises

Base fee/charge	€40,000
Additional fee/charge per substance	€8,000
Additional fee/charge per use	€8,000
Additional fee/charge per applicant	Additional applicant is a medium enterprise: €30,000 Additional applicant is a small enterprise: €18,750 Additional applicant is a micro enterprise: €5,625

### Reduced fees/charges for small enterprises

Base fee/charge	€25,000
Additional fee/charge per substance	€5,000
Additional fee/charge per use	€5,000
Additional fee/charge per applicant	Additional applicant is a small enterprise: €18,750 Additional applicant is a micro enterprise: €5,625

### Reduced fees/charges for micro enterprises

Base fee/charge	€7,500
Additional fee/charge per substance	€1,500
Additional fee/charge per use	€1,500
Additional fee/charge per applicant	Additional applicant is a micro enterprise: €5,625

The definitions of medium, small, and micro enterprise are set out in Commission Recommendation 2003/361/EC of 6 May 2003, and are based on the number of employees together with the company turn-over ceiling or balance-sheet ceiling.

## Children: Creches and Nurseries

### Question

Asked by **Lord Moonie**

To ask Her Majesty's Government how many crèches and nurseries in England and Wales have closed down as a result of increased requirements specified by Ofsted and in legislation. [HL2990]

## The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):

This is a matter for Ofsted who will reply to the noble Lord as soon as possible. The position in Wales is a matter for the National Assembly.

## China

### Questions

Asked by **Lord Alton of Liverpool**

To ask Her Majesty's Government what representations they have made to the government of China about the discovery of 21 fetuses and baby bodies in the Guangfu river, Jining city; and what response they received. [HL3230]

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** It has not proved possible to respond to the noble Lord in the time available before Prorogation.

*Asked by Lord Alton of Liverpool*

To ask Her Majesty's Government what representations they have made to the Government of China about the one-child policy there; whether their representations covered the demographic effects of the policy; and what response they received.

[HL3231]

**Baroness Kinnock of Holyhead:** It has not proved possible to respond to the noble Lord in the time available before Prorogation.

*Asked by Lord Alton of Liverpool*

To ask Her Majesty's Government what recent representations officials in the British Embassy in China have made to Chinese officials about (a) alleged forced abortion and sterilisation, and (b) birth control quotas in China; what response was received; and whether they will make representations to the Government of China about relaxing population controls.

[HL3233]

**Baroness Kinnock of Holyhead:** It has not proved possible to respond to the noble Lord in the time available before Prorogation.

*Asked by Lord Alton of Liverpool*

To ask Her Majesty's Government what recent representations they have made to the Government of China about the case of Chen Guangcheng; and what response they received.

[HL3234]

**Baroness Kinnock of Holyhead:** It has not proved possible to respond to the noble Lord in the time available before Prorogation.

*Asked by Lord Alton of Liverpool*

To ask Her Majesty's Government what recent representations they have made to the Government of China about the level of public discussion and debate in China about population control policies.

[HL3235]

**Baroness Kinnock of Holyhead:** It has not proved possible to respond to the noble Lord in the time available before Prorogation.

## Cluster Bombs

### Question

*Asked by Baroness Northover*

To ask Her Majesty's Government whether the mapping of the use of cluster bombs in Iraq by British and American forces is now complete; and, if not, when it will be completed.

[HL3112]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** During the war-fighting phase of Op TELIC in Iraq 68 cluster bombs were dropped by the UK; no cluster bombs were used after 4 April 2003. The RAF has target data for all of the cluster bombs dropped.

The Ministry of Defence (MoD) is committed to the timely provision of appropriate information to aid clearance organisations in their humanitarian work. Since the conflict, the UK has cleared over 1 million items of abandoned and unexploded ordnance, with Royal Engineers also being involved in the marking and fencing of bomblet strikes. Following the conflict, the UK held weekly meetings with non-governmental organisations (NGOs) and commercial de-mining organisations in Basra to share information. United Nations Office for Project Services and United Nations Childrens Fund praised the UK for its response and assistance to the local population and its co-operative approach to international organisations and NGOs on de-mining.

Following withdrawal of UK forces, under Article 4 of the Convention on Cluster Munitions, the responsibility for clearance and destruction of cluster munitions rests now with Iraq.

The MoD does not hold records on use of cluster bombs by American forces.

## Common Agricultural Policy: Single Payment Scheme

### Question

*Asked by Baroness Byford*

To ask Her Majesty's Government further to the Written Answer by Lord Davies of Oldham on 15 March (WA 118), what were the results of the investigations into the cause of the delays in processing the 818 single payment scheme claims; how many of those delays were due to computer problems; and whether the claims have now been processed.

[HL3092]

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** Of the 818 claims identified with possible computer problems, we have resolved 281 with such problems and these claims have now been fully processed, enabling payment to be made within the payment window.

Investigations continue into the outstanding 537 claims to identify the problems.

## Consultancy and Advisory Services

### Questions

*Asked by Lord Oakeshott of Seagrove Bay*

To ask Her Majesty's Government which external companies have been used for consultancy and advisory work by UK Financial Investments Limited; and what payments have been made to those companies.

[HL3083]

**The Financial Services Secretary to the Treasury (Lord Myners):** UK Financial Investments (UKFI) operates at arm's length from Government and on a commercial basis. UKFI's expenditure will be set out in its financial statements, in accordance with the Companies Act and accounting rules, as part of its annual report and accounts each year.

HM Treasury agreed UKFI's overall budget for 2009-10 at £4.5 million, as set out in the UKFI business plan, available at [www.ukfi.co.uk](http://www.ukfi.co.uk). This is a small fraction of the total investments for which UKFI is responsible.

In determining which supplier or contractor UKFI selects, it is necessary that this supplier meets the criteria set out in the business case and the request for proposal (RFP) to a level that maximises the value for money for UKFI.

Factors that UKFI consider include:

- quality of goods;
- experience of personnel;
- price;
- timetable for delivery; and
- value-added services included in price over and above the RFP.

Decisions will not necessarily be based on lowest price but will be based on a combination of the factors set out above.

*Asked by Lord Oakeshott of Seagrove Bay*

To ask Her Majesty's Government which external companies have been used for consultancy and advisory work by the Asset Protection Agency and its predecessor body; and what payments have been made to those companies. [HL3084]

**Lord Myners:** The Asset Protection Agency has received advice from Slaughter and May, PricewaterhouseCoopers, Oliver Wyman, KPMG, Ernst & Young, BlackRock, Kreab Gavin Anderson and S. Com.

The Asset Protection Agency's annual accounts will include a robust, audited number for consultancy and advisory costs and will be available in the summer. The cost to the Asset Protection Agency of these advisory services will be fully met by RBS.

## Department of Health: Legal Costs

### Question

*Asked by Lord Morris of Manchester*

To ask Her Majesty's Government what costs the Department of Health has incurred to date in the case of *March v Secretary of State for Health*; and what is their estimate of the likely total cost the department will incur. [HL3238]

**The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton):** Legal advice and services in relation to the case of *March v Secretary of State for Health* were provided to the department

by Department of Health (DH) Legal Services which is part of the Department for Work and Pensions (DWP) Legal Group. DH Legal Services provides a full range of legal services to the department including arranging representation in court. No external consultants were employed in the case. No consultants or law firms were instructed in relation to these cases, although DH Legal Services did instruct counsel. As legal services were provided in-house, additional costs were therefore incurred only in relation to the instruction of counsel. Details of counsel's fees are personal data relating to counsel and so, having regard to the provisions of the Data Protection Act 1998, will not be released.

As the judicial review brought by Mr March has now been heard by the Administrative Court, the department does not expect to incur any further legal costs in connection with the claim. However, the Administrative Court is yet to determine costs of the claim and will do this giving its judgment in the case.

## Energy: Power Lines

### Question

*Asked by Lord Bates*

To ask Her Majesty's Government what discussions they have had with One North East about the effect of power lines across the River Tees on attracting foreign direct investment to Teesside. [HL3120]

**The Minister for Trade and Investment (Lord Davies of Abersoch):** No conversations have taken place between Government and One North East on this matter.

## Finance: Individual Savings Accounts

### Question

*Asked by Lord Lipsey*

To ask Her Majesty's Government what assessment they have made of the proportionality of the requirement that customers who have not accessed their individual savings account for a year visit a branch to have a declaration read to them before using that account; and to what extent it is compatible with their policy to encourage online transactions. [HL3097]

**The Financial Services Secretary to the Treasury (Lord Myners):** There is no regulatory requirement for providers to require customers to visit a branch in these circumstances.

If an investor does not subscribe to an individual savings account (ISA) for a whole tax year, they must make a fresh application before they can make further subscriptions. This acts as a reminder that they can only subscribe to one ISA of each type per tax year. However, ISA managers are able to accept these applications over the telephone or online, rather than in a branch, should they wish to do so.

## Government Departments: Expenditure Questions

Asked by *Lord Oakeshott of Seagrove Bay*

To ask Her Majesty's Government how much will be saved by each department as a result of the commitment in the Pre-Budget Report 2009 to save 50 per cent of the bill for consultancy and advisory work. [HL3081]

To ask Her Majesty's Government how much will be saved by each department as a result of the commitment in the Pre-Budget Report 2009 to save 50 per cent of the Government's advertising bill. [HL3082]

**The Financial Services Secretary to the Treasury (Lord Myners):** Budget 2010 announced that over £11 billion of savings have been identified department-by-department for the years from 2012-13, including over £650 million by reducing consultancy spend by 50 per cent and marketing and communications by 25 per cent. Reductions will be calculated from 2008-09 spending levels, as set out in *Public Sector Procurement Expenditure Survey 2009*, published alongside Budget.

## 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 Ministry of Defence and its agencies in each of the past five years. [HL2287]

**The Minister for International Defence and Security (Baroness Taylor of Bolton):** Two employees of the Ministry of Defence have been convicted of being illegal immigrants over the past five years.

## Government Departments: Ministerial Code Question

Asked by *Lord Laird*

To ask Her Majesty's Government further to the Written Answer by Lord Myners on 8 March (*WA 12*), which departments and ministers were involved in the 16 written instructions provided by ministers to accounting officers since 2005; and what were the matters requiring such instructions. [HL3225]

**The Financial Services Secretary to the Treasury (Lord Myners):** The information sought is set out below.

Date	Dept	Minister	Direction	Category
2005	DTI (now BIS)	Rt Hon Alan Johnson MP	Launch Investment	VFM

Date	Dept	Minister	Direction	Category
2006	MoD	Rt Hon John Reid MP	The Armed Forces Memorial	Propriety
2008	BERR (now Bas)	Rt Hon John Hutton M P	Launch Investment	VFM
2008	MoD	Rt Hon Des Browne MP	Remploy Procurement	VFM
2008	HMT	Rt Hon Alastair Darling MP	Landsbanki	VFM
2009	BERR (now BIS)	Lord Mandelson	Icelandic Water Trawlermen Scheme	VFM
2009	BERR (now BIS)	Lord Mandelson	Advantage West Midlands Loan	VFM
2009	MoD	Rt Hon Bob Ainsworth MP	Repatriation Flights for UK Hostages in Iraq	Propriety
2009	MoD	Rt Hon Bob Ainsworth MP	Repatriation Flights for UK Hostages in Iraq	Propriety
2009	DEFRA	Rt Hon Hilary Benn MP	Dairy Farmers of Britain	VFM
2009	BERR (now BIS)	Lord Mandelson	Leeds Arena Project	VFM
2009	BERR (now BIS)	Lord Mandelson	Car Scrappage Scheme	VFM
2009	BERR (now BIS)	Lord Mandelson	Car Scrappage Scheme	VFM
2009	HMT	Rt Hon Alastair Darling MP	Asset Protection Scheme	Propriety
2010	DCLG	Rt Hon John Denham MP	Proposals for new unitary local Government structures for Devon, Norfolk and Suffolk	VFM
2010	MoJ	Rt Hon Jack Straw MP	Pleural Plaques	Regularity and VFM

## Government: Expenditure Question

Asked by *Lord Oakeshott of Seagrove Bay*

To ask Her Majesty's Government what is the breakdown of the £5 billion of savings from targeting and prioritising spending announced in the 2009 Pre-Budget Report to be achieved by 2012-13, detailing each item forecast to save more than £25 million. [HL3182]

**The Financial Services Secretary to the Treasury (Lord Myners):** The 2009 Pre-Budget Report announced £5 billion of savings by 2012-13, informed by the early findings of the Public Value Programme. These savings will be delivered through cutting lower value or lower priority spend. Budget 2010 announced further details of these savings, including:

reforming the criminal justice system and legal aid, saving £360 million in total: a rigorous process of setting benchmarks and costed service specifications for prisons and probation will save £40 million, with inefficient prisons put out to competition. Five competitions were launched in November. Further savings will be made by improving the management of cases through the system and making better use of the court estate. Twenty magistrates' courts will be closed in the first phase of this work. Reforms to legal aid will include means-testing for Crown Court cases from April 2010, and proposals to restructure the criminal legal aid market by consolidating the number of providers and increasing competition, as set out in *Restructuring the Delivery of Criminal Defence Services*;

improved targeting of housing growth and regeneration funding, saving £340 million: including £40 million by concluding the New Deal for Communities, and a further £300 million from rationalising regional development agency regeneration spending and programmes, including the Working Neighbourhoods Fund, the Local Enterprise Growth Initiative, and the Housing and Planning Delivery Grant;

reducing a range of budgets across the Department for Children, Schools and Families (DCSF), saving £350 million: for example, £25 million from the British Educational Communications and Technology Agency (BECTA), £40 million from the Training and Development Agency, £71 million from the end of extended schools start-up funding and £10.5 million from central administration and communications budgets;

improving the concessionary travel scheme, saving £180 million: legislation has been laid to move responsibility for administering the scheme to county councils from April 2011 and to re-establish the link between eligibility for concessionary fares and the state pension from April 2010;

reforming or eliminating allowances that are no longer relevant for staff posted overseas: for example by ending the use of business class air travel for journeys lasting less than five hours, saving a total of £13 million; and

reducing unlawful occupation of social housing, saving at least £35 million in housing benefit costs; ending smaller Communities and Local Government (CLG) funded time-limited communities programmes, saving £25 million; and rationalising other smaller CLG programmes, saving a total of £160 million.

## Haiti: Reconstruction

### Question

*Asked by Lord Judd*

To ask Her Majesty's Government what progress has been made in preparing a programme of action for the long-term recovery and development of Haiti; and what contribution they are making towards it. [HL2951]

**Lord Brett:** International agencies in Haiti continue to provide humanitarian relief. The UK has significantly

supported this, including sending a UK search and rescue team and a Royal Fleet Auxiliary ship which has delivered equipment, vehicles and other food and non-food items. The UK has provided £20 million for humanitarian support and a UK team remains in Port-au-Prince to oversee delivery of this aid, which has already helped support more than 380,000 people.

In anticipation of the reconstruction of Haiti, the UK: provided a humanitarian expert for the team which has produced a draft post-disaster needs assessment; has earmarked a further £2 million for future disaster risk reduction interventions; and, through the Stabilisation Unit, is assisting the Haitian Ministry of Justice to reconstruct three prisons. Several multilateral organisations have already announced support to Haiti's reconstruction. This includes €200 million from the European Commission, \$100 million from the World Bank, and \$120 million from the Inter-American Development Bank. The UK's share of the reconstruction funding announced by these organisations amounts to approximately \$50 million.

## Health: Contaminated Blood Products

### Question

*Asked by Lord Roberts of Conwy*

To ask Her Majesty's Government why, if, as stated by the Department of Health to the BBC Newsnight programme on 19 March, legislation is not in their view required to implement the recommendations of the Independent Public Inquiry headed by Lord Archer of Sandwell into the consequences for haemophilia patients of the use of contaminated NHS blood and blood products in their treatment, none has been implemented in the way intended; and what consultation they had with Lord Archer before issuing their statement.

[HL3099]

**The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton):** The Government carefully considered Lord Archer of Sandwell's recommendations before issuing their response, *Government's response to Lord Archer's Independent report on NHS supplied contaminated blood and blood products*, in May 2009 (a copy of which has already been placed in the Library). The majority of the recommendations were either already in place or will be put in place in one form or another. The actions we set out in that response have now been taken forward.

The then Secretary of State for Health (Alan Johnson) and Minister of State for Public Health (Dawn Primarolo) met Lord Archer on 11 March 2009 to discuss his report.

## Health: Stroke Victims

### Questions

*Asked by Lord Taylor of Warwick*

To ask Her Majesty's Government whether they will increase spending on services provided to stroke victims. [HL3220]

**The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton):** In the last spending review, we successfully secured additional funding in primary care trust allocations and central funding to implement the National Stroke Strategy, aimed at improving stroke services across the country. Further funding for implementation of the strategy is a matter for the next spending review and it is not possible at this stage to comment on its conclusions.

*Asked by Lord Taylor of Warwick*

To ask Her Majesty's Government how they plan to increase the proportion of stroke patients admitted to a dedicated stroke unit within four hours. [HL3221]

**Baroness Thornton:** *NHS 2010-2015: from good to great*, a copy of which has been placed in the Library, makes clear that the department is committed to ensuring that all patients get the best treatment and one of these commitments is to further improve access to a dedicated stroke unit for stroke patients. Stroke, therefore, continues to be a high priority for the National Health Service as demonstrated by its tier 1 status in the vital signs in the NHS Operating Framework for 2010-11. This requires that 80 per cent of patients spend 90 per cent or more of their time on a stroke unit by 2011. Primary care trusts' performance in improving stroke services will be measured against this. The Stroke Improvement Programme provides support to the NHS in improving stroke services. Over the next year, it will work with the NHS to go further and faster in achieving improvements in stroke services, including ensuring the timely admission of stroke patients to a dedicated stroke unit, that the strategy seeks to achieve.

*Asked by Lord Taylor of Warwick*

To ask Her Majesty's Government whether they have measures planned to reduce the incidence of strokes. [HL3222]

**Baroness Thornton:** The stroke strategy set out a 10-year plan to improve and deliver world-class stroke services from prevention through to life long support. It encourages the effective assessment and management of vascular risk factors, and improvements in the information and advice given to people on lifestyle so that they have a better understanding of how to reduce their own risk of having a stroke. The NHS Health Check programme is a systematic programme for everyone between the ages of 40 and 74 to assess their risk of heart disease, stroke, diabetes and kidney disease and will support people to reduce or manage their risk through individually tailored advice. Phased implementation of the programme began in April 2009. It has the potential to prevent at least 1,600 heart attacks and strokes each year when fully implemented.

The Stroke Improvement Programme, which provides support to the National Health Service in improving stroke services, is also working on prevention projects. For example, it is working with the Heart Improvement Programme, which similarly provides support to the NHS to improve heart services, and has developed commissioning guidance for stroke prevention in primary

care, focusing on the role of atrial fibrillation. We estimate that earlier detection and better management of atrial fibrillation could prevent 4,500 strokes per year.

More generally, the department has run a series of campaigns to raise both public and professional awareness of the importance of a healthy lifestyle in reducing the risk of a number of diseases, including stroke. These include Change4Life; Smokefree marketing to motivate people to stop smoking and direct them to NHS information and support; and a campaign on the unseen damage that drinking can cause to long-term health where the link between alcohol and stroke was one of its key messages.

## Health: Venous Thromboembolism

### Question

*Asked by Lord Taylor of Warwick*

To ask Her Majesty's Government whether they plan to increase the £192,000 per year they spend on preventing Venous Thromboembolism (blood clots), in light of figures which show that it kills an estimated 25,000 patients in the National Health Service each year. [HL3203]

**The Parliamentary Under-Secretary of State, Department of Health (Baroness Thornton):** The figure of £192,000 represents the central budget held by the department to support the National Health Service to improve the treatment of venous thromboembolism (VTE). In addition, primary care trust (PCT) revenue allocations will total £84 billion in 2010-11. The department does not break down PCT allocations by policies, at either the national or local level. It is for PCTs to decide their priorities for investment locally, taking into account both local priorities and the NHS Operating Framework. We do not collect information centrally on expenditure by the NHS on preventing VTE.

## Indonesia

### Questions

*Asked by Lord Avebury*

To ask Her Majesty's Government what were their aid programmes for Aceh in 2009-10; and what are their plans for 2010-11. [HL3236]

**Lord Brett:** It has not proved possible to respond to Lord Avebury in the time available before Prorogation.

*Asked by Lord Avebury*

To ask Her Majesty's Government what representations they have made to the Government of Indonesia about that Government's payments to the authorities in Aceh under the oil and gas revenue sharing agreement, and about whether the payments are independently audited. [HL3237]

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** It has not proved possible to respond to the noble Lord in the time available before Prorogation.

## International Planned Parenthood Federation and UN Population Fund Question

Asked by **Lord Alton of Liverpool**

To ask Her Majesty's Government how much they have given to (a) the International Planned Parenthood Federation, and (b) the United Nations Population Fund, in each year since 1997; what restrictions they placed on that funding; and what guidance they issued to those organisations in each year since 1997. [HL3232]

**Lord Brett:** It has not proved possible to respond to Lord Alton of Liverpool's Written Question in the time available before Prorogation. However, as agreed in Oral Questions of 8 April 2010, I will send a letter to the noble Lord with a full response.

## Israel Questions

Asked by **Baroness Tonge**

To ask Her Majesty's Government what discussions they have had with the Government of Israel or their representatives in the United Kingdom about Israel's compliance with international law. [HL3147]

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** The UK recognises Israel's right to protect its people from attack. However we are also very clear that its actions must adhere with international law. We make frequent representations and statements where we see actions by either party that cause us concern.

I made this clear in debate on 6 April, where, in addition to confirming the representations made on illegal settlements, I confirmed "that on a range of issues—from the route of the barrier, to the operation of military courts, to the operation of the permit system which gives Palestinians the right to visit or live in Jerusalem—we are active and we are vocal".

Asked by **Baroness Tonge**

To ask Her Majesty's Government what discussions they have had in the European Union and the United Nations and with the Government of the United States about Israel's compliance with international law. [HL3148]

**Baroness Kinnock of Holyhead:** We are in regular dialogue with our key partners from the EU and the UN along with the US on the Middle East peace process and related issues. We support the quartet's statement following its conference in Moscow on 19 March which, amongst other things, called "on Israel and the Palestinians to act on the basis of international law, and on their previous agreements and obligations, in particular adherence to the Roadmap, irrespective of reciprocity".

## Israel and Palestine Questions

Asked by **Lord Ahmed**

To ask Her Majesty's Government what discussions they have had with the United States Secretary of State, Hillary Clinton, about the Government of the United States' recent comments regarding the construction of Israeli settlements in Palestinian occupied territory. [HL3117]

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** The UK is in regular dialogue with the US Administration on the Middle East peace process and related issues. My right honourable friend the Foreign Secretary spoke to Secretary of State Hillary Clinton on 29 March. We and the US are both clear in our opposition to settlement-building.

Asked by **Baroness Tonge**

To ask Her Majesty's Government what representations they have made to the Government of Israel about the killing of two unarmed teenagers in the West Bank of Palestine this week. [HL3146]

**Baroness Kinnock of Holyhead:** The UK is extremely concerned at the recent incidents of violence in Gaza, the West Bank and East Jerusalem. We deeply regret the loss of life and we are given to understand that the Israeli Military Police will be carrying out an investigation into the death of the two teenagers. We will await the results of the investigation.

## Libya: Abdelbaset al-Megrahi Question

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Baroness Kinnock of Holyhead on 9 March (WA 49), whether the Foreign and Commonwealth Office has asked for copies of the monthly medical reports on Abdelbaset al-Megrahi sent to East Renfrewshire Council under the terms of his release; and whether they will commence monitoring his location in Libya or ask the Scottish Government to do so. [HL3223]

**The Minister of State, Foreign and Commonwealth Office (Baroness Kinnock of Holyhead):** The Foreign and Commonwealth Office (FCO) has not asked for copies of the monthly medical reports on Abdelbaset al-Megrahi sent to East Renfrewshire Council. It would not be appropriate for the FCO to ask the council for confidential medical reports. The FCO have no plans to monitor the location of Megrahi or to ask the Scottish Executive to do so.

East Renfrewshire was designated as the local authority responsible for monitoring Megrahi because his family lived in Newton Mearns during his imprisonment in Greenock Prison. It is for the devolved Administration in Scotland to decide how the location and health of Megrahi is monitored and it would therefore not be appropriate for the FCO to ask the Scottish Executive to monitor his location.

## Mutual Societies

### Question

Asked by **Lord Laird**

To ask Her Majesty's Government whether they will place copies of the rules, reports, annual accounts and lists of committee members of companies registered as mutual societies in the Library of the House when asked to do so by a member of the House. [HL3131]

**The Financial Services Secretary to the Treasury (Lord Myners):** Over 8,000 mutual societies are registered with the Financial Services Authority (FSA). Each of these societies is required to place copies of rules, annual accounts and lists of committee members with the FSA. These are public documents, although the FSA charges a search fee for access.

## National Insurance

### Question

Asked by **Lord Laird**

To ask Her Majesty's Government further to the Written Answer by Lord McKenzie of Luton on 17 March (*WA 193*), how many of the 4,285,130 adult overseas nationals registering for national insurance numbers since 2002 made national insurance contributions in the last available year; and how many were from (a) European Union, and (b) non-European Union, countries. [HL3224]

**The Financial Services Secretary to the Treasury (Lord Myners):** HM Revenue and Customs estimates that 1.25 million European Union and 983,000 non-European Union adult overseas nationals who have registered since January 2002 paid national insurance contributions in the 2008-09 tax year. This is based on a 2 per cent sample of national insurance records. It does not include class 4 contributions.

## Northern Ireland Prison Service

### Question

Asked by **Lord Maginnis of Drumglass**

To ask Her Majesty's Government what assessment they have made of the challenges facing the Northern Ireland Prison Service; whether prison officers have requested the removal of some governors; and whether that matter was considered during discussions on the devolution of policing and justice to Northern Ireland. [HL3167]

**Baroness Royall of Blaisdon:** The challenges facing the Prison Service are kept under constant review by the Prisons Minister and Prison Management. The

key challenge facing the Prison Service is the move away from an environment focused on security concerns to one that seeks to engage with inmates to address effectively the causes of offending behaviour. This requires a new approach by prison officers that is being developed as part of a comprehensive programme of workforce reform. Much has already been achieved with the introduction of new sentencing arrangements with the emphasis on risk assessment and the delivery of appropriate programmes.

In addition, parts of the prison estate are not fit for purpose and this is being taken forward as part of a comprehensive that strategy which includes the replacement of the prison at Magilligan.

Prison Officers have not requested the removal of any governors.

## Parliament Acts

### Question

Asked by **Lord Acton**

To ask the Leader of the House how many Acts since 1911 have been passed (a) under the Parliament Acts 1911 and 1949, and (b) during "wash-ups" before general elections. [HL3145]

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** (a) A total of seven Acts have been passed under the Parliament Acts. The following Acts were passed under the Parliament Act 1911:

the Government of Ireland Act 1914;

Welsh Church Act 1914; and

Parliament Act 1949.

The following Acts have been passed since the 1949 Act was passed:

War Crimes Act 1991;

European Parliamentary Elections Act 1999;

Sexual Offences (Amendment) Act 2000; and

Hunting Act 2004.

(b) Bills may pass through one or more stages during the "wash-up" period between the announcement of the date of a general election and the Prorogation, adjournment or dissolution of Parliament prior to the election. Some of these Bills will already have received extensive scrutiny in one or both Houses; others may be taken through all their stages during the wash-up period.

The table below shows the number of bills that received Royal Assent during wash-up before each general election since 1987, together with the stage that each Bill had reached at the beginning of wash-up. Information for general elections between 1911 and 1983 could be provided only at disproportionate cost.

1987	Govt	PMB	Total
Receiving Royal Assent	18	11	29
Not introduced before wash-up	1		1

<i>1987</i>		<i>Govt</i>	<i>PMB</i>	<i>Total</i>
In 1st House at start of wash-up	Total	5		5
	completed first reading	1		1
	completed second reading	1		1
consisting of	in committee	1		1
	completed committee	2		2
	completed report			
Passed by first House, ready to start progress in second House				
In 2nd House at start of wash-up	Total	11	11	22
	completed first reading	2	3	5
	completed second reading	3	5	8
consisting of	in committee	1		1
	completed committee	3	3	6
	completed report	2		2
Passed by second House; amendments still to be agreed by first House		1		1
<hr/>				
<i>1992</i>		<i>Govt</i>	<i>PMB</i>	<i>Total</i>
Receiving Royal Assent		13	8	21
Not introduced before wash-up		2		2
In 1st House at start of wash-up	Total	4		4
	completed first reading	1		1
	completed second reading	1		1
consisting of	in committee			
	completed committee	2		2
	completed report			
Passed by first House, ready to start progress in second House				
In 2nd House at start of wash-up	Total	7	8	15
consisting of	completed first reading	2	3	5
	completed second reading			
	in committee			
	completed committee	4	5	9
	completed report	1		1
Passed by second House; amendments still to be agreed by first House				
<hr/>				
<i>1997</i>		<i>Govt</i>	<i>PMB</i>	<i>Total</i>
Receiving Royal Assent		26	10	36
Not introduced before wash-up		1		1
In 1st House at start of wash-up	Total	3		3
	completed first reading			
	completed second reading	2		2
consisting of	in committee			
	completed committee	1		1
	completed report			
Passed by first House, ready to start progress in second House				
In 2nd House at start of wash-up	Total	22	10	32
	completed first reading	7		7
	completed second reading	4	6	10
consisting of	in committee	1		1
	completed committee	9	4	13
	completed report	1		1
Passed by second House; amendments still to be agreed by first House				

<i>2001</i>		<i>Govt</i>	<i>PMB</i>	<i>Total</i>
Receiving Royal Assent		11		11
Not introduced before wash-up		1		1
In 1st House at start of wash-up	Total	2		2
	completed first reading			
	completed second reading	1		1
consisting of	in committee	1		1
	completed committee			
	completed report			
Passed by first House, ready to start progress in second House				
In 2nd House at start of wash-up	Total	7		7
	completed first reading			
	completed second reading	3		3
consisting of	in committee	1		1
	completed committee	3		3
	completed report			
Passed by second House; amendments still to be agreed by first House		1		1
<hr/>				
<i>2005</i>		<i>Govt</i>	<i>PMB</i>	<i>Total</i>
Receiving Royal Assent		14		14
Not introduced before wash-up		2		2
In 1st House at start of wash-up	Total			
consisting of	completed first reading			
	completed second reading			
	in committee			
	completed committee			
	completed report			
Passed by first House, ready to start progress in second House				
In 2nd House at start of wash-up	Total	11		11
	completed first reading	1		1
	completed second reading	5		5
consisting of	in committee	1		1
	completed committee	2		2
	completed report	2		2
Passed by second House; amendments still to be agreed by first House		1		1

## Police: Northern Ireland

### Question

Asked by **Lord Maginnis of Drumglass**

To ask Her Majesty's Government further to the Written Answer by Baroness Royall of Blaisdon on 15 March (*WA 168*), for what particular purposes the £800 million funding agreed in the context of devolution of policing and justice in Northern Ireland was intended, which would not have been allocated had the devolution of policing and justice not occurred. [HL3205]

**Baroness Royall of Blaisdon:** The funding was predicated on the creation of a new justice department.

## Privy Council

### Question

Asked by **Lord Marlesford**

To ask Her Majesty's Government what arrangements exist for the scrutiny and assessment of the integrity of those nominated to Her Majesty's Privy Council; and whether they propose any modification to those arrangements. [HL3187]

**The Chancellor of the Duchy of Lancaster (Baroness Royall of Blaisdon):** It is for the Prime Minister to recommend members of the Privy Council for the Queen's approval. The Prime Minister may want to consult accordingly before doing so.

## Public Expenditure

### Question

Asked by **Lord Bates**

To ask Her Majesty's Government further to the Written Answer by the Chief Secretary to the Treasury, Liam Byrne, on 26 February (*Official Report*, Commons, col. 806W), what is the cash value of Government spending on marketing and communications in 2009–10 on which the projection of a 25 per cent cut was based. [HL2973]

**The Financial Services Secretary to the Treasury (Lord Myners):** Budget 2010 announced that over £11 billion of savings have now been identified by department for the years from 2012–13. This includes the consultancy, marketing and communications cuts which were identified based on 2008–09 spending levels, currently the most recent financial year that spending levels are available for. The 2008–09 spend is set out in the *Public Sector Procurement Expenditure Survey 2009*, published alongside Budget.

## Red Squirrels

### Question

Asked by **Baroness Quin**

To ask Her Majesty's Government what assessment they have made of the numbers of red squirrels in Northumberland in (a) 2005, (b) 2006, (c) 2007, (d) 2008, and (e) 2009. [HL3229]

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** There is no reliable estimate of the red squirrel population because it is very difficult to carry out an accurate census; therefore no assessment has been made of the numbers of red squirrels in Northumberland.

In the areas where red squirrel populations remain, the densities can vary between 1 and 0.1 squirrels per hectare. Numbers are subject to significant fluctuation depending on environmental factors and breeding success.

## Schools: Admissions

### Questions

Asked by **Lord Greaves**

To ask Her Majesty's Government what assessment they have made of the impact of setting the admissions

timetable for entering the reception year at primary school to end in May on the making of provision for those with special needs, including identifying, assessing, and supporting those with special needs. [HL3176]

To ask Her Majesty's Government what assessment they have made of the impact of setting the admissions timetable for entering the reception year at primary school to end in May on the transition process from nursery to school in (a) rural and (b) urban areas. [HL3177]

To ask Her Majesty's Government whether they will review the impact particularly in rural areas of setting the admissions timetable for entering the reception year at primary school to end in May. [HL3178]

**The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):** An impact assessment on the four year-old proposals can be viewed at <http://www.dcsf.gov.uk/sacode/downloads/Impact%20Assessment.doc>.

A response to the Lords Merits Committee's supplementary questions on the impact on the private, voluntary and independent (PVI) sector has also been published.

The DCSF periodically reviews the admissions system to monitor the effectiveness of admissions and intervene when necessary in order to improve the system. A DCSF-led consultative group which includes all main stakeholders also meets termly to assist in the review and development of admissions policy.

## Schools: Church Schools

### Questions

Asked by **Lord Glenarthur**

To ask Her Majesty's Government how many Church of England day schools there are in central Liverpool; how many pupils attend each one; whether there are any vacancies for pupils; what are the staff-pupil ratios; and what are their average class sizes. [HL3140]

**The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):** Information for Church of England schools in Liverpool local authority is shown in the table below.

Church of England schools<sup>1</sup> in Liverpool local authority

School Name	Number of pupils <sup>2</sup>	Pupil:Teacher Ratio <sup>3</sup>	Average Class Size <sup>4</sup>	Surplus Places
St Margaret's Anfield Church of England Primary School	440	22.8	27.7	4
Kirkdale St Lawrence CofE Primary School	210	20.1	25.0	102
St Cleopas' Church of England Junior Mixed and Infant School	230	18.2	27.3	10
St Silas Church of England Primary School	170	16.1	24.0	43
Wavertree Church of England School	180	15.1	19.8	38

Church of England schools<sup>1</sup> in Liverpool local authority

January 2009

<i>School Name</i>	<i>Number of pupils</i> <sup>2</sup>	<i>Pupil:Teacher Ratio</i> <sup>3</sup>	<i>Average Class Size</i> <sup>4</sup>	<i>Surplus Places</i>
The Beacon Church of England Primary School	190	18.9	23.1	0
Garston Church of England Primary School	110	18.2	22.0	40
Bishop Martin Church of England Primary School	200	23.4	28.4	11
St Anne's (Stanley) Junior Mixed and Infant School	360	21.3	22.7	101
Saint Margaret of Antioch CofE (Aided) Primary School	110	10.5	15.1	85
St Mary's Church of England Primary School, West Derby	210	23.7	30.4	0
Childwall Church of England Primary School	340	24.7	31.1	0
Arnot St Mary CofE Primary School	420	18.0	26.0	53
Archbishop Blanch CofE VA High School, A Technology College and Training School	920	15.4	19.9	134
St Margaret's Church of England High School	1,000	15.3	21.3	0
St Hilda's Church of England High School	860	15.3	19.5	0

*Source:*

School Census and Surplus Places Survey

1. Includes primary and secondary schools.
2. Includes solely registered pupils only. Figures rounded to nearest 10.
3. Pupil:Teacher Ratios relate full-time equivalent pupil numbers in these schools to full-time equivalent qualified teacher numbers in these schools from the School Census.
4. One teacher classes as taught during a single selected period in each school on the day of the census in January.

**Schools: Foreign Languages***Question**Asked by Baroness Coussins*

To ask Her Majesty's Government whether they will upgrade to a mandatory target the current benchmark that 50 to 90 per cent of pupils should study a language until the end of key stage 4, in line with the recommendation of the Worton Review.

[HL1745]

**The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):** We have no plans to do so. We are considering a range of policies for boosting take up at key stage 4. Our focus is on making learning more engaging to encourage increased take up. We made languages optional in 2004 to give young people more choice and flexibility, in particular for work-related and vocational learning. Setting a mandatory target for language learning would make the curriculum at this level less flexible.

**Unemployment***Question**Asked by The Earl of Dundee*

To ask Her Majesty's Government what steps they are taking to reduce unemployment through full-time volunteering schemes such as those deployed by ProjectScotland.

[HL3240]

**The Parliamentary Under-Secretary of State, Department for Communities and Local Government & Department for Work and Pensions (Lord McKenzie of Luton):** People receiving jobseeker's allowance can take part in unlimited volunteering, provided they still meet the requirements for receiving jobseeker's allowance.

In addition to this, Project Scotland and Jobcentre Plus work together to help jobseekers access volunteering opportunities that would enable them to gain valuable work experience and skills.

As part of the Government's support for the unemployed, we introduced the six-month offer, which includes volunteering opportunities to jobseekers who find themselves out of work for six months or more. The lead broker in Scotland for the volunteering option of the six-month offer is Volunteer Development Scotland.

**Waste Management: Compost Sites***Questions**Asked by Lord Redesdale*

To ask Her Majesty's Government whether the Environment Agency's rules on the use of bioaerosols take account of certain background levels of bioaerosols being naturally higher than the agency's suggested guidance levels.

[HL3160]

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Davies of Oldham):** The Environment Agency accounted for background levels of bioaerosols when it issued its 2001 position and when it revised the position in 2007. The Environment Agency will take this into account during any further review of the position.

*Asked by Lord Redesdale*

To ask Her Majesty's Government whether composting companies will be reimbursed for any development and operational costs incurred due to the Environment Agency's revised policy statement on bioaerosols.

[HL3161]

**Lord Davies of Oldham:** It is for the operator to decide the best course of action for their business and to meet the cost of fulfilling the regulatory requirements. The Environment Agency does not reimburse operator costs associated with complying with the law. The Environment Agency is reviewing its current position and the way that bioaerosols are monitored and regulated. Should a further revision be required, the need for a financial impact assessment will be considered.

The Environment Agency has a duty to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment.

### **Young People's Learning Agency**

#### *Question*

*Asked by Lord De Mauley*

To ask Her Majesty's Government what efficiency gains they expect the Young People's Learning Agency to make in 2010–11. [HL3180]

**The Parliamentary Under-Secretary of State, Department for Children, Schools and Families (Baroness Morgan of Drefelin):** Efficient operation and value for money are clear priorities for the Young People's Learning Agency (YPLA) and the identification of opportunities to improve value for money and excellence of delivery will be an important part of the successful delivery of their remit.

The YPLA came into effect on 1 April 2010, and 2010-11 will therefore be its first year of operation. YPLA budgets will be confirmed annually in a grant letter.

The administration budget contained in the grant letter for 2010-11 will already reflect the level of efficiency at which we want the YPLA to operate in its first year and will form a baseline against which subsequent efficiencies can be determined.

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